NOTICE AND AGENDA
CITY COUNCIL
TUESDAY, JULY 7, 2026, 7:00 P.M.
CITY COUNCIL MEETING

Notice is hereby given that the City Council of the City of Glenn Heights, Texas will hold a City Council Meeting on Tuesday, July 7, 2026, in the City Hall, City Council Chambers, located at 1938-C South Hampton Road, Glenn Heights, Texas, 75154, as prescribed by Vernon's Texas Civil Statutes, Government Code Section §551.041, to consider and possibly take action on the following agenda items. Items do not have to be taken in the same order as shown in this meeting Notice and Agenda.

Pursuant to Texas Government Code Sec. 551.127, on a regular, non-emergency basis, members may attend and participate in the meeting remotely by video conference. Should that occur, a quorum of the members, including the presiding officer, will be physically present at the location noted above on this Agenda.

This Notice and Meeting Agenda, and the Agenda Packet, are posted online at https://www.glennheightstx.gov/129/Agendas-Minutes.

This City Council Meeting will be live-streamed at https://www.glennheightstx.gov/229/City-Council-Meeting-Videos.

CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE

CITY OF GLENN HEIGHTS VISION AND MISSION STATEMENT

Vision Statement

The City of Glenn Heights is a safe, inclusive, and welcoming community that celebrates our small-town charm with urban amenities, where families can live, work, and play.

Mission Statement

To provide services, amenities, infrastructure, and an exceptional quality of life that allows diverse citizens to engage and thrive in our community.

PUBLIC COMMENT

The public is invited to address City Council on any topic. Speakers should complete a Public Comment form and submit it to the City Secretary prior to the beginning of the meeting. The Texas Open Meetings Act prohibits City Council from discussing or taking action on issues not posted on the agenda; however, the Mayor, City Manager or designee may provide specific factual information, recite an existing policy, or schedule a discussion of the issue for possible placement on a future agenda. Speakers are limited to a maximum of three (3) minutes.

PROCLAMATIONS

- Park and Recreation Month, July 2026

EVENTS

- Sunset Concert Series, July 12, 2026, 7:00 P.M. – 9:00 P.M., Glenn Heights City Center, 1938 South Hampton Road, Glenn Heights, Texas 75154

STAFF INTRODUCTIONS – Sir Fabian Freeman, Interim Human Resources Director

CONSENT AGENDA

Consent Agenda items are considered to be routine in nature and may be acted upon in one motion. Any Item requiring additional discussion may be withdrawn from the Consent Agenda by the Mayor, a Council Member, or the City Manager, and acted upon separately.

1. Discussion and take action to approve the Meeting Minutes of the June 16, 2026, City Council Meeting. (Brandi Brown, City Secretary)

2. Discussion and take action to approve Ordinance O-08-26, amending the Code of Ordinances, City of Glenn Heights, Texas, as heretofore amended, and by adopting and enacting a recodification of the Code of Ordinances, including Appendixes and Amendments for the City of Glenn Heights, Texas. (Brandi Brown, City Secretary)

3. Discussion and take action to approve the Maplewood South Final Plat request, submitted by CCM Engineering on behalf of Bloomfield Homes, LP, an addition to the City of Glenn Heights, Texas, consisting of approximately 24.128 acres of land situated in the William Rawlings Survey, Abstract No. 1205, within Dallas County, Texas. (Bester Munyaradzi, Director of Planning and Development Services)

AGENDA

1. Presentation and discussion regarding updates to the Red Oak Creek Regional Wastewater System (ROCRWS) Expansion and associated Capital Improvement Plan (CIP), including impacts to participating customer cities and considerations for funding, infrastructure needs, and long-term system capacity. (Clifford Blackwell, City Manager)

2. Discussion and take action to approve implementing Automated License Plate Reader software. (Council Member Sherron Mosley and Dr. Glynell Horn, Chief of Police)

3. Discussion and take action to approve the Aura Glenn Heights (UHL Crossing) Site Plan, Landscape Plan, and Elevation Plans submitted by Trinsic Acquisition Company, LLC, on behalf of Buster William R. Etal, for approximately 13.941 acres of land. The property is generally located on the north side of Ovilla Road and the west side of South UHL Road, within the M. McDermott Survey, Abstract No. 743, in the City of Glenn Heights, Ellis County, Texas. (Bester Munyaradzi, Director of Planning and Development Services)

4. Presentation and discussion regarding the development of a Request for Proposals for solid waste, recycling, and related services, including receiving Council input on desired service expectations, policy priorities, and operational considerations to be incorporated into the RFP. (Keith Moore, Deputy City Manager)

5. Discussion and take action to approve Resolution R-28-26, designating

PlainsCapital Bank as the official Depository Bank for the City and authorizing the Mayor and/ or City Manager to execute all necessary agreements and documents related thereto. (Sherry Roberts, Finance Director)

6. Discussion and take action authorizing an independent audit and financial consulting firm to review the City's financial condition, accounting practices, internal controls, and compliance, and to provide recommendations to improve financial management, ensure compliance, and support long-term stability and transparency. (Council Member Shaunte Allen)

EXECUTIVE SESSION

1. The City Council shall convene into Executive Session:

   A. pursuant to the Texas Government Code, Section 551.071, Consultation with City Attorney; and Section 551.072, Real Property; to deliberate land acquisitions for the East Bear Creek Road Right-of-Way Expansion Project.

2. The City Council shall reconvene into Open Session and take any action arising from Executive Session.

ADJOURNMENT

In accordance with the Americans with Disabilities Act, if you are a person with a disability and require information or materials in an appropriate alternative format; or if you require any other accommodations, please contact the City Secretary at least 48 hours in advance of the event at 972-223-1690 ext. 125 or email brandi.brown@glennheightstx.gov. Advance notification within this guideline will enable the City to make reasonable arrangements to ensure accessibility.

I, Brandi Brown, City Secretary, do hereby certify that the above Meeting Notice and Agenda was posted in a place convenient to the Public at Glenn Heights City Hall, 1938-C South Hampton Road, Glenn Heights, Texas by 11:00 P.M. on Tuesday, June 30, 2026.

Pursuant to Section 551.071 of the Texas Government Code, the City Council reserves the right to consult in closed session with its attorney at any time during the course of this meeting and to receive legal advice regarding any item listed on this agenda.

_____

Brandi Brown, City Secretary

PROCLAMATION

Office of the Mayor ▪ City of Glenn Heights

Park and Recreation Month
July 2026

WHEREAS, parks, trails, recreational facilities, and open spaces are essential to the health, wellness, and quality of life of residents, providing opportunities for physical activity, social connection, environmental stewardship, and lifelong learning; and

WHEREAS, parks and recreation programs enhance the mental, physical, and emotional well-being of individuals and families of all ages, abilities, and backgrounds; and

WHEREAS, parks and recreation professionals work diligently to provide safe, accessible, and inclusive programs, special events, facilities, and recreational opportunities that enrich the lives of community members throughout the year; and

WHEREAS, public parks and recreational spaces contribute to the economic vitality, environmental sustainability, and overall attractiveness of our community by preserving natural resources, fostering community pride, and encouraging outdoor engagement; and

WHEREAS, Parks and Recreation Month is an opportunity to recognize the vital role that parks and recreation services play in building stronger, healthier, and more connected communities; and

WHEREAS, the City of Glenn Heights encourages all residents to explore local parks, participate in recreational activities, support community programs, and celebrate the many benefits that parks and recreation bring to our city.

NOW, THEREFORE, I, Sonja A. Brown, Mayor of the City of Glenn Heights, Texas, do hereby proclaim July 2026 as **Park and Recreation Month** in the City of Glenn Heights and encourage all residents to recognize and appreciate the invaluable contributions of our parks, recreational facilities, programs, volunteers, and professionals who help make our community a vibrant place to live, work, and play.

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of July in the year of our Lord two thousand twenty-six.

_____

Sonja A. Brown, Mayor
Glenn Heights, Dallas County, Texas

AGENDA SUMMARY SHEET
July 7, 2026

CONSENT AGENDA, ITEM 1

Discussion and take action to approve the Meeting Minutes of the June 16, 2026, City Council Meeting. (Brandi Brown, City Secretary)

Motion	
Second	
For	Brown, Bruton, Mosley, Allen, Hobbs, Lightfoot, Washington
Against	Brown, Bruton, Mosley, Allen, Hobbs, Lightfoot, Washington
Abstain	
Approve/ Deny/ Table	

MINUTES OF THE
CITY COUNCIL
OF THE CITY OF GLENN HEIGHTS, TEXAS

JUNE 16, 2026

STATE OF TEXAS *
COUNTIES OF DALLAS AND ELLIS *
CITY OF GLENN HEIGHTS *

On the 16th day of June 2026, the City of Glenn Heights City Council held a Meeting in the City Hall, City Council Chambers, located at 1938-C South Hampton Road, Glenn Heights, Texas, 75154, with the following members present:

CITY COUNCIL:

Sonja A. Brown	*	Mayor
Travis Bruton*	*	Mayor Pro Tem
Sherron Mosley	*	Council Member, Place 1
Shaunte Allen*	*	Council Member, Place 2
Tramayne Hobbs	*	Council Member, Place 4
Laymon Lightfoot	*	Council Member, Place 5
Nelda Washington	*	Council Member, Place 6

STAFF:

Clifford Blackwell	*	City Manager
Keith Moore	*	Deputy City Manager
Brandi Brown	*	City Secretary
Farrah Allen	*	Municipal Court Administrator
Dr. Glynell Horn	*	Chief of Police
Jeff Kent	*	IT Support Specialist
Bester Munyaradzi	*	Director of Planning & Development Services
Sherry Roberts	*	Director of Finance
Andrew Waits	*	Director of Public Works

CONSULTANT:

Kellie McKee	*	City Attorney's Office

CALL TO ORDER

Mayor Sonja A. Brown called the City Council to order at 7:03 P.M.

**Travis Bruton, Mayor Pro Tem, arrived at 7:23 P.M.*
**Shaunte Allen, Council Member, Place 2, arrived at 7:37 P.M.*

INVOCATION

Mayor Sonja A. Brown delivered the Invocation.

PLEDGE OF ALLEGIANCE

Mayor Sonja A. Brown led the assembly in the Pledge of Allegiance.

CITY OF GLENN HEIGHTS VISION AND MISSION STATEMENT

Mayor Sonja A. Brown read the City's Vision and Mission Statements.

PUBLIC COMMENT

- Nelda Washington, Council Member, Place 6, address on file: She extended her appreciation to everyone who supported, attended, and participated in "The Shield of Protection: A Unified Interfaith Workforce Blessing" event.

PROCLAMATIONS

Mayor Sonja A. Brown read the following Proclamations:

- Alzheimer's and Brain Awareness Month, June 2026
- Juneteenth, June 19, 2026

EVENTS

Mayor Sonja A. Brown announced the following Event:

- Mayor's Town Hall – "Let's Taco Bout It", June 30, 2026, 6:30 P.M. – 9:00 P.M., Glenn Heights Community Center, 1938-D South Hampton Road, Glenn Heights, Texas 75154

CONSENT AGENDA

1. Discussion and take action to approve the Meeting Minutes of the June 2, 2026, City Council Meeting. (Brandi Brown, City Secretary)
2. Discussion and take action to approve the Meeting Minutes of the June 8, 2026, Joint City Council and Planning and Zoning Commission Meeting. (Brandi Brown, City Secretary)

Council Member Sherron Mosley made a motion to approve Consent Agenda Items 1 and 2 as written. Council Member Tramayne Hobbs made the second. The motion carried with the following record vote:

VOTE 5 Ayes – Brown, Mosley, Hobbs, Lightfoot, and Washington

AGENDA

1. Conduct a Public Hearing to receive testimony regarding the proposed City of Glenn Heights PACE Program.

Council Member Laymon Lightfoot made a motion to open the Public Hearing. Council Member Sherron Mosley made the second. The motion carried with the following record vote:

VOTE 5 Ayes – Brown, Mosley, Hobbs, Lightfoot, and Washington

Mayor Sonja A. Brown opened the Public Hearing at 7:20 P.M.

Hearing no testimony, Council Member Laymon Lightfoot made a motion to close the Public Hearing. Council Member Tramayne Hobbs made the second. The motion carried

with the following record vote:

VOTE 5 Ayes – Brown, Mosley, Hobbs, Lightfoot, and Washington

Mayor Sonja A. Brown closed the Public Hearing at 7:20 P.M.

2. Discussion and take action to approve Resolution R-26-26, establishing the City of Glenn Heights PACE Program.

   Clifford Blackwell, City Manager, introduced this item.

Council Member Sherron Mosley made a motion to approve Agenda Item 2 as written. Council Member Laymon Lightfoot made the second. The motion carried with the following record vote:

VOTE 5 Ayes – Brown, Mosley, Hobbs, Lightfoot, and Washington

3. Discussion and take action to approve a Professional Services Agreement with Texas PACE Authority to administer the City of Glenn Heights PACE Program.

   Clifford Blackwell, City Manager, introduced this item.

Council Member Sherron Mosley made a motion to approve Agenda Item 3 as written. Council Member Tramayne Hobbs made the second. The motion carried with the following record vote:

VOTE 6 Ayes – Brown, Bruton, Mosley, Hobbs, Lightfoot, and Washington

4. Conduct a Public Hearing to receive testimony, and discussion and take action to approve Ordinance O-06-26, regarding a rezoning request from Single-Family 1 (SF-1) to Single-Family 3 (SF-3) on property located at 221 W. Bear Creek Road, Dallas County, Texas, more particularly described as Tract 7, ACS, as an addition to the City of Glenn Heights.

   Bester Munyaradzi, Director of Planning and Development Services introduced this item, completed a presentation, and responded to Council questions regarding the proposed concept plan, including the maximum number of homes permitted within SF-3 zoning, the scope of the item and anticipated next steps for the developer, and how the proposal aligns with the Future Land Use Map.

Mayor Pro Tem Travis Bruton made a motion to open the Public Hearing. Council Member Laymon Lightfoot made the second. The motion carried with the following record vote:

VOTE 5 Ayes – Brown, Bruton, Mosley, Hobbs, and Lightfoot
1 Nay – Washington

Mayor Sonja A. Brown opened the Public Hearing at 7:36 P.M.

Hearing no testimony, Mayor Pro Tem Travis Bruton made a motion to close the Public Hearing. Council Member Laymon Lightfoot made the second. The motion carried with the following record vote:

VOTE 6 Ayes – Brown, Bruton, Mosley, Hobbs, Lightfoot, and Washington

Mayor Sonja A. Brown closed the Public Hearing at 7:37 P.M.

Council Member Sherron Mosley made a motion to approve Agenda Item 4 as written. Council Member Laymon Lightfoot made the second. The motion carried with the following record vote:

VOTE 5 Ayes – Brown, Mosley, Hobbs, Lightfoot, and Washington
1 Nay – Bruton

5. Conduct a Public Hearing to receive testimony, and discussion and take action to approve Ordinance O-07-26, amending the Code of Ordinances by amending and updating the City's Water Conservation Plan.

   Andrew Waits, Director of Public Works, introduced this item and completed a presentation.

Mayor Pro Tem Travis Bruton made a motion to open the Public Hearing. Council Member Laymon Lightfoot made the second. The motion carried with the following record vote:

VOTE 7 Ayes – Brown, Bruton, Mosley, Allen, Hobbs, Lightfoot, and Washington

Mayor Sonja A. Brown opened the Public Hearing at 7:41 P.M.

Hearing no testimony, Mayor Pro Tem Travis Bruton made a motion to close the Public Hearing. Council Member Laymon Lightfoot made the second. The motion carried with the following record vote:

VOTE 7 Ayes – Brown, Bruton, Mosley, Allen, Hobbs, Lightfoot, and Washington

Mayor Sonja A. Brown closed the Public Hearing at 7:41 P.M.

Council Member Laymon Lightfoot made a motion to approve Agenda Item 5 as written. Council Member Shaunte Allen made the second. The motion carried with the following record vote:

VOTE 7 Ayes – Brown, Bruton, Mosley, Allen, Hobbs, Lightfoot, and Washington

6. Presentation and discussion regarding electric utility service reliability, outage tracking practices, infrastructure capacity, and mitigation efforts by Oncor Electric Delivery and HILCO Electric Cooperative.

Council Member Nelda Washington made a motion to table Agenda Item 6. Council Member Shaunte Allen made the second. The motion carried with the following record vote:

VOTE 7 Ayes – Brown, Bruton, Mosley, Allen, Hobbs, Lightfoot, and Washington

7. Presentation and discussion regarding recent Loop 9 Project updates.

Council Member Nelda Washington introduced this item and completed a presentation.

8. Discussion and take action to approve Resolution R-24-26, affirming the appointment of a shared Board Member with the cities of Garland and Rowlett to serve on the Dallas Area Rapid Transit (DART) Board as provided in Section 452 of the Texas Transportation Code; and providing for an effective date.

   Clifford Blackwell, City Manager, introduced this item and Mark Enoch, DART Board Member. Mr. Enoch responded to Council questions regarding whether DART Board Members receive compensation; plans to strengthen the relationship with the City of Glenn Heights; initiatives to improve transportation options; the absence of a dedicated officer at the Glenn Heights Park and Ride; Mr. Enoch's attendance at Council meetings and presence during the election process; anticipated plans for the City over the next 18 months; how surrounding cities are recruited to participate in DART services; the process for joining DART; factors contributing to developer hesitancy in the area; DART-owned property within the City and its location; and length of term and process for appointing a shared Board Member.

Council Member Laymon Lightfoot made a motion to approve Resolution R-24-26, affirming the appointment Mark Enoch as the shared Board Member with the cities of Garland and Rowlett to serve on the Dallas Area Rapid Transit (DART) Board as provided in Section 452 of the Texas Transportation Code; and providing for an effective date. Council Member Shaunte Allen made the second. The motion failed with the following record vote:

VOTE 3 Ayes – Brown, Lightfoot, and Washington
4 Nays – Bruton, Mosley, Allen, and Hobbs

Clifford Blackwell, City Manager, confirmed next steps in the appointment process.

9. Discussion and take action to approve Resolution R-27-26, expressing support for reform of the Dallas Area Rapid Transit Authority Board Governance structure and requesting State Legislative action to implement a new governance structure.

   Clifford Blackwell, City Manager, introduced this item, completed a presentation, and received Council feedback.

Council Member Shaunte Allen made a motion to approve Agenda Item 9 as written. Council Member Tramayne Hobbs Lightfoot made the second. The motion carried with the following record vote:

VOTE 7 Ayes – Brown, Bruton, Mosley, Allen, Hobbs, Lightfoot, and Washington

10. Presentation and discussion regarding the Annual Uniform Step Payment Plan to provide a consistent and equitable structure for employee salary progression, including the establishment of a universal step date, eligibility and proration guidelines for new hires, and performance-based advancement requirements.

    Clifford Blackwell, City Manager, introduced this item, completed a presentation, and responded to Council's questions regarding Performance Improvement Plans and Cost of Living Adjustments, including when the proposed plan would be implemented, how staff will be compensated through the remainder of the fiscal year, and the reasons this information had not been previously presented. City Council asked that Mr. Blackwell place this item on the July 7, 2026, City Council Meeting for further discussion.

11. Discussion and take action on City Council Member Places 3 and 5 appointing one member to the Citizens Police Advisory Committee for a term beginning June 16, 2026.

Mayor Sonja A. Brown made a motion to approve appointing Shelby Gooden to Place 3 and Demodrae Montgomery to Place 5 of the Citizens Police Advisory Committee for a term ending June 16, 2026, and ending May 5, 2027. Council Member Shaunte Allen made the second. The motion carried with the following record vote:

VOTE 7 Ayes – Brown, Bruton, Mosley, Allen, Hobbs, Lightfoot, and Washington

Shelby Gooden and Demodrae Montgomery expressed their appreciation for the opportunity to serve on the Citizens Police Advisory Committee.

Council Member Sherron Mosley left the dais at 9:14 P.M.

12. Discussion and take action to extend the terms of office for Zoning Board of Adjustment Members Ira Tate (Place 2), BranDee Hopgood (Place 4), and Thomas Spigener (Alternate 2), whose terms expired on April 30, 2026, and to extend the terms of office for Planning and Zoning Commissioners Shaleese Neugent (Place 2) and Brodrick K. Rhodes (Place 5), whose terms are set to expire on June 30, 2026.

    Council Member Shaunte Allen introduced this item. Due to concerns raised by: Council and because not all Members had been contacted, it was requested that this item be tabled.

Council Member Shaunte Allen made a motion to table Agenda Item 12 to the July 21, 2026, City Council Meeting. Mayor Sonja A. Brown made the second. The motion carried with the following record vote:

VOTE 6 Ayes – Brown, Bruton, Allen, Hobbs, Lightfoot, and Washington

13. Presentation and discussion regarding the May 2026 Financial Reports.

    Sherry Roberts, Finance Director, introduced this item. Ms. Roberts and Clifford Blackwell, City Manager, responded to Council questions regarding fund balances, the use of fund balance drawdowns, how accounts are funded, plans to replenish financial reserves, and clarification of terminology used during the presentation.

EXECUTIVE SESSION

1. The City Council shall convene into Executive Session:

    A. pursuant to the Texas Government Code, Section 551.071, Consultation with City Attorney; and Section 551.072, Real Property; to deliberate land acquisitions for the E Bear Creek Road Right-of-Way Expansion Project.

Mayor Sonja A. Brown announced that City Council would convene into Executive Session at 9:34 P.M.

2. The City Council shall reconvene into Open Session and take any action arising from Executive Session.

Mayor Sonja A. Brown announced that City Council reconvened into Open Session at 9:46

P.M. and that no action was taken in Executive Session.

ADJOURNMENT

Mayor Sonja A. Brown adjourned the meeting at 9:46 P.M.

_____
Sonja A. Brown, Mayor

Attest:

_____
Brandi Brown, City Secretary
Passed and approved on the 7th day of July 2026

AGENDA SUMMARY SHEET
July 7, 2026

CONSENT AGENDA, ITEM 2

Discussion and take action to approve Ordinance O-08-26, amending the Code of Ordinances, City of Glenn Heights, Texas, as heretofore amended, and by adopting and enacting a recodification of the Code of Ordinances, including Appendixes and Amendments for the City of Glenn Heights, Texas. (Brandi Brown, City Secretary)

Motion	
Second	
For	Brown, Bruton, Mosley, Allen, Hobbs, Lightfoot, Washington
Against	Brown, Bruton, Mosley, Allen, Hobbs, Lightfoot, Washington
Abstain	
Approve/ Deny/ Table	

CITY OF GLENN HEIGHTS
CITY COUNCIL REPORT

Date: July 7, 2026

SUBJECT

Discussion and take action to approve an Ordinance adopting and enacting a recodification of the Code of Ordinances of the City of Glenn Heights, Texas; providing for the repeal of certain ordinances not included therein; providing penalties for violations thereof; providing for the manner of amending the Code; and providing an effective date.

DISCUSSION / BACKGROUND

The City of Glenn Heights currently operates under its 1996 Code of Ordinances, as updated through October 3, 2023, together with ordinances adopted subsequently by the City Council. The existing code has undergone numerous amendments over the years, making a comprehensive review and reorganization necessary to improve usability, consistency, legal references, and public accessibility.

The proposed Code of Ordinances constitutes a complete recodification of the City's general and permanent ordinances. Source materials utilized in the preparation of the recodification included:The 1996 Code of Ordinances, as updated through October 3, 2023.

- The 1996 Code of Ordinances, as updated through October 3, 2023.
- Ordinances subsequently adopted by the City Council.
- Legal review, research, organization, and editorial updates performed during the codification process.

Each section of the new Code contains a history reference identifying the source ordinance from which the section originated. Sections without a history note represent new provisions adopted for the first time through adoption of the recodified Code. Comparative tables included within the Code provide cross-references between the

previous code sections and the newly organized Code, allowing users to locate ordinances from the former 1996 Code and subsequent amendments.

In 2024, the City entered into an agreement with CivicPlus, LLC to perform a comprehensive recodification of the City's ordinances, including planning and zoning provisions, legal review, indexing, updated state law references, comparative tables, ordinance history tables, and electronic publication services. CivicPlus has completed the recodification project and prepared the Code for formal adoption by the City Council.

Following adoption, CivicPlus will continue to provide ongoing codification, quarterly electronic supplementation services, annual print supplementation services, and online code hosting through its Premium Bundle services. These services will ensure the City's Code remains current, accessible online, and regularly updated as future ordinances are adopted by the City Council.

The recodification does not create new policy direction except where specifically identified in the adopted Code. Rather, it reorganizes existing ordinances, updates statutory references, removes obsolete provisions, standardizes language, and improves the functionality and accessibility of the City's municipal code.

PRIOR COUNCIL OR BOARD ACTION

Not applicable.

PUBLIC CONTACT

The proposed Code of Ordinances will be maintained as a public record in the office of the City Secretary and made available electronically through the City's online code platform hosted by CivicPlus.

FINANCIAL IMPACT

The City previously approved a contract with CivicPlus for recodification services in the amount of $19,720, which included the recodification project, gender-neutral review, legal review, indexing, tables, and publication preparation.

Ongoing annual services include:

- Full-Service Supplementation Subscription: $2,700 annually

- Online Code Hosting Premium Bundle: $1,375 annually

Total Annual Recurring Services: $4,075 annually, subject to contractual renewal provisions.

Funding for the recodification project was approved through the City's budget process.

RECOMMENDATION / ALTERNATIVES

Staff recommends approval of the ordinance adopting the recodified Code of Ordinances, City of Glenn Heights, Texas, effective July 7, 2026.
Approval will:

- Officially adopt the recodified Code of Ordinances.
- Repeal superseded ordinances intended for codification but omitted from the new Code.
- Establish a modern, organized, and user-friendly municipal code.
- Provide continued professional codification, supplementation, and online code hosting services through CivicPlus.
- Improve accessibility and transparency for residents, businesses, staff, and elected officials.

ATTACHMENTS

1. Ordinance O-08-26
2. Glenn Heights, TX Recodification - Code of Ordinances
3. Glenn Heights, TX Recodification - Legal Review

PREPARED BY

Brandi Brown, City Secretary

REVIEWED BY

CITY OF GLENN HEIGHTS, TEXAS
ORDINANCE NO. O-08-26

AN ORDINANCE THE CITY OF GLENN HEIGHTS, TEXAS, AMENDING THE CODE OF ORDINANCES, CITY OF GLENN HEIGHTS, TEXAS, AS HERETOFORE AMENDED, BY ADOPTING AND ENACTING A RECODIFICATION OF THE CODE OF ORDINANCES, INCLUDING APEPENDIXES AND AMENDMENTS FOR THE CITY OF GLENN HEIGHTS, TEXAS; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Glenn Heights, Texas, as a Texas home-rule municipality, passes general and permanent legislation by adopting ordinances for the good government, peace, and order of the municipality; and

WHEREAS, heretofore the City has had all such ordinances codified in its "Code of Ordinances, City of Glenn Heights, Texas," 1996 Code, as updated through October 3, 2023; and

WHEREAS, CivicPlus, LLC, was engaged to undertake a detailed review and reorganization of such 1990 Code to produce a comprehensive recodification entitled "Code of Ordinances, City of Glenn Heights, Texas" - Published in 2026 by Order of the City Council (hereafter "Code") and, further, to enable the entire body of the Code to be continuously maintained and accessed electronically; and CivicPlus, LLC, has now completed the recodification process and has produced the "Code of Ordinances, City of Glenn Heights, Texas"; and

WHEREAS, such "Code of Ordinances, City of Glenn Heights, Texas" requires formal adoption and enactment; and

WHEREAS, the City Council of the City of Glenn Heights, finds it in the public interest to adopt such "Code of Ordinances, City of Glenn Heights, Texas" that has been presented.

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

SECTION 1. The Code entitled "Code of Ordinances, City of Glenn Heights, Texas" published by CivicPlus, LLC, consisting of chapters 1 through 74, each inclusive including Appendixes and Amendments (hereafter "Code"), is hereby adopted. A true and correct copy of said Code shall be kept and maintained in the office of the City Secretary.

SECTION 2. All ordinances of a general and permanent nature intended to be codified in and part of the Code of Ordinances, City of Glenn Heights, Texas, enacted on or before February 3, 2026, and not included in the Code adopted herein are repealed, all other ordinances not intended to be codified in the Code of Ordinances, City of Glenn Heights, Texas, shall remain in force and effect.

SECTION 3. The repeal provided for in section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.

SECTION 4. Unless another penalty is expressly provided, any person or corporation who violates any provision of the Code, as adopted herein, shall be subject to a fine not to exceed the sum of five hundred dollars ($500.00) for each offense, and each and every day any such offense shall continue shall be deemed to constitute a separate offense, provided however, that in all cases involving violation of any provision of the Code adopted herein governing fire safety or public health shall be subject to a fine not to exceed the sum of two thousand ($2,000.00) for each offense. Each act of violation and each day upon which any such violation shall continue or occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any Code section, whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

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

SECTION 6. Ordinances adopted after February 3, 2026, that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to like provisions of the Code.

SECTION 7. This ordinance shall become effective July 7, 2026.

DULY PASSED AND ADOPTED by the City Council of the City of Glenn Heights, Texas, this the 7th day of July, 2026.

_____
Sonja A. Brown, Mayor

ATTEST:

_____
Brandi Brown, City Secretary

_____
Kellie McKee, City Attorney

Certificate of Adoption

I hereby certify that the foregoing is a true copy of the ordinance passed at the regular meeting of the city council, held on the 7th day of July, 2026.

_____

Brandi Brown, City Secretary

CODE OF ORDINANCES

CITY OF

GLENN HEIGHTS, TEXAS

Published in 2026 by Order of the City Council

municode
POWERED BY CIVICPLUS

info@municode.com | 800.262.2633 | www.municode.com

P.O. Box 2235 Tallahassee, FL 32316

PREFACE

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

Source materials used in the preparation of the Code were the 1996 Code, as updated through October 3, 2023, and ordinances subsequently adopted by the city council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the 1996 Code, as updated, and any subsequent ordinance included herein.

Acknowledgments

This publication was under the direct supervision of Sandra S. Fox, Senior Code Attorney, and Amy Norton, Editor, of CivicPlus, LLC, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

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

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***Editor's note—**Printed herein is the Home Rule Charter of the City effective September 16, 1969, the date the City was officially incorporated. Amendments to the Charter (except the August 1987 amendment) are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original Charter. In the publication of this Charter, obvious misspellings and syntax and other grammatical errors have been corrected without notation. For stylistic purposes, a uniform system of capitalization, numbering, headings, catchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

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PREAMBLE

This Charter is dedicated to the citizens of the City of Glenn Heights, Texas, for the purpose of ensuring such powers, rights, and duties as are herein provided and to encourage the citizens' participation in the democratic government for proper and efficient progress of our City. To this end we ordain this home rule Charter as prescribed by law and with the guidance of God.

ARTICLE 1. INCORPORATION, FORM OF GOVERNMENT AND POWERS

Sec. 1.01. Incorporation.

The citizens of the City of Glenn Heights in Dallas and Ellis Counties, Texas within the corporate limits as now established, or hereafter established in the manner prescribed by this Charter, shall be and shall continue to be a municipal body politic and corporate in perpetuity under the name of the "City of Glenn Heights."

Sec. 1.02. Form of government.

The municipal government provided by this Charter shall be known as the "Council-Manager" government. Pursuant to its provisions and subject only to the limitations imposed by the State constitution, by the statutory laws of Texas, and by this Charter, all powers of the City shall be vested in an elective Council, hereinafter referred to as the "Council," which shall enact local legislation, adopt budgets, determine policies, appoint the City Attorney, Judge of the Municipal Court, and the City Manager, who shall execute the laws and administer the government of the City.

Sec. 1.03. General powers of the City.

The City of Glenn Heights shall have all powers granted to municipalities by the Constitution and laws of the State of Texas, together with all of the implied powers necessary to carry into execution such granted powers. The City may:

(a) Use a corporate seal;

(b) Sue and be sued;

(c) Contract and be contracted with;

(d) Cooperate with the government of the state of Texas or any agency or any political subdivision thereof or with the federal government or any agency thereof, to accomplish any lawful purpose for the advancement of the interest, welfare, health, morals, comfort, safety, and convenience of the City and its citizens;

(e) Acquire property within or without its corporate limits for any municipal purpose in fee simple, or in any lesser interest or estate, by purchase, gift, devise, lease or condemnation, and subject to the provisions of this Charter;

(f) Sell, lease, mortgage, hold, manage, improve and control such property as may now of [or] hereafter be owned by it provided however, the City shall not sell, convey, mortgage, or otherwise alienate any public utility without prior approval of the voters of the City;

(g) Exercise the power of eminent domain where necessary or desirable to carry out any of the powers conferred upon it by this Charter, or by the constitution and laws of the state of Texas;

(h) Pass ordinances and enact such regulations as may be expedient for the maintenance of the City and the welfare, health, morals, comfort, safety and convenience of its citizens.

The powers hereby conferred upon the City shall include, but are not restricted to, the powers conferred expressly and permissively by Chapter 147, Page 307, of the Acts of the 33rd Legislature, Regular Session, enacted in 1923 pursuant to the Home Rule Amendment of the Constitution of Texas, known as the Enabling Act and including Articles 1175, 1176, 1177, 1180, of the Revised Civil Statutes of Texas, 1925 [V.T.C.A., Local Government Code chs. 51—54], as now or hereafter amended, all of which are hereby adopted. In addition to the powers enumerated herein, and subject only to the limitations imposed by the State Constitution, the State laws, and this Charter, the City shall have, without the necessity of express enumeration in this Charter, each and every power which, by virtue of Article 11, Section 5 of the Constitution of Texas [Tex. Const. art. 11, § 5], the people of the City are empowered by election to grant to or confer upon the City by expressly and specifically granting and enumerating the same herein. All such powers, whether expressed or implied, shall be exercised and enforced in the manner prescribed in this Charter; or when not prescribed herein, in such manner as shall be provided by the ordinance of the Council.

Sec. 1.04. Streets and public property.

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

Sec. 1.05. Street development and improvement.

The City shall have the power to develop and improve, or cause to be developed and improved, any and all public streets, sidewalks, alleys, highways, and other public ways within the corporate limits of the City by laying out, opening, narrowing, widening, straightening, extending, lighting and establishing building lines along the same by purchasing, condemning, and taking property therefor by filling, grading, raising, lowering, paving, repaving, and repairing, in a permanent manner, the same and by constructing,

reconstructing, altering, repairing, and realigning curbs, gutters, drains, sidewalks, culverts, and other appurtenances and incidentals in connection with such development and improvement authorized hereinabove, or any combination or parts thereof. The cost of such development and improvement may be paid partly or entirely by assessments levied as a lien against the property abutting thereon and against the owners thereof, and such assessments may be levied in any amounts and under any procedure not prohibited by State Law provided, that no assessment shall be made against such land or owners in excess of the enhancement in value of such property occasioned by such improvement.

As an alternate and cumulative method of developing, improving, and paving any and all public streets, sidewalks, alleys, highways, and other public ways within its corporate limits, the City shall have the power and authority to proceed in accordance with Chapter 106, Page 489, Acts 1927, Fortieth Legislature, First Called Session, as now or hereafter amended, the same being Article 1105b of the Revised Civil Statutes of Texas, 1925 [V.T.C.A., Transportation Code ch. 313].

Sec. 1.06. Boundaries.

The boundaries and limits of the City of Glenn Heights, until changed in the manner herein provided, shall be the same as have heretofore been established and exist on the date of the adoption of this Charter, which boundaries are more fully set out and described by metes and bounds in a book called, "Official Record Describing the Metes and Bounds of the City of Glenn Heights," which is now and shall hereafter be in the office of the City Secretary of the City of Glenn Heights.

Sec. 1.07. Annexation and disannexation.

The City shall have all powers possible for a City to have under the Constitution and laws of the State of Texas to fix the boundaries of the City, exchange area with other municipalities, extend the boundaries of the City and annex area adjacent to the City. The Council shall have the power by ordinance to fix the boundary limits of the City of Glenn Heights, Texas, and to provide for the alteration and extension of said boundary limits, and the annexation of additional territory lying adjacent to it whether said territory be inhabited or uninhabited. Should the territory be inhabited, the Council may also, upon a petition signed by a majority of the registered voters in such territory, consider such petition for annexation. Whenever, in the opinion of the Council, there exists within the corporate limits of the City any territory, either inhabited or uninhabited, not suitable or necessary for City purposes, or upon a petition signed by a majority of the qualified voters residing in said inhabited territory, the Council may, upon a public hearing and by ordinance duly passed, discontinue said territory as part of the City of Glenn Heights. The City shall comply with all applicable procedural rules and notice requirements set forth in Chapters 42 and 43 of the Texas Local Government Code [V.T.C.A., Local Government Code chs. 42 and 43], as now and hereafter amended, as well as any other applicable laws of the State of Texas.
(Amended at election of May 4, 2002)

ARTICLE 2. CITY COUNCIL*

Sec. 2.01. Number, selection, term of office and compensation.

The governing and lawmaking body of the City of Glenn Heights shall consist of a Mayor and six (6) Councilmembers, and said body shall be known as the "City Council of the City of Glenn Heights." The members of the City Council of the City of Glenn Heights shall be the only elective officers of the City and shall run for office by place and be elected from the City at-large in the manner provided in Article 3, for a term of three (3) years, or until their successors are duly elected and qualified. Beginning in 2013, the General Election in the City of Glenn Heights for the Mayor and Councilmembers shall be held on the uniform election date occurring in November. The terms of office of those Councilmembers whose terms of office would have expired with a regular election in May shall each have their term of office of extended by six (6) months, until the following November. All seven elected positions shall be subject to term limits. No person shall be a member of the City Council for more than three (3) consecutive three-year terms, and any person who does serve as a member of the City Council for three (3) consecutive terms shall not be eligible for election to a position on the City Council until a period of three (3) years has expired from the last date of that person's service as a member of the City Council. Said Mayor and Councilmembers shall draw no compensation as such for their duties, but shall be reimbursed for any lawful expenditures made in behalf of the City or expenses incurred in the performance of their duties when approved by the Council.
(Amended at election of May 4, 2002; amended by Ord. No. O-09-12 at an election held on May 12, 2012, prop. 1)

Sec. 2.02. Prohibiting holding or running for other office.

No person elected to the City Council shall, during the term for which he/she was elected, be appointed to any office or position in the service of the City. If a member of the Council shall become a candidate for nomination or election to any publicly elected office, other than a position on the City Council, or if any employee or officer other than a member of a City board or commission becomes a candidate for a position on the City Council, he/she shall forfeit his/her place or position with the City effective immediately upon the filing as a candidate for the nomination or election to such public office.
(Amended by Ord. No. 728-02 at an election held on May 4, 2002; amended by Ord. No. O-09-12-Res. R-19-12 at an election held on May 12, 2012, prop. 2)

Sec. 2.03. Qualifications.

Each of the six (6) Councilmembers and Mayor shall be a citizen of the United States of America and a registered qualified voter of the State of Texas and shall be at least 18 years

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***Editor's note—**Former section 2.08, pertaining to the City Secretary, was renumbered as section 5.11 by Ordinance No. O-846-07 at an election held on May 12, 2007, prop. 4, to more accurately reflect the organization structure of the City. Former section 2.16, pertaining to interim government, was deleted in its entirety by Ordinance No. O-846-07 at an election held on May 12, 2007, prop. 7.

of age; shall live within the Corporate Limits of the City of Glenn Heights and shall have resided for at least one (1) year preceding the election at which they are candidates within the corporate limits of the City of Glenn Heights, shall not be in arrears in the payment of any taxes or other liability due the City, and shall not have been previously removed from office by the Council for misconduct nor be disqualified by reason of any provision of any other section of this Charter. Each member of the City Council shall have taken the oath of office to qualify to serve in his or her official capacity on the City Council.

A member of the Council ceasing to possess any of the qualifications specified in this section or any other section of this Charter, or convicted of a felony while in office, shall immediately forfeit his office. No member of the Council shall hold any other public office within the City except that of Notary Public or member of the National Guard or naval or military reserve or a retired member of the Armed Forces.
(Amended by Res. R-27-18 at an election held on November 6, 2018, prop. F; amended by Ord. No. O-02-26 at an election held on February 3, 2026, prop. C)

Sec. 2.04. Council to be the judge of the qualification of its own members.

The City Council shall be the judge of the qualifications of its own members, and for such purpose shall have power to subpoena witnesses, require the production of records, conduct an investigation, hold a hearing, and determine by majority vote whether a member is guilty of an infraction for which a member may be censured or removed from office for cause. Cause shall include:

(a) knowingly and intentionally violating the provisions of this Charter;

(b) official misconduct, which shall be defined as intentional unlawful behavior relating to official duties, including corrupt failure, refusal, or neglect of a duty imposed by law;

(c) incompetency, which shall be defined as gross ignorance of official duties; gross carelessness in the discharge of official duties; or inability or unfitness to promptly and properly discharge official duties because of a serious mental or physical defect that did not exist at the time of the officer's election;

(d) intoxication while performing the duties of office by consuming alcoholic beverages or other chemical substances that cause intoxication;

(e) unexcused absence from three consecutive regular meetings or five unexcused absences from regular and special meetings within any six month period.

The Council may adopt an ordinance or resolution further specifying the procedure for investigation, notice, hearing, censure, and removal of a Councilmember, and for excuse of absences, as provided herein.

In censuring a Councilmember, the Council shall have the authority to issue a public reprimand or to suspend the member from office for a specific period of time. In the event the Council removes a Councilmember, that member's seat shall become vacant and may be filled as provided in this Charter.
(Amended by Ord. No. O-846-07 at an election held on May 12, 2007, prop. 2)

Sec. 2.05. Vacancies.

In the event a vacancy occurs in the office of Mayor or Councilmembers from any cause whatsoever, a special election shall be held after the vacancy occurs on the earliest date permitted by state law for the purpose of filling such position for the remainder of the unexpired term.

Sec. 2.06. Powers of the Council.

All powers and authority which are explicitly conferred on or possessed by the City shall be vested in and exercised by the City Council, provided however, that the Council shall have no power to exercise those powers which are expressly conferred upon other City officers by this Charter.

All members of the Council present, including the Mayor, shall vote upon every resolution or ordinance, except where there is a conflict of interest, the reason for which shall be stated concisely in the records.

Sec. 2.07. Mayor; Mayor Pro Tem.

The Mayor of the City shall preside over the meetings of the City Council and perform such other duties consistent with the office as may be imposed upon him/her by this Charter and the ordinances and resolutions passed in pursuance hereof. He/she may participate in the discussion of all matters coming before the Council and shall be required to vote, but shall have no veto power. He/she shall sign conveyances made or entered into by the City and all bonds issued under the provisions of this Charter. He/she shall be recognized as the official head of the City by the court for the purpose of serving civil process, by the Governor for the purpose of enforcing military law, and on all ceremonial purposes. In time of danger or emergency, the Mayor may with the consent of the Council take command of the police and govern the City by proclamation and maintain order and enforce all laws.

The Mayor Pro Tem shall be elected from among the six (6) Councilmembers shall be selected each year at the first regular meeting following the general City election, and shall in the absence or disability of the Mayor perform all the Mayor's duties.
(Amended by Ord. No. O-846-07 at an election held on May 12, 2007, prop. 3)

Sec. 2.08. City Attorney.

The City Council shall appoint or remove a City Attorney who shall be duly licensed and admitted to the practice of law by the State of Texas. The City Attorney shall be legal advisor of and attorney for all officers of the City and shall represent the City in all litigation and legal proceedings.

Sec. 2.09. Meetings of the Council.

The City Council shall hold two (2) regular meetings in each month, except December, at a time to be fixed by it for such regular meetings. The City Council may hold as many additional meetings during the month as may be necessary for the transaction of the business of the City and its citizens.
(Amended by Ord. No. O-846-07 at an election held on May 12, 2007, prop. 5)

Sec. 2.10. Rules of procedure.

The City Council shall determine its own rules of procedure and order of business and may compel the attendance of its members. Five (5) members of the City Council shall constitute a quorum to do business however, the affirmative vote of at least four (4) of those attending any meeting at which there is a quorum present shall be necessary to adopt any ordinance or resolution. All meetings of the City Council shall be open to the public, as provided by state law, and minutes of all proceedings shall be kept, to which any citizen may have access at all reasonable times and which shall constitute one of the archives of the City. The vote upon the passage of all ordinances and resolutions shall be taken by ayes and nays made in open meeting by a canvass of the Council, and the vote of each Councilmember shall be entered upon the minutes, and every ordinance or resolution, upon its final passage, shall be recorded in a book kept for that purpose and shall be authenticated by the signature of the presiding officer and the City Secretary.

Sec. 2.11. Procedure to enact legislation.

The City Council shall legislate by ordinance and the enacting clause of every ordinance shall be: "Be it ordained by the City Council of the City of Glenn Heights."

Every ordinance enacted by the Council shall be signed by the Mayor or Mayor Pro Tem and shall be filed with and recorded by the City Secretary. The descriptive caption of all ordinances enacted by the Council shall be read in open meeting of the Council at one (1) regular or special Council meeting. All ordinances, unless otherwise provided by law or by the terms of such ordinance, shall take effect in accordance with Article 2, Section 2.13.
(Amended by Ord. No. O-846-07 at an election held on May 12, 2007, prop. 6; amended by Ord. No. O-02-26 at an election held on February 3, 2026, prop. D)

Sec. 2.12. Publication of ordinances.

Except as otherwise provided by law, or by this Charter, the City Secretary shall give notice of the enactment of every ordinance imposing any penalty, fine or forfeiture for any violation of any of its provisions and of every other ordinance required by law, or this Charter, to the public, by causing the said ordinance, or its caption and penalty, to be published at least one time after final passage thereof in the official newspaper of the City. The affidavit of such publication by the publisher of such newspaper, taken before any officer

authorized to administer oaths, and filed with the City Secretary shall be conclusive proof of the legal publication and promulgation of such ordinance in all courts. Such ordinance shall take effect upon publication as required by law.

Sec. 2.13. Adoption and ratification of existing City ordinances and prior City actions.

All ordinances of the City of Glenn Heights adopted prior to the adoption of this Charter and not inconsistent with the provisions of this Charter shall remain in full force and effect until altered, amended or repealed by the City Council.

All official actions taken by the City of Glenn Heights, its City Councils or other City officials, and all previous elections, contracts, bonds, warrants and other evidence of indebtedness and any annexations, prior to the adoption of this Home Rule Charter, are hereby adopted, validated, confirmed and ratified.

Sec. 2.14. Code of ordinances.

The City Council shall have power to cause the ordinances of the City of Glenn Heights to be printed in code form and shall have the same arranged and digested as often as the Council may deem advisable however, failure to print the ordinances as herein provided shall not affect the validity of same.

ARTICLE 3. ELECTIONS

Sec. 3.01. General elections.

The regular City Election shall be held on the first Saturday in November, or at such other time as is prescribed by state law, at which time officers shall be elected to fill those offices which become vacant that year. The City Council shall fix the hours and place for holding such elections. All candidates for the City Council shall file for one place and shall be elected to that place by obtaining greater than 50% of the votes cast. Places 1, 3, and 5 shall be up for election and filled in the same year. The Mayor's office and places 2, 4 and 6 shall be up for election and filled in the same year.
(Amended at election of May 4, 2002; amended by Ord. No. 728-02 at an election held on May 4, 2002; amended by Res. R-27-18 at an election held on November 6, 2018, prop. A)

Sec. 3.02. Regulation of elections.

The Council shall make all regulations considered to be necessary or desirable which are not inconsistent with this Charter or the laws of the State of Texas, for the conduct of municipal elections, or for the prevention of fraud, and shall make provisions for recount of the ballots in case of doubt or fraud. The Council will appoint election officials who will conduct the municipal elections consistent with this Charter, regulations made by the Council and the laws of the State of Texas. The Council shall provide for the compensation of all election officials in City Elections and for all other expenses of holding such elections.

Sec. 3.03. Filing for office.

Any qualified person who desires to become a candidate for election to the office of Mayor or City Councilmember shall file with the City Secretary, not less than forty-five (45) days prior to the election, an application on the form provided by the City Secretary, which form shall be in accordance with State law.
(Amended by Ord. No. 728-02 at an election held on May 4, 2002)

Sec. 3.04. Official ballot.

The official ballot shall be drawn up by the City Secretary and approved by the City Attorney and will contain the names of all candidates for office, except those who may have been withdrawn, deceased or become ineligible. The ballot shall have the designation of the particular office (Mayor or Councilmember) and under the appropriate designation shall appear the applicable place numbers. Names will be placed under each place without party designation and position will be determined by drawing conducted by the City Secretary.

Sec. 3.05. Conducting and canvassing elections.

The returns of every municipal election shall be delivered forthwith by the election judges to the Mayor. The Council shall canvass the returns, investigate the qualifications of the candidates and declare the official results of the election in the manner and within the time provided by law and deliver the votes to the City Secretary. Returns of every municipal election shall be recorded in the minutes of the Council. The candidate for Mayor who receives the majority of ballot votes, by qualified voters at the election, shall be declared elected. The candidates for election to the places of Councilmembers, who receive the majority of ballot votes, for each place cast by qualified voters voting at the election shall be declared elected. The results of said election shall be posted in the City Hall as soon as they are declared official.

The City Council shall be the judge of the election and qualifications of its own members, but the decision of the Council in any case shall be subject to review by the Courts.

Sec. 3.06. Election by plurality.

At any election for the office of Mayor or Councilmember, the candidate receiving more votes than any other candidate shall be declared elected. If two or more candidates for the same office tie for the number of votes required to be elected, a second election to fill the office shall be held unless otherwise provided by law.
(Amended at election of May 4, 2002; amended by Ord. No. O-02-26 at an election held on February 3, 2026, prop. E)

Sec. 3.07. Special elections.

The Council may, by ordinance or resolution, call such special election as are authorized by the state law and this Charter, fix the time and place of holding same, and provide all

means for holding such special elections, provided that every special election shall be called and held as nearly as practicable according to the provisions of the general election laws of the State of Texas.

ARTICLE 4. INITIATIVE, REFERENDUM AND RECALL

Sec. 4.01. Power of initiative.

The citizens of the City of Glenn Heights reserve the power of direct legislation by initiative, and in the exercise of power, may propose any ordinance not in conflict with this Charter, the State Constitution, or the state laws, except an ordinance appropriating money or authorizing the levy of taxes, or an ordinance repealing an ordinance appropriating money, levying taxes, or an ordinance involving zoning or annexation. Any initiated ordinance may be submitted to the Council by a petition signed by registered qualified voters of the City of Glenn Heights equal in number to at least twenty- five (25%) percent of the number of registered voters in the City.
(Amended by Ord. No. O-846-07 at an election held on May 12, 2007, prop. 8)

Sec. 4.02. Power of referendum.

The citizens reserve the power to approve or reject at the polls any legislation enacted by a Council which is subject to the initiative process under this Charter, except an ordinance which is enacted for the immediate preservation of the public peace, health or safety which contains a statement of its urgency. Prior to the effective date of any ordinance which is subject to referendum, a petition signed by registered qualified voters of the City, equal in number to at least twenty-five (25%) percent of the registered voters in the City, may be filed with the City Secretary requesting that such ordinance be either repealed or submitted to a vote of the people. When such a petition has been certified as sufficient by the City Secretary, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless it is approved by the voters as herein provided.
(Amended by Ord. No. O-846-07 at an election held on May 12, 2007, prop. 8)

Sec. 4.03. Form of petition.

Initiative petition papers shall contain the full text of the proposed legislation in the form of an ordinance, including a descriptive caption. The signatures to the initiative or referendum need not be all appended to one paper, but each signer shall sign his/her name in ink or indelible pencil, shall add his/ her signature and his/her place of residence by street and number and his/her voter registration number. One of the signers of each separate paper petition shall make an affidavit that he/she, and he/she only, personally circulated such petition and that signature appended thereto was made in his/her presence and is the genuine signature of the person whose name it purports to be, and further that no signature shall have been placed thereon forty-five (45) days prior to the filing of such petition.

Sec. 4.04. Filing, examination and certification of petition.

Within ten (10) business days after an initiative or referendum petition is filed, the City Secretary shall determine whether the same is signed by the requisite number of registered voters. The City Secretary shall declare void any petition paper which does not have an affidavit attached thereto as required by Section 4.03 of this Article. In examining the petitions, the City Secretary shall write the letters "D.V." in red ink opposite the names of signers found not registered to vote. After completing examination of the petition, the City Secretary shall certify the results thereof to the Council at its next regular meeting, stating the number of persons found on the petition who are registered to vote and the number of persons found on the petition who are not registered to vote. If the certificate of the City Secretary shall show an initiative or referendum petition to be insufficient the City Secretary shall notify the person filing the petition, and it may be amended within ten (10) business days from the date of such notice by filing a supplementary petition upon additional papers signed and filed as provided for in the original petition. Within ten (10) business days after such amendment is filed, the City Secretary shall examine the amended petition and certify as to its sufficiency. If the amended petition is found to be insufficient, the City Secretary shall return the petition to the person filing same, without prejudice to the filing of a new petition for the same purpose: provided however, that upon finding the amended petition to be insufficient, no new petition covering the same subject matter shall be filed until six (6) months shall have elapsed from the date of filing of the original petition.

Sec. 4.05. Council consideration and submission to voters.

When the Council receives an authorized initiative petition certified by the City Secretary to be sufficient, the Council shall either:

(a) Pass the initiated ordinance without amendment within thirty (30) days after the date of the certification to the Council;

(b) Submit said initiated ordinance without amendment to a vote of the registered voters of the City at a regular or special election to be held within ninety (90) days after the date of the certification to the Council; or

(c) At such election, submit the initiated ordinance without amendment and an alternative ordinance proposed by the Council to a vote of the qualified voters of the City. The ballot shall state the captions of the initiated ordinance and the alternative ordinance, clearly designating them "Ordinance No. 1" and "Ordinance No. 2," respectively, and shall set forth below the captions on separate lines the words "For Ordinance No. 1," "For Ordinance No. 2," and "Against Both Ordinances." Each voter shall vote "For" only one ordinance, or "Against Both Ordinances," and a vote for one ordinance shall be counted as a vote against the other ordinance.

When the Council receives an authorized referendum petition certified by the City Secretary to be sufficient, the Council shall reconsider the referred ordinance, and if upon such reconsideration such ordinance is not repealed, it shall be submitted to the voters at a regular or special election to be held not more than ninety (90) days after the date of the

certification to the Council. Special elections on initiated or referred ordinances shall not be held more frequently than once each six (6) months, and no ordinance on the same subject as an initiated ordinance which has been defeated at any election may be initiated by the voters within two (2) years from the date of such election.
(Amended by Ord. No. O-09-12-Res. R-19-12 at an election held on May 12, 2012, prop. 3)

Sec. 4.06. Ballot form and results of election.

The ballot used in voting upon an initiated or referred ordinance shall state the caption of the ordinance and below the caption shall set forth on separate lines the words: "For the Ordinance" and "Against the Ordinance."

An initiated ordinance and an alternative ordinance proposed by the Council which are submitted at the same election shall be appropriately identified as the initiated or referred ordinance and as the ordinance proposed by the Council.

Any number of ordinances may be voted upon at the same election in accordance with the provisions of this Article. An ordinance submitted and receiving an affirmative majority of the votes cast, shall thereupon be effective as an ordinance of the City. An ordinance so adopted may be repealed or amended at any time after the expiration of two (2) years by a four-fifths (⅘) vote of the Council. A referred ordinance which is not approved by a majority of the votes cast shall be deemed thereupon repealed.

Sec. 4.07. Power of recall.

The citizens of the City reserve the power to recall any member of the Council for acts of misfeasance, malfeasance, incompetence, or official misconduct and may exercise such power by filing with the City Secretary a petition, signed by registered qualified voters of the City equal in number to at least thirty percent (30%) of the number of votes cast at the last regular municipal election of the City, or by 150 registered qualified voters, whichever is greater, demanding the removal of a member of the City Council. The petition shall be signed and verified in the manner required, by the form prescribed below. Such petition shall contain a statement of the specific acts of misfeasance, malfeasance, incompetence, and/or official misconduct for which the removal is sought, and one of the signers of each petition paper shall make an affidavit as prescribed below. "Malfeasance" is a wrongful act that a person has no legal right to do. "Misfeasance" is the improper doing of an act that a person might lawfully do. "Incompetence" means gross ignorance of official duties, gross carelessness in the discharge of official duties, or inability or unfitness to promptly and properly discharge official duties because of a serious mental or physical defect that did not exist at the time of the Councilmember's election. "Official misconduct" means intentional unlawful behavior relating to official duties of a Councilmember, including the intentional or corrupt

failure, refusal, or neglect of a Councilmember to perform a duty imposed upon the Councilmember by law. The following form of petition and acknowledgement is herein prescribed:

"By our signatures affixed hereto, we hereby affirm that we seek the recall of _____, who holds the elected office of _____, for the following specific grounds of misfeasance, malfeasance, incompetence, and/or official misconduct as prescribed in Article 4, Section 4.07 of the Charter of the City of Glenn Heights:

And we further affirm that the information given below is true and correct:

Voter Registration Number: _____

Printed Name _____

Address _____

Signature _____

Date Signed _____

STATE OF TEXAS

COUNTIES OF DALLAS AND ELLIS

BEFORE ME, the undersigned authority, personally appeared _____, who, after being duly sworn by me stated, upon his/her oath, that he/she circulated the above Petition; that he/she was personally present when each of the above signatures were affixed thereto; and that each person whose signature is affixed thereto, affirmed to him/her that the information provided by them was true and correct.

SWORN TO AND SUBSCRIBED BEFORE ME this the _____ day of _____, 20____.

_____

Notary Public, State of Texas

My Commission Expires: _____"

(Amended by Ord. No. 728-02 at an election held on May 4, 2002; amended by Ord. No. O-846-07 at an election held on May 12, 2007, prop. 8)

Sec. 4.08. Recall election.

Within fifteen (15) days after the date of the filing of the papers constituting the recall petition, the person performing the duties of City Secretary shall verify the signatures on the petition and then present such petition to the Council.

The officer whose removal is sought may, after such recall petition has been presented to the Council, request in writing to the Council at the next regular meeting a public hearing to be held to permit him/ her to present facts pertinent to the charges specified in the recall petition. In this event, the Council shall order such public hearing to be held, not less than five (5) days nor more than fifteen (15) days after receiving such request for a public hearing.

If the officer whose removal is sought does not resign, then it shall become the duty of the Council to order an election and fix a date for holding such recall election. The date of such election shall be held at the earliest date as permitted by state law.

Sec. 4.09. Recall ballot.

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

(a) With respect to each person whose removal is sought the question shall be submitted Shall (Name) be removed from the office of City Council.

(b) Immediately below each such question there shall be printed the two following propositions, one above the other, in the order indicated:

"For the recall of (name)"

"Against the recall of (name)"

Sec. 4.10. Results of a recall election.

If a majority of the votes cast at a recall election shall be against removal of the individual named on the ballot, he/she shall continue in office. If a majority of the votes cast at such election be for the removal of the individual named on the ballot, the Council shall immediately declare his/her office vacant and such vacancy shall be filled in accordance with the provisions of the Charter for the filling of vacancies. An individual thus removed shall not be a candidate to succeed himself in an election called to fill the vacancy thereby created.

Sec. 4.11. Limitations on recall.

No recall petition shall be filed against any officer of the City within six (6) months after his/her election, or within one (1) year after an election for such officer's recall.
(Amended by Ord. No. O-846-07 at an election held on May 12, 2007, prop. 9)

Sec. 4.12. Failure of the Council to call an election.

In case all the requirements of this Charter shall have been met and the Council shall fail or refuse to receive the recall petition or order such recall election, or discharge any other duties imposed upon said Council by the provisions of the Charter with reference to such recall, then the County Judge of Dallas County, Texas, shall discharge any such duties herein provided to be discharged by the person performing the duties of the City Secretary or by the Council, or in the event the County Judge shall fail to discharge such duty, an action for Writ of Mandamus to compel the discharge of such duty may be brought in any district court of Dallas or Ellis Counties, Texas.
(Amended by Ord. No. O-846-07 at an election held on May 12, 2007, prop. 10)

Sec. 4.13. Fraud in the petition process.

In the event that, with regard to any petition for initiative, referendum, or recall filed with the City Secretary, the City Council is presented with credible evidence that signatures on

such petition were secured or added by means of fraud or other false inducement, the Council may, by majority vote, order the investigation of such evidence by the police department or other law enforcement agency and may delay ordering an election until such investigation is completed provided, however, that it shall be grounds for removal from office for any member of the Council to vote for such an investigation solely for the purpose of delay. In the event such investigation reveals the substantial likelihood of fraud or other false inducement, the Council may decline to order an election and may refer such matter to the appropriate state or county official for prosecution. In the event such investigation reveals no substantial likelihood of fraud or other false inducement, the Council shall order an election for the next available uniform election date.
(Amended by Ord. No. O-846-07 at an election held on May 12, 2007, prop. 11)

ARTICLE 5. ADMINISTRATIVE ORGANIZATION

Sec. 5.01. The City Manager.

The Council shall appoint a City Manager for an indefinite term, who shall be the chief administrative officer of the City. He/she shall be chosen by the Council solely on the basis of his/her executive and administrative training, experience, ability and character, and without regard to political consideration. The City Manager shall reside within a reasonable response time as determined by the City Council. No member of the Council shall, during the term for which elected, be chosen as City Manager. The City Manager shall receive such compensation as may fixed by the Council.

Sec. 5.02. Powers and duties of the City Manager.

The City Manager shall be responsible to the Council for the proper administration of all the affairs of the City. The powers herein conferred upon the City Manager shall include, but shall not be limited to, the following:

(a) Appoint and, when necessary for the welfare of the City, remove any officer or employee of the City, except as otherwise provided by this Charter and except as he/she may authorize the head of a department to appoint and remove subordinates in such department.

(b) Serve as Budget Officer for the City, prepare and submit to the Council an annual budget, and be responsible for its administration after adoption.

(c) Prepare and submit to the Council as of the end of the fiscal year a complete report on the finances and administrative activities of the preceding year.

(d) Keep the Council advised of the financial condition and future needs of the City and make such recommendations as may seem to him/her desirable.

(e) Perform such other duties as may be prescribed by this Charter or required of him/her by the Council, not inconsistent with this Charter.

(f) Attend all meetings of the Council, and he/she shall be notified of all meetings of the Council.

(Amended by Ord. No. O-09-12 at an election held on May 12, 2012, prop. 4)

Sec. 5.03. Removal of City Manager.

The Council may remove the City Manager, upon the affirmative vote of a majority of the entire Council. If removed after serving six (6) months, he/she may demand written charges and the right to he/she [be] heard thereon at a public meeting of the Council prior to the date on which his/her final removal shall take effect; but pending such hearing the Council may suspend him/her from office. The action of the Council in suspending or removing the City Manager shall be final, it being the intention of the Charter to vest all authority and fix all responsibility for such suspension or removal in the Council.

Sec. 5.04. Investigation by the City Council.

The City Council shall have power to inquire into the conduct of any office, department, agency, officer or employee of the City and to make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths and compel the production of books, papers and other evidence. Failure to obey such subpoena or produce books, papers or other evidence, as ordered under the provisions of this section shall constitute a misdemeanor and shall be punishable by fine not to exceed One Thousand ($1,000.00) Dollars.

Sec. 5.05. Council not to interfere in City Manager's appointments or removals.

Neither the Council nor any of its members shall direct or request the appointment of any person to or his/her removal from office by the City Manager or by any of his/her subordinates. However, the Council may consult and advise the City Manager, make inquiry regarding the appointments or removals and may express their opinion in regard thereto. In regard to administrative and executive duties under the City Manager, the Council and its members shall deal solely through the City Manager and neither the Council nor any member thereof shall give orders to any subordinate of the City Manager, either privately or publicly. Willful violation of the foregoing provisions of the Charter by any member of the Council shall constitute official misconduct and shall authorize the Council by a vote of a majority of its membership to expel such offending member from the Council if found guilty after a public hearing and thereby create a vacancy in the place held by such member.

Sec. 5.06. Absence of the City Manager.

The City Manager, by letter filed with the City Secretary, may designate a qualified administrative officer of the City to perform his/her duties during his/her temporary absence or disability. In the event of failure of the City Manager to make such designation, the Council may by resolution appoint an officer of the City to perform the duties of the City Manager until he/she shall return or his/her disability shall cease.

Sec. 5.07. Administrative departments.

There shall be such administrative departments as are established by this Charter and such other administrative departments as may be deemed necessary by the Council and as are established by ordinance, all of which shall be under the control and direction of the City Manager. The Council may abolish or combine one or more departments created by it and may assign or transfer duties of any departments of the City from one department to another by ordinance.

Sec. 5.08. Directors of departments.

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

Sec. 5.09. Fire Department.

The City shall take all necessary measures to protect the City and the property of its citizens from destruction by fire or conflagration; and shall have the authority to establish and maintain a fire department within the City at such time as state statutes may require, and to cooperate with any person, other governmental body, association or corporation in the operation of the Fire Department, under such terms as the City Council may prescribe. Authority is also granted to support and assist in the maintenance of a volunteer fire department.

Sec. 5.10. Police Department.

The City of Glenn Heights shall establish a Police Department and Reserve Force to protect and serve the citizens within the City and to cooperate with any person, governmental body, association or corporation in the operation of the Police Department, under such terms as the City Council may prescribe. Duties will be, but not limited to: maintaining public order, enforcement of regulations, traffic control, police patrol, investigations, crime prevention, accident investigation, and training.
(Amended at election of May 4, 2002)

Sec. 5.11. City Secretary [and City Council Liaison].

The City Manager shall appoint and remove the City Secretary and such Assistant City Secretaries as the City Council shall deem advisable. The duties of the City Secretary, or an Assistant City Secretary shall be as required by law and as established by the Job Description as adopted with the City's Pay Classification Plan. The City Council shall appoint and remove a City Council Liaison as the City Council shall deem advisable.
(Amended by Ord. No. O-846-07 at an election held on May 12, 2007, prop. 4; amended by Ord. No. O-02-26 at an election held on February 3, 2026, prop. F)

ARTICLE 6. MUNICIPAL COURT

Sec. 6.01. Municipal Court.

There shall be a court known as the Municipal Court of the City of Glenn Heights, with such jurisdiction, powers, and duties as are given and prescribed by the laws of the State of Texas.

Sec. 6.02. Judge of the Municipal Court.

The Municipal Court shall be presided over by a Magistrate who shall be known as the City Judge. The City Judge shall be appointed by the Council for a two-year term, subject to removal by the City Council, with or without cause. The City Judge shall receive such compensation as may be set by the Council. The City Council by ordinance may provide for the appointment of one (1) or more Alternate City Judges for a two-year term, subject to removal by the City Council, with or without cause, and to serve if the City Judge is temporarily unable to act or is unavailable. In the event the City Judge is unable to act for any reason or in the event of a vacancy, the Alternate City Judge shall act in the place of the City Judge until such vacancy shall be filled.
(Amended at election of May 4, 2002; amended by Res. R-27-18 at an election held on November 6, 2018, prop. B)

Sec. 6.03. Clerk of the Municipal Court.

There shall be a clerk of the Municipal Court who shall be appointed by, and who shall serve at the pleasure of the City Manager. The Clerk shall have power to administer oaths and affidavits, make certificates, affix the seal of the court thereto, and otherwise perform any and all acts necessary in issuing process of such Court, and conducting the business thereof.

There shall be such deputy clerks of the Municipal Court as may be authorized and appointed by the City Manager, who shall have authority to act for and on behalf of the Clerk of the Municipal Court.

Sec. 6.04. Procedure in the Municipal Court.

All complaints, prosecutions, the service process, commitment of those convicted of offenses, the collection and payment of fines, the attendance and service of witnesses and juries, punishment for contempt[,] bail and the taking of bonds shall be governed by the provisions of Title 2 of the Code of Criminal Procedure [Vernon's Ann. C.C.P. tit. 2] of the State of Texas applicable to Municipal Courts.

ARTICLE 7. FINANCE

Sec. 7.01. Fiscal year.

The fiscal year of the City of Glenn Heights shall begin on October 1st of each calendar year and will end on September 30th of the following calendar year. The fiscal year will also

be established as the accounting and budget year. All funds collected by the City during any fiscal year including both current and delinquent revenue shall belong to such fiscal year and, except funds derived to pay interest and create a sinking fund on the bonded indebtedness of the City, may be applied to the payment of the expenses incurred during such fiscal year. Any revenues uncollected at the end of any fiscal year, and any unencumbered funds actually on hand, shall become resources of the next fiscal year.

Sec. 7.02. Preparation and submission of budget.

The City Manager, prior to August 1st of each year, shall prepare and submit the budget, covering the next fiscal year, to the Council, which shall contain the following information. In preparing the budget, each employee, officer, board and department shall assist the City Manager by furnishing all necessary information.

(a) The City Manager's budget message shall outline the proposed financial policies for the next year with explanations of any change from previous years in expenditures and any major changes of policy and complete statement regarding the financial conditions of the City.

(b) An estimate of all revenue from taxes and other sources, including the present tax structure rates and property evaluation for the ensuing year.

(c) A carefully itemized list of proposed expenses by office department, agency, employee and project for the budget year as compared to actual expenses of the last fiscal year, and the present year-to-date.

(d) A description of all outstanding bond indebtedness, showing amount, purchaser, date of issue, rate of interest, and maturity date, as well as any other indebtedness which the City had incurred and which has not been paid.

(e) A statement proposing any capital expenditures deemed necessary for undertaking during the next budget year and recommended provisions for financing.

Sec. 7.03. Budget a public record.

The budget and all supporting schedules shall [be] filed with the City Secretary when submitted to the Council and shall be open to public inspection by anyone interested.

Sec. 7.04. Public hearing on budget.

At the Council meeting at which time the budget is submitted, the Council shall name the date and place of a public hearing and shall cause to be published in the official newspaper of the City the time and place, which will be not less than seven (7) days nor more than fifteen (15) days after the date of the notice. At this hearing, interested citizens may express their opinions concerning items of expenditure, giving their reasons for wishing to increase or decrease any items of expense.

Sec. 7.05. Proceeding on adoption of budget.

After public hearing the Council shall analyze the budget, making any additions or deletions which they feel appropriate, and shall, prior to the beginning of the next fiscal year, adopt the budget by a favorable majority vote of all members of the Council.

Sec. 7.06. Budget, appropriation and amount to be raised by taxation.

On final adoption, the budget shall be in effect for the budget year. Final adoption of the budget by the Council shall constitute the official appropriation as proposed expenditures for the current year and shall constitute the basis of the official levy of the property tax as the amount of tax to be assessed and collected for the corresponding tax year. Estimated expenditures will in no case exceed proposed revenue plus cash on hand. Unused appropriations may be transferred to any line item budgeted for the same general purpose.

Sec. 7.07. Unallocated reserve fund.

The City Manager may recommend for action by the Council, an unallocated reserve fund to be used for unexpected items of expense which were not contained as original items of expenditures.

Sec. 7.08. Administration of budget.

No obligation shall be incurred against the City except for appropriations duly made in the budget. Furthermore, no payment shall be made nor obligations incurred against the City until the City Manager or his/her designee first verifies that there is or will be sufficient funds or monies available to cover the claim or meet the obligation when it becomes due and payable. There shall be no transfer of funds or monies from one fund to another fund to cover a claim or meet an obligation when it becomes due and payable without prior Council approval.
(Amended by Ord. No. O-09-12 at an election held on May 12, 2012, prop. 5)

Sec. 7.09. Financial reports.

The City Manager shall submit to the Council each month a report of the financial condition of the City by budget item, budget estimate compared to expenditures for the preceding month and for the fiscal year-to-date. The financial records of the City will be maintained on an modified accrual basis to support this type of financial management. The City Manager shall make available to the City Council monthly a cash disbursements journal of the City of all funds and accounts.

Sec. 7.10. Amending the budget.

When conditions arise which could not reasonably have been foreseen in the normal process of planning the budget, the Council may amend or change the budget for any municipal or public purpose; however, the total expenditures from all City funds for the fiscal year may not be increased except by a vote of five (5) members of the City Council following

a posted public hearing at which members of the public may provide input on such proposed amendment. In the event that a proposed budget amendment is in order to meet a grave public necessity, the City Council may, by a vote of five (5) of its members, waive the requirement for the public hearing. Amendments shall be by ordinance and shall become an attachment to the original budget.
(Amended by Ord. No. O-09-12 at an election held on May 12, 2012, prop. 6)

Sec. 7.11. Certification; copies made available.

A copy of the budget, as finally adopted, shall be filed with the City Secretary. The final budget shall be printed, or otherwise reproduced and sufficient copies shall be made available for the use of all offices agencies and for the use of interested persons and civic organizations.

Sec. 7.12. Defect shall not invalidate the tax levy.

Errors or defects in the form or preparation of the budget or the failure to perform any procedural requirements shall not nullify the tax levy or the tax rate.

Sec. 7.13. Independent audit.

At the close of each fiscal year, and at such other times as it may be deemed necessary, the Council shall direct that an independent audit be made of all accounts of the City by a Certified Public Accountant. The Certified Public Accountant shall have no personal interest, directly or indirectly, in the financial affairs of the City or any of its officers. Upon completion of the audit, the results thereof shall be placed on file in the City Secretary's office for public record.

Sec. 7.14. Purchase procedure.

All sales of City property, purchases made, and contracts executed by the City shall be made in accordance with the requirements of the Constitution and laws of the State of Texas, including all laws related to the purchasing and contracting authority of municipalities, bids for public works contracts, high technology procurements, and professional services procurements.
(Amended at election of May 4, 2002)

Editor's note—Ordinance No. 688-00, adopted September 5, 2000, codified in section 2-366 of the City's Code of Ordinances, provides in pertinent part that "V.T.C.A., Local Government Code ch. 252, shall supersede the provisions of the Charter of the City where there is conflict between that statute chapter and the Charter as it relates to the notice of contracts, advertisement of the notice, requirements for the taking of sealed bids based on specifications for public improvements or purchases, the manner of publicly opening bids or reading them aloud, or the manner of letting contracts."

ARTICLE 8. BONDS, WARRANTS, AND OTHER EVIDENCE OF INDEBTEDNESS

Sec. 8.01. Powers to issue.

In keeping with the Constitution of the State of Texas and not contrary thereto, the City of Glenn Heights shall have the power to borrow money on the credit of the City for any public purpose not now or hereafter prohibited by the Constitution and laws of the State of Texas, and shall have the right to issue all tax bonds, revenue bonds, funding and City refunding bonds, time warrants and other evidence of indebtedness as now authorized or as may hereafter be authorized to be issued by local government bodies by the laws of the State of Texas.

No bonds, warrants or certificates of indebtedness shall be made and the City shall not become obligated for same, to be used for the operation of the regular administrative and operating budgets of the City of Glenn Heights.

Sec. 8.02. Manner of issuance.

Bonds and warrants of the City of Glenn Heights shall be issued in the manner provided by the general laws of the State of Texas.

Sec. 8.03. Sale of bonds.

No bonds issued by the City of Glenn Heights shall be invalid because they are sold for less than par value and accrued interest. The Council shall have the right to reject any or all bids. In the event the City shall have received authorization for the issue of bonds but shall not have issued said bonds within ten (10) years from the date of voter authorization, such authorization shall become null and void.

Sec. 8.04. Interest and sinking funds.

It shall be the duty of the Council to levy an annual tax sufficient to pay the interest on and approve the necessary sinking fund required by law on all outstanding general obligation bonds of the City. The interest and sinking fund shall be deposited in a separate account and in shall not be diverted to or used for any other purpose than to pay the interest and principal on all such bonds issued by the City of Glenn Heights. The sinking fund maintained for the redemption of any debt may be invested in any interest bearing bonds of the United States Government, and/or secured bonds of the State of Texas as may be provided by the laws of this State. City monies may also be deposited in any state or nationally chartered bank in interest bearing accounts.

Sec. 8.05. Revenue.

The City shall have power to borrow money for the purpose of construction, purchasing, improving, extending, or repairing of public utilities, recreational facilities or any other function not now or hereafter prohibited by the general laws of the State, and issue revenue

bonds to evidence the obligation created thereby. Such bonds shall be a charge upon and payable solely from the properties, or interest therein acquired and the income therefrom, and shall never be a debt of the City.

Revenue bonds issued by the City may, within discretion of the City Council, be submitted for approval by a majority of qualified voters, voting at an election held for such purpose. The Council shall have authority to provide for the terms and force of any purchase agreement, contract, mortgage, bond or document desired or necessary for the issuance of revenue bonds, and the acquisition and operation of any property or interest.

Sec. 8.06. Execution and registration of bonds.

All bonds, warrants and certificates of indebtedness shall be signed by the Mayor, countersigned by the City Secretary, and sealed with the seal of the City in the manner provided by general law, and shall be payable at such times and place or places as may be fixed, not more than forty (40) years from their date. It shall be the duty of the Mayor, when such bonds are issued, to forward the same to the Attorney General of the State of Texas for approval and for registration by the Comptroller of Public Accounts.

Sec. 8.07. Bond register.

The Director of Finance or other officer of the City designated by the City Council shall keep, or cause to be kept, for and on behalf of the City a complete bond registry and books, showing all bonds, warrants and certificates of indebtedness issued, the date and amount thereof, the rate of interest, maturity, etc., of all bonds or other indebtedness surrendered and other transactions of the Council having reference to the refunding of the indebtedness of said City.

ARTICLE 9. TAXATION

Sec. 9.01. Powers of taxation.

The Council shall have power to levy, for general purposes, an ad valorem tax on real, personal, and mixed property within the territory of the City of Glenn Heights, not exempt from taxation by the Constitution and laws of the State of Texas, based upon its true value as provided by law to the extent of the constitutional limit permitted by the State of Texas to cities of over 5,000 population.

The Council may levy taxes on all property, privileges and franchises of every kind and description within the City limits or having its situs therein on January first, of each year, and from any other local source, and provide for rendition thereof, the place, time, and manner of payment thereof; with penalties, as the Council may deem best, not in violation

Sec. 9.02. Assessment of property for tax purposes.

Every person, partnership, association or corporation holding, owning, or controlling property within the limits of the City shall on January 1st of each year be assessed as prescribed by State law.
(Amended by Res. R-27-18 at an election held on November 6, 2018, prop. C)

Sec. 9.03. Exempt property.

The City hereby exempts such personal property from taxation as may be provided for by the State Constitution and laws of the State of Texas and may grant any exemption allowed by the Texas State Property Tax Code [V.T.C.A., Property Code tit. 1].

Sec. 9.04. Payment of taxes.

The taxes herein and hereby authorized to be levied shall become due and payable October 1st of the year assessed, and same shall be payable in cash at the office of the Collector of Taxes or such other officer as the City may, by ordinance, prescribe.

Sec. 9.05. Delinquent taxes.

Taxes shall be deemed and become delinquent if not paid prior to February 1st the year following assessment, and such delinquent taxes shall be subject to six (6%) percent penalty.

In addition to the penalty therein prescribed, such delinquent taxes shall bear interest at the rate of one (1%) percent per month for each month of delinquency up to a maximum penalty interest rate of twelve (12%) percent per annum from the original delinquent date. In addition to the penalty interest herein prescribed, such delinquent taxpayer shall be subject to the payment of all costs and expenses incurred in the advertisement of such delinquent property and the collection of such taxes through any method provided by this Charter and/or the laws of the State of Texas. Such penalties and interest shall be an obligation of the taxpayer and shall be secured by the same lien and collected in the same manner as other taxes.

Sec. 9.06. Tax lien and liability.

A special lien is hereby created on all real personal, and mixed property, located in the City of Glenn Heights, in favor of the City of Glenn Heights for all taxes, ad valorem, occupational or otherwise.

Said lien shall exist from January 1st in each year until the taxes are paid. Such lien shall be prior to all other claims, and no gift, sale, assignment or transfer of any kind, or judicial writ of any kind, can ever defeat such lien, but the Assessor and Collector of Taxes can pursue such property, and whenever found out may, by judicial writ, seize and sell enough thereof to satisfy such taxes.

All persons or corporations owning real, personal, or mixed property on the first day of January of each year shall be liable for all municipal taxes levied thereon for such year.

Sec. 9.07. Appeal of appraised value.

The City Council or the property owner shall have the right as prescribed by Law to contest the appraised values on all parcels before the Appraisal Review Board.

Sec. 9.08. Tax remission, discount and compromise; correction of error.

Except as herein provided, neither the Council or any other official of the City shall extend the time for payment of taxes nor remit, discount or compromise any tax due the City, nor waive the penalty and interest that may be due thereon to any person, firms or corporations owing taxes to the City for such year or years, unless a clerical error or omission by a City employee is made. However, this provision shall not prevent the compromise of any tax suit, or the correction of any errors in assessment or preparation of tax rolls or preparation of a tax statement. Such compromise shall first have the approval of the Council.

ARTICLE 10. PLANNING

Sec. 10.01. The Planning and Zoning Commission.

There shall be established a Planning and Zoning Commission which shall consist of seven (7) citizens from the City of Glenn Heights. The members of said Commission shall be appointed by the City Council for a term of three (3) years. The initial appointment of the Planning and Zoning Commission members by the Council shall designate which members shall serve three (3) years, which members shall serve two (2) years and which members shall serve one (1) year, and on each succeeding year thereafter, the Council shall select replacements for the Planning and Zoning Commission members whose terms have expired. The Commission shall elect a Chairman and Vice Chairman from among its members. The Commission shall meet not less than once each month. Vacancies and unexpired terms shall be appointed by the Council for the remainder of the term. A majority of the members shall constitute a quorum, and the affirmative vote of four (4) members shall be necessary for the passage of any recommendation to the City Council. Members of the Commission may be removed by the Council after public hearing.

The Commission shall keep minutes of its proceedings which shall be of public record. The Commission shall serve without compensation.

Commission members and officers holding such office on the effective date of the Charter shall continue in office until the expiration of their term of membership or office and shall thereafter be appointed as provided in this Section.

Sec. 10.02. Planning and Zoning Commission powers and duties.

The Planning and Zoning Commission shall recommend to the City Council approval or disapproval of proposed changes in the Zoning Ordinance, Master Plan, Master Thoroughfare Plan and shall review and recommend approval or disapproval of all subdivision plats.

The Commission shall be responsible to and act as an advisory body to the Council and shall have and perform such additional duties as may be prescribed by ordinance.

Sec. 10.03. The Master Plan.

A Master Plan for the physical development of the City of Glenn Heights shall be adopted by the City Council and it shall contain recommendations for growth, development and beautification of the City.

The City Council shall have the authority to amend the Master Plan in whole or in part after one public hearing on the proposed action.

Sec. 10.04. Legal effect of the Master Plan.

Upon the adoption of a Master Plan by the City Council, no subdivision street, park or any public way, ground or space, public building or structure, or public utility whether publicly or privately owned, which is in conflict with the Master Plan shall be constructed or authorized by the City until and unless the location and extent thereof shall have been submitted to and approved by the City Council. The widening, narrowing, relocating, vacating or change in the use of any street, alley or public way, or ground or the sale of any public building or real property, shall be submitted for approval by the City Council.

ARTICLE 11. FRANCHISES AND PUBLIC UTILITIES

Sec. 11.01. Powers of the City.

In addition to the City's power to buy, own, construct, maintain and operate utilities within or without the City Limits, and to manufacture and distribute electricity, gas or anything else that may be needed or used by the public, the City shall have further power as may now or hereafter be granted under the Constitution and laws of the State of Texas.

Sec. 11.02. Inalienability of control of public property.

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

Sec. 11.03. Ordinance granting franchises.

All ordinances granting, amending, renewing, or extending franchises for public utilities shall be read at two separate regular meetings of the Council and shall not be finally passed until thirty (30) days after the first reading and no such ordinance shall take effect until thirty (30) days after its final passage; and pending such time, the full text of such ordinance

shall be published once each week for four (4) consecutive weeks in the official newspaper of the City of Glenn Heights and the expense of such publication shall be borne by the proponent of the franchise. The granting of franchises by the City Council shall be governed by the following regulations:

(a) No exclusive franchise or privilege shall ever be granted;

(b) No determinate or fixed term franchise shall ever be granted for longer term than twenty (20) years;

(c) Within five (5) years prior to the date of expiration of any fixed term franchise, the City Council may grant a new franchise to commence upon the expiration date of the franchise in question, or grant a new franchise if the existing franchise is released;

(d) All holders of franchises for public services from the City, their successors or assigns, as compensation for the right or privilege of such franchise enjoyed, shall pay to the City a percentage of the gross receipts of the business activities by the franchise holder rendered in the City. Such sum shall be exclusive of, and in addition to, all special assessments and taxes of whatever nature, including ad valorem taxes upon the value of the franchise and other property of the franchise holder. The sum due hereunder shall be due and payable in accordance with the specific ordinance.

For purposes of this section of the Charter, an agreement for the collection, transportation, disposal, recycling, or other management of solid waste shall not be considered to be a franchise or privilege.
(Amended by Ord. No. O-846-07 at an election held on May 12, 2007, prop. 12)

Sec. 11.04. Transfer of franchise.

No franchise shall be transferable except to persons, firms, or corporations taking all or substantially all of the holder's business in the City of Glenn Heights and except with the approval of the Council expressed by ordinance. All liabilities to the City of Glenn Heights shall be paid in full at the time of the transfer.

Sec. 11.05. Franchise value not to be allowed.

No value of any franchise granted by the City under this Charter shall be considered in fixing reasonable rates and charges for utility service within the City or determining the just compensation to be paid by the City for property which the City may acquire by condemnation or otherwise.

Sec. 11.06. Regulation of rates.

The Council shall have full power after notices and hearing to regulate by ordinance the rates, charges and fares of every franchise holder operating in the City, to the fullest extent authorized by law, provided that no such ordinance shall be passed as an emergency measure. Every franchise holder who shall request an increase in rate, charges, or fares, shall have, at the hearing of the Council called to consider such request, the burden of

establishing by clear, competent and convincing evidence, the value of its investment property allocable to service in the City, and the amount and character of its expenses and revenues connected with the rendering of such service.
(Amended at election of May 4, 2002)

Sec. 11.07. Consent of property owners.

The consent of abutting and adjacent property owners shall not be required for the construction, extension, maintenance or operation of any public utility; but nothing in this Charter or in any franchise granted thereunder shall ever be construed to deprive any such property owners of any right of action for damage or injury to his/her property as now or hereafter provided by law.

Sec. 11.08. Extensions.

All extensions of public utilities within the City limits shall become a part of the aggregate property of the public utility, shall be operated as such, and shall be subject to all the obligations and reserved rights contained in this Charter and in any original grant hereinbefore made. The right to use and maintain any extensions shall terminate with the original grant. In case of an extension of public utility operated under a franchise hereafter granted, such right shall be terminable at the same time and under the same conditions as the original grant.

Sec. 11.09. Temporary permits.

Permits unconditionally revocable at the will of the governing body for minor or temporary privileges in the streets, public ways, and public places of the City may be granted and revoked by ordinances from time to time, and such permits shall not be deemed franchises as the term is used in this Charter.

Sec. 11.10. Other conditions.

All franchises heretofore granted are recognized as contracts between the City of Glenn Heights and the grantee, and contractual rights as contained in any such franchises shall not be impaired by the provisions of this Charter, except that the power of the City of Glenn Heights to exercise the right of eminent domain in the acquisition of any utility property is in all things reserved, and except the general powers of the City heretofore existing and herein provided for to regulate the rates and services of a utility, which shall include the right to require adequate and reasonable extension of plant and service and the maintenance of the plant fixtures at the standard necessary to render the highest reasonable quality of utility service to the public shall be reserved. Every franchise hereafter granted shall be held subject to all the terms and conditions contained in the various sections of this Article whether or not such terms are specifically mentioned in the franchises. Nothing in this Charter shall operate to limit in any way, as specifically stated, the discretion of the Council

or the electors of the City in imposing terms and conditions as may be reasonable in connection with any franchise grant, including the right to require such compensation or rental as may be permitted by the laws of the State of Texas.

Sec. 11.11. Franchise records.

Within six months after this Charter takes effect, every owner of a franchise shall file with the City, as may be prescribed by ordinance, certified copies of all franchises owned or claimed, or under which such utility is operated in the City of Glenn Heights. The City shall compile and maintain a public record of franchises.

Sec. 11.12. Accounts of municipally owned utilities.

Accounts shall be kept for each public utility owned or operated by the City, in such manner as to show the true and complete financial results of such City ownership and operation, including all assets, appropriately divided into different classes, all liability subdivided by classes, depreciation reserve, other reserves, and surplus; also revenues, operating expenses including depreciation, interest payments, rental, and other disposition of annual income. The accounts shall show the actual capital cost to the City of each public utility owned, also the cost of all extensions, additions, and improvements and the source of the funds expended for such capital purposes. They shall show as nearly as possible the cost of any service furnished or rendered by any such utility to any other City or governmental department. The Council shall annually cause to be made by a certified public accountant, and shall publish, a report showing the financial condition of said public utility and the financial results of such City ownership and operation, giving the information specified in this section and such additional data Council shall deem expedient.

ARTICLE 12. BOARDS AND COMMISSIONS

Sec. 12.01. Boards and commissions.

The City Council shall have authority to establish by ordinance such boards and commissions as it may deem necessary for the conduct of City business and management of municipal affairs including appointments of City hall officers to such boards and commissions except as otherwise provided in the Charter. The authority, functions and responsibilities of such the boards and commissions shall be such as is spelled out in the ordinance establishing them. All existing boards and commissions heretofore established shall be continued in accordance with the ordinance or other acts under which they have been created, or until the City Council shall by ordinance abolish, modify or alter the ordinances or acts under which they exist. Notwithstanding any other provision of this Charter, the elected City Council shall have paramount authority over all matters affecting the budgets, appropriation of funds, expenditures, purchases and sale of properties and procedures for accounting therefor, consistent with the express provisions of this Charter and applicable provisions of the State constitution and laws of this State.

ARTICLE 13. GENERAL PROVISIONS

Sec. 13.01. Public records of the City.

Every ordinance or resolution, upon its becoming effective, shall be recorded in a book kept for that purpose and shall be authenticated by the signature of the Mayor or Mayor [Pro tem] and attested by the City Secretary as herein provided, which book and a duplicate copy thereof shall be kept in a fireproof City depository. All public records of every office, department, or agency of the City shall be open to, inspection by any citizen at all reasonable times, provided that police records and vital statistics records, and any other records closed to the public by law, shall not be considered public records for the purposes of this Section.

Sec. 13.02. Personal interest in City contracts.

No officer or employee of the City of Glenn Heights shall have a financial interest, direct or indirect, in any contract with the City, or be financially interested directly, or indirectly in the sale to the City of any land, materials, supplies, or services, except on behalf of the City as an officer or employee. Any knowing and willful violation of this Section shall constitute malfeasance in office and any officer or employee guilty thereof shall be removed from his/her office or position. Any violation of this Section with the knowledge, expressed or implied, of the person or corporation contracting with the governing body of the City shall render the contract involved void.

Sec. 13.03. Nepotism.

No person related within the second degree by affinity, or the third degree consanguinity to the Mayor, any member of the City Council, or the City Manager shall be appointed to any paid office, position, clerkship, or other service of the City. This prohibition shall not apply, however, to any person who shall have been employed by the City prior to and at the time of the election of the Councilmembers, or appointment of the City Manager, so related to him/her.

Sec. 13.04. Officers not to be interested in franchises; forfeiture.

No officer or employee of the City of Glenn Heights shall accept, directly or indirectly, any gift, favor, privilege or employment from any public utility corporation enjoying a grant of any franchise privilege or easement from said City, during the term of office of such officer or during the employment of such employee of the City, except as may be authorized by law or ordinance. Any employee or officer of the City who shall violate the provisions of this Section shall be guilty of a misdemeanor and shall be punished by such fine as may be prescribed by ordinance for this offense, and may be forthwith, removed from office.

Sec. 13.05. Mechanic, material or labor claim.

All subcontractors, materialmen, mechanics and laborers upon any public works of the City of Glenn Heights are hereby required to notify the City of all claims they may have

against the contractor on account of such work, subject to proof of payments by the said contractor, and where such notice has been given, the City shall retain an amount from any funds due the contractors, sufficient to satisfy such claims; provided that such notice must be given at any time after such indebtedness becomes due and before the City's final settlement with the contractor and provided further, that no contractor or subcontractor shall issue any checks on or on account of, any public works of said City.

Sec. 13.06. Notice of claim.

The City of Glenn Heights shall not be held responsible on account of any claim for damages to any person unless the person making such complaint or claiming such damages shall, within forty-five (45) days after the time at which it is claimed such damages were inflicted upon such person, file with the City Secretary, a true statement under oath, as to the nature and character of such damages or injuries, the extent of the same, and the place where same happened, the circumstances under which same happened, the conditions causing same, with a detailed statement of each item of damages and the amount thereof, and if it be for personal injuries, giving a list of the witnesses, if any known to affiants, who witnessed such accident.
(Amended by Ord. No. O-02-26 at an election held on February 3, 2026, prop. G)

Sec. 13.07. Assignment, execution and garnishment.

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

Sec. 13.08. Bond of contractors.

The governing body of the City of Glenn Heights shall require sufficient payment and performance bonds of all contractors, with a good corporate surety thereon, acceptable to the governing body of the City of Glenn Heights.

Sec. 13.09. Condemnation of dangerous structures.

Whenever, in the opinion of the governing body of the City of Glenn Heights, or appropriate City official, any building, fence, shed, awning, eave, excavation, structure, object or thing of any kind or part thereof may fall or collapse and injure persons or property, the City may order the owner or agent of the same or occupant of the premises to take such corrective measures as the governing body may direct, and may punish by fine all persons failing to do so. Upon his failure to comply, the governing body shall have the additional power to remove the same on account of the owner of the property and assess the expenses

thereof, including condemnation proceedings, as a special tax against the land or improvements, and the same may be collected as other special taxes provided for in this Charter, or by suit in any court of competent jurisdiction.

Sec. 13.10. Building permits.

The City of Glenn Heights shall have the power to prohibit the erection or construction of any building or structure of any kind within the City of Glenn Heights without a permit first having been issued by the City for the construction or erection of such building or structure, and may authorize a fee to be charged for such permit, and in pursuance of said authority may authorize the inspection by the City of all buildings or structures during the progress of their construction and may require that all buildings shall be constructed in conformity with the building code which exists in said City or shall hereafter be passed.

Sec. 13.11. Pools, ponds, and lakes.

The City of Glenn Heights shall have the power to control or prohibit construction of pools, ponds, or lakes, receiving water from a recognizable stream, creek, branch, or natural drainage. The City may control location, construction, height of structure, depth and size of body of water to be impounded. No pool, pond, or lake, receiving water from a recognizable stream, creek, branch, or natural drainage, shall be constructed without first obtaining a permit issued by the City.

Sec. 13.12. Bonds of City officials, employee, or department director.

In addition to any bonding provisions herein provided, the Council shall require not less than $25,000 for the Tax Collector, and may require any City official, department director or City employee before entering upon his/her duties, to execute a good and sufficient bond with a surety company doing business in the State of Texas, and approved by the Council, as surety thereon, said bond to be in such amount as Council may demand payable to the City of Glenn Heights, and conditioned for the faithful performance of the duties of his office [the] premium of such bond to be paid by the City.

Sec. 13.13. Amendment of the Charter.

This Charter may be amended no more than once every two (2) years as provided by the laws of the State of Texas.

Sec. 13.14. Severability clause.

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

Sec. 13.15. Construction of the Charter.

In the wording of the Charter, the use of the singular number shall include the plural, and the plural shall include the singular. Words used in the masculine gender shall include the feminine also unless by reasonable construction, it appears that such was not the intention of this Charter.

Sec. 13.16. Construction of power.

This Charter shall not be construed as a mere grant of enumerated powers but shall be construed as a general grant of power and as a limitation of power on the government of the City of Glenn Heights in the same manner on as the Constitution of Texas is construed as a limitation on the powers by of the Legislature. Except where expressly prohibited by this Charter, each and every power under Article 11, Section 5 of the Constitution of Texas [Tex. Const. art. 11, § 5], which it would be competent for the citizens of the City of Glenn Heights to grant expressly to the City, shall be construed to be granted to the City by the Charter.

Sec. 13.17. Churches and school property not exempt from special taxes and assessments.

No property of any kind, church, school, or otherwise, in the City shall be exempt from any of the special taxes and assessments authorized by it this Charter for local improvements unless the exemption is required by a state law.
(Ord. No. O-06-17, 7-18-2017)

Sec. 13.18. Damages.

No member of the City Council shall be individually liable or accountable in damages as a result of any actions taken by the member in performance of official duties.

Sec. 13.19. Rearrangement and renumbering.

The Council shall have the power, by ordinance, to renumber and rearrange all Articles, Sections, and paragraphs of the Charter or any amendments thereto, as it shall deem appropriate, and upon the passage of any such ordinance, a copy thereof certified by the City Secretary, shall be forwarded to the Secretary of State for filing.

Sec. 13.20. Effective date of Charter.

This Charter, if adopted, shall become effective from and after the votes cast at the election at which it is submitted to the voters shall have been counted and the result of said election declared and an order or ordinance shall have been entered upon the records of the City Council declaring it adopted. All amendments to this Charter shall become effective from and after the votes cast at the election at which such amendments are submitted to the

voters shall have been counted and the result of said election declared and an order or ordinance shall have been entered upon the records of the City Council declaring such amendments to be adopted.
(Amended at an election held on May 4, 2002)

Sec. 13.21. Non-substantive errors.

In the event that a typographical, grammatical, gender-specific or other non-substantive error in the Charter are identified, that the Council may, by a majority vote, correct the same, provided that no such correction may alter the substantive meaning of any provision of the Charter.
(Amended by Ord. No. O-846-07 at an election held on May 12, 2007, prop. 14; amended by Res. No. R-27-18 at an election held on November 6, 2018, prop. D)

Sec. 13.22. Disaster response.

The City Manager shall ensure that a current disaster response plan is maintained by the City that is consistent with state and federal law regarding disaster response. The City Council shall, by ordinance, define an order of succession of authority, also consistent with state and federal law, to address chain of command in the event of disaster and/or the multiple deaths, injuries, or unavailability of City officials.
(Amended by Ord. No. O-846-07 at an election held on May 12, 2007, prop. 13; Ord. No. O-06-17, 7-18-2017)

Sec. 13.23. Code of ethics.

Within eighteen (18) months of adoption of this section, the City Council shall, by Ordinance, adopt a Code of Ethics to govern the conduct of all City officials, including all members of all City councils, boards, committees, or commissions, while such persons hold such position or office. The Code of Ethics will not apply to or govern employees or independent contractors of the City. At a minimum, the Code of Ethics shall incorporate the conflict of interest standards that appear in chapter 171 of the Texas Local Government Code and all state law as presently exists or may hereafter be amended or adopted. The City Council may adopt more stringent standards than those that appear in state law, but the Code of Ethics shall at a minimum include the following components:

(a) Definition of a prohibited improper economic interest and personal gain;

(b) Definition of recusal and improper participation when a potential conflict of interest is present;

(c) Avoidance of appearance of conflict of interest; and

(d) Administration and enforcement of the Code of Ethics coupled with strong and meaningful remedies for infraction.

Prior to adoption of the Code of Ethics, the City Council may establish and appoint qualified voters to serve as members of an Ethics Advisory Commission, which Commission shall be charged with preparing and presenting to the City Council for its consideration a proposed Code of Ethics.

(Added by Res. R-27-18 at an election held on November 6, 2018, prop. E)

CHARTER COMPARATIVE TABLE

LEGISLATION

This table shows the location of the amendments to the Charter. The Charter is derived from the city's Home Rule Charter dated September 16, 1969, and subsequent amendments.

Legislation	Date	Section	Charter Section
Election of 5-4-2002	5-4-2002	—	1.07
		—	2.01
		—	3.01
		—	3.06
		—	5.10
		—	6.02
		—	7.14
		—	11.06
		—	13.20
Ord. No. 728-02	5-4-2002	—	2.02
		—	3.01
		—	3.03
		—	4.07
Ord. No. O-846-07	5-12-2007	Prop. 2	2.04
		Prop. 3	2.07
		Prop. 4	5.11
		Prop. 5	2.09
		Prop. 6	2.11
		Prop. 8	4.01
		Prop. 8	4.02
		Prop. 8	4.07
		Prop. 9	4.11
		Prop. 10	4.12
		Prop. 11	4.13
		Prop. 12	11.03
		Prop. 13	13.22
		Prop. 14	13.21
Ord. No. O-09-12	5-12-2012	Prop. 1	2.01
		Prop. 2	2.02
		Prop. 3	4.05
		Prop. 4	5.02
		Prop. 5	7.08
		Prop. 6	7.10
Ord. No. O-06-17	7-18-2017	—	13.17
		—	13.22
Res. No. R-27-18	11-6-2018	Prop. A	3.01
		Prop. B	6.02
		Prop. C	9.02
		Prop. D	13.21
		Prop. E	13.23
		Prop. F	2.03

Legislation	Date	Section	Charter Section
Ord. No. O-02-26	2-3-2026	Prop. C	2.03
		Prop. D	2.11
		Prop. E	3.06
		Prop. F	5.11
		Prop. G	13.06

PART II

GENERAL CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS

Sec. 1-1. Designation and citation of Code.
Sec. 1-2. Catchlines of articles and sections.
Sec. 1-3. Definitions and rules of construction.
Sec. 1-4. Ordinances.
Sec. 1-5. Repeal of ordinances.
Sec. 1-6. Amendments or additions to Code.
Sec. 1-7. Supplementation of Code.
Sec. 1-8. Certain ordinances not affected by Code.
Sec. 1-9. General penalty for violations of Code; continuing violations.
Sec. 1-10. Severability of parts of Code.

Sec. 1-1. Designation and citation of Code.

This Code is a codification of the general ordinances of the city which have been enacted and published in accordance with the authority granted in V.T.C.A., Local Government Code ch. 53. The ordinances embraced in this Code shall constitute and be designated the "Code of Ordinances, City of Glenn Heights, Texas," and may be so cited. This Code may also be cited as the "Glenn Heights Municipal Code."
(Code 1996, §§ 1.01.001, 1.01.002)

Sec. 1-2. Catchlines of articles and sections.

The catchlines of the several articles and sections of this Code are intended as mere catchwords to indicate the contents of the article or section and shall not be deemed or taken to be titles of such articles and sections, nor as any part of the articles and sections, nor, unless expressly so provided, shall they be so deemed when any of such articles and sections, including the catchlines, are amended or reenacted.
(Code 1996, § 1.01.003)

Sec. 1-3. 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. The term "city" means the City of Glenn Heights, Texas.

City council. The term "city council," "council," "this council," or "the council" means the city council of the City of Glenn Heights.

City manager, city secretary, chief of police or other city officers. The term "city manager," "city secretary," or "chief of police" or references to other city officers or departments shall be construed to mean the city manager, city secretary, chief of police or such other officers or departments, respectively, of the City of Glenn Heights.

Code. The term "Code" or "this Code" means the Code of Ordinances, City of Glenn Heights, Texas, as designated in section 1-1.

Computation of time. The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday or holiday observed by the city, the deadline or required date of action shall be the next day that is not a Saturday, Sunday or holiday observed by the city. References to days are calendar days unless otherwise stated.

Conjunctions. Unless the context clearly indicates the contrary, conjunctions shall be interpreted as follows: The term "and" indicates that all connected items, conditions, provisions or events apply. The term "or" indicates that one or more of the connected items, conditions, provisions, or events apply.

County. The term "county" or "this county" means the Counties of Dallas and Ellis, Texas.

Delegation of authority. Whenever a provision requires the head of a city department or a city official to do some act or perform some function, it shall be construed to authorize the head of such department or the official to designate, delegate and authorize subordinates to do the required act or perform the required function, unless the terms of the provisions designate otherwise.

Fee schedule. The term "fee schedule" means the comprehensive schedule of city fees as approved from time to time by the city council, a copy of which is on file in the office of the city secretary and available on the city website.

Mandatory and discretionary terms. The terms "shall," "must," and "will" are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words "may" and "should" are discretionary in nature.

May. The term "may" is permissive.

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

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

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

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

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

Property. The term "property" means and includes real and personal property.

Real property. The term "real property" means and includes lands, tenements and hereditaments.

References to statutes, regulations and documents. Whenever reference is made to a resolution, ordinance, statute, regulation, manual, or document, it shall be construed as a reference to the most recent edition of such that has been finalized and published with the due provision for notice and comment, unless otherwise specifically stated.

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

Signature or *subscription.* The term "signature" or "subscription" includes a mark when a person cannot write.

State. The term "the state" or "this state" means the State of Texas.

Street. The term "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.

Tex. Admin. Code. The term "Tex. Admin. Code" means the latest edition or supplement of the Texas Administrative Code.

Vernon's Ann. CCP. The term "Vernon's Ann. CCP" means the latest edition or supplement to Vernon's Annotated Code of Criminal Procedure.

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

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

Written or *in writing.* The term "written" or "in writing" includes any representation of words, letters, or figures, whether by printing or otherwise.

Year. The term "year" means a calendar year.
(Code 1996, § 1.01.004)

Sec. 1-4. Ordinances.

(a) *Style.* The style of all ordinances shall be "Be it ordained by the city council of the City of Glenn Heights …."

(b) *Introduction and action.* All ordinances shall be in writing and shall be introduced by some member of the city council at an open meeting of the city council when it shall be read and acted upon. It shall not be necessary to read the ordinance in its entirety, but the caption shall be read and a brief summary and explanation of the purpose of the ordinance provided prior to voting on the ordinance.

(c) *Disposition.* All ordinances upon passage shall be approved by the mayor and attested by the city secretary, and shall be recorded by the city secretary, in chronological order, in a book of ordinances provided for such purpose, together with proof of publication, if required.
(Code 1996, §§ 1.04.001—1.04.003)

Sec. 1-5. 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.
(Code 1996, § 1.01.006)

Sec. 1-6. 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, this Code. 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 so to do shall in no way affect the validity or enforceability of such ordinances.
(Code 1996, § 1.01.007)

Sec. 1-7. 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 or adopted by initiative and referendum 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 which 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 articles or sections 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.

(Code 1996, § 1.01.008)

Sec. 1-8. Certain ordinances not affected by Code.

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

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

(2) Any appropriation ordinance, including those providing for or related to an annual budget or prescribing salaries for city officers and employees;

(3) Any ordinance describing the boundaries of the city, annexing territory to the city or discontinuing territory as a part of the city;

(4) Any ordinance granting a franchise;

(5) Any ordinance adopting or affecting the license Code or requiring or related to any privilege or occupational license or tax, including alcoholic beverages;

(6) The levy, imposition or assessment of any licenses or taxes;

(7) Any ordinance ordering an election;

(8) Any ordinance making appointments to positions, offices or boards;

(9) Any ordinance providing for local improvements or levying assessments for public improvements;

(10) Ordinances authorizing deeds, leases, contracts or other such instruments;

(11) Ordinances under which vested rights may have accrued as to persons in whom such rights may have vested;

(12) Any ordinance dedicating, accepting, naming, establishing, locating, relocating, opening, paving, widening or vacating any street or other public way in the city or relating to municipal street maintenance agreements with the state or establishing or prescribing grades for streets in the city;

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

(14) Any ordinance dedicating or accepting any subdivision plat;

(15) Any ordinance adopted for purposes which have been consummated;

(16) Any ordinance which is temporary, although general in effect;

(17) Any ordinance which is special, although permanent in effect;

(18) Any ordinance providing for and regulating flood management unless otherwise specifically provided herein.

(b) All such ordinances are recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

Sec. 1-9. General penalty for violations of Code; continuing violations.

(a) When 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 such Code or 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 provisions of this Code or any such ordinance shall be punished by a fine not exceeding $500.00, except that:

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

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

(b) Each day any violation of this Code or of any ordinance shall continue shall constitute a separate offense. 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.
(Code 1996, § 1.01.00)

Sec. 1-10. 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.
(Code 1996, § 1.01.005)

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ARTICLE I. IN GENERAL

Sec. 2-1. Fiscal year.

The fiscal year of the city is hereby designated as beginning October 1 of each year and ending September 30 of the following year.
(Code 1996, art. 1.03)

Sec. 2-2. City seal and logo form and design; use requirements and restrictions.

(a) The city has adopted and is the sole owner of the official seal or logo of the city depicted below:



(b) The seal or logo consists of two concentric circles, the outer circle being a field of blue bounded along its outer edge by white rope braid with blue shading and on its inner edge by a solid white line.

(c) Upon the field of blue, the following words appear at the top of the circle: "CITY OF" in white, all caps, Times New Roman font and on the lower portion of the circle, in white, all caps, Times New Roman font the words "GLENN HEIGHTS," with a white, five-pointed star appearing before the word "GLENN" and another appearing after the word "HEIGHTS."

(d) The center circle is a field of white bounded by the shared blue line. Centered within the white field are the stylized letters "G" and "H." The stylized "G" is solid blue with the center of the letter forming a white, five-pointed star. The top portion of the stylized "H" is white, outlined in blue, and the lower portion of the stylized "H" is burgundy with no outlining. There is a small white space between the top and bottom portions of the stylized "H."

(e) For all official use, the seal or logo shall employ the official and default Pantone® colors or shall be in black and white; however, the recognition of the original and default Pantone® colors shall not be deemed to prevent the city's official use of other colors or color combinations for the city seal or logo.

(f) An official digital copy of the city seal or logo shall be on file with the city secretary's office. The city secretary will affix the city seal or logo or a facsimile or reproduction, black-and-white or original color, thereof to all certificates and documents as may be required by law, by this section or by ordinance of the city.

(g) All other uses of the city seal or logo are restricted to official city business and such other appropriate uses that further the operations of the city as may be authorized in writing by the city manager or designee as otherwise specifically permitted in this section. Except as provided in this section, no person shall make, use, employ, print, publish or make use of the official seal or logo of the city or any facsimile or reproduction thereof or make or use any seal or logo which is an imitation of or may be mistaken for the city seal or logo.

(h) City officers, city employees, members of the city council, and members of city boards and commissions may use stationery, printed materials, and other articles bearing the city seal or logo or a facsimile or reproduction of the city seal or logo while acting within the scope of their office or employment.

(i) No person, including any elected or appointed officer of the city, may use the city seal or logo or facsimile thereof in any correspondence or other printed materials distributed in favor of or against any ballot measure or in favor of or against any candidate for public office.

(j) Outside entities or agencies may request use, for a limited time, of the city seal or logo for events co-hosted or supported by the city. All such requests must be submitted in writing to the city manager or designee, who has the sole discretion to approve or deny such requests in writing, and to promulgate the manner, timing, and format of such requests and uses. When considering such requests, the city manager or designee will consider the ultimate benefit to the city of such use, the effects of association by the city with the event or occurrence, the city's traditional sponsorship activities, and other criteria which shall be fairly and neutrally applied to all requestors. The decision of the city manager or designee regarding the use of the city seal or logo may be appealed to the city council by submitting a written protest to the city secretary's office within 14 days of the city manager or designee's written decision.

(k) From time to time, an elected or appointed official of the city may wish to incorporate the city seal or logo into a pin, insignia, or other article for use in ceremonial occasions or for other civic purposes, but not for sale or commercial purposes. Unless previously approved by a majority of the city council, each such proposed design must be submitted to the city manager for approval. Production of such items, after approval, shall, unless otherwise authorized by a majority of the city council, be at the sole expense of the creator of the design. The decision of the city manager may be appealed within 14 days to the city council.
(Code 1996, art. 1.09; Ord. No. O-15-23, 1-23-2024)

Sec. 2-3. Membership in council of governments authorized.

The city shall be a member of the North Central Texas Council of Governments for the purpose of joint planning and coordination of governmental services and policies, and the city secretary is authorized to pay the annual dues required for membership in the council of governments.
(Code 1996, art. 1.06)

Sec. 2-4. Membership in Texas Municipal League authorized.

The city shall be a member of the Texas Municipal League for the purpose of better representation, information, advice, and other such services which may be provided. The city secretary is hereby authorized to pay the annual dues required for membership in said league.
(Code 1996, art. 1.07)

Sec. 2-5. Municipal elections.

All elections pertaining to municipal affairs shall be governed by and conducted in accordance with the V.T.C.A., Election Code § 1.001 et seq.
(Code 1996, art. 1.05)

Secs. 2-6—2-28. Reserved.

ARTICLE II. CITY COUNCIL

DIVISION 1. GENERALLY

Sec. 2-29. Governing body; election of members generally.

The city council shall be the governing body of the city. The city council shall consist of a mayor and six councilmembers, all of whom shall run for office by place and be elected from the city at large in the manner provided in article 3 of the home rule Charter, for a term of three years, or until their successors are duly elected and qualified. Places 1, 3, and 5 shall be up for election and filled in the same year and the mayor's office and Places 2, 4, and 6 shall be up for election and filled in the same year.
(Code 1996, § 1.02.001; Ord. No. O-21-20, 11-10-2020)

Sec. 2-30. Place system adopted.

(a) The city has adopted the place system for the election of the councilmembers. Each office of councilmember shall be assigned a place number, so that each such office shall bear its own separate designation.

(b) As the terms of incumbent councilmembers expire, each candidate for the office of councilmember shall file an application for a specific place on the city council. In such election the ballot shall show each office of councilmember as a separate office by place number, with the name of each candidate printed thereon under the specific office for which the applicant is a candidate.
(Code 1996, § 1.02.002; Ord. No. 140, 1-17-1983)

Sec. 2-31. Selection of mayor; mayor to act as presiding officer.

The mayor shall be the presiding officer of the city council. At the first meeting of each new city council, or as soon thereafter as practicable, the city council shall elect one councilmember to serve as mayor pro tempore for a term of one year and to perform the duties of the mayor in the event of the mayor's failure, inability, or refusal to act.
(Code 1996, § 1.02.004)

Sec. 2-32. Selection of mayor pro tem; duties.

At the first meeting after the city council general elections are final and all members are sworn in, or at the first meeting in November in a year in which there is no election, the city council shall elect a mayor pro tem from among its members. The mayor pro tem shall act in the absence or illness of the mayor or failure or refusal of the mayor to act.
(Code 1996, § 1.02.041; Ord. No. O-27-12, 2-19-2013)

Sec. 2-33. Quorum.

The mayor shall, with four of the councilmembers, constitute a quorum for the transaction of business. In the mayor's absence, any five councilmembers shall constitute a quorum. The quorum has the power to appoint any councilmember as a presiding officer at any meeting at which the mayor and mayor pro tem are absent. The quorum, with the affirmative vote of at least four members, shall have the power to enact such resolutions and ordinances not inconsistent with the laws and constitution of this state, as shall be deemed proper for the government of the city.
(Code 1996, § 1.02.005)

Sec. 2-34. Vacancies.

In the event a vacancy occurs in the office of mayor or councilmembers from any cause whatsoever, a special election shall be held after the vacancy occurs on the earliest date permitted by state law for the purpose of filling such position for the remainder of the unexpired term.
(Code 1996, § 1.02.006)

Sec. 2-35. Orientation for new members; keeping councilmembers informed.

(a) The city manager is responsible for seeing that all newly elected councilmembers are provided with an orientation regarding municipal facilities, staff procedures and other information of interest to municipal officials.

(b) The mayor is responsible for informing all councilmembers of any and all issues related to the city, provided that doing so is accomplished in compliance with the open meetings requirements of the Texas Open Meetings Act, V.T.C.A., Government Code § 551.001 et seq.
(Code 1996, § 1.02.007; Ord. No. O-27-12, 2-19-2013)

Sec. 2-36. Absences of councilmembers from regular and special meetings.

(a) *Attendance; excused absences.* Members of the city council shall be required to attend regular and called meetings of the city council. The term "special meeting" shall be synonymous with a called meeting or a workshop of the city council. A member of the city council may be excused from attending a regular or special meeting of the city council by presenting the member's reasons for the absence, either at a meeting preceding the meeting at which the absence will occur or at the next regular meeting following the meeting at which the absence occurred, provided that a majority of the council in attendance at the meeting at which the reasons are presented vote to excuse the absence. An absence not excused pursuant to this section shall be considered an unexcused absence.

(b) *Multiple unexcused absences; notice and hearing.* A member of the city council who accumulates unexcused absences from three consecutive regular meetings or five unexcused absences from regular and special meetings within any six-month period shall be presumed to have resigned from office, and the following action shall be taken:

(1) At the next regular meeting following either the third regular meeting for which a member of the city council accumulated an unexcused absence or the fifth regular or special meeting in a six-month period for which a member of the city council accumulated an unexcused absence, a hearing shall be scheduled on the agenda to allow that member to present evidence to rebut the presumption of the member having resigned from office.

(2) The city secretary shall send notice by certified mail to the councilmember who is presumed to have resigned, no less than five days prior to the meeting at which the hearing is scheduled, informing the member of the hearing and that the member shall have the opportunity to present evidence to rebut the presumption of the member having resigned from office.

(3) The hearing may be continued or postponed no more than one time until the next regular city council meeting.

(4) Following the hearing, the council shall determine, by majority vote of those councilmembers attending and voting, whether the evidence presented at the hearing has satisfactorily rebutted the presumption of resignation.

(5) Should the council vote that the presumption is rebutted, it may also specify which absences, if any, remain unexcused.

(6) Should the council vote that the presumption has not been rebutted, the office occupied by such resigned councilmember shall be vacant and may be filled in the manner provided by the Charter.

(Code 1996, § 1.02.008; Ord. No. 830-06, 11-6-2006)

Sec. 2-37. Suspension of councilmember for felony indictment or charge.

(a) *Suspension.* When any member of the city council shall be indicted, arrested for, or otherwise officially charged with a felony offense under state or federal law by a law enforcement agency of the state or federal government, the council may, by vote of two-thirds of the remaining members, suspend such member until such time as the felony indictment or charge is resolved by conviction, acquittal, dismissal, or other final action of a court of competent jurisdiction or law enforcement agency. The office of such member shall not be vacant during the pendency of the felony matter, but the member shall not be allowed to officially occupy the same, to vote on, or to otherwise participate in any matter of city business. If the city council votes to suspend a member under this section:

(1) It may vote in the same manner to request that the affected member of the city council voluntarily resign from the member's office; and

(2) The city secretary shall notify the affected councilmember by certified mail, return receipt requested, of such action and the effect thereof and, if the city council also voted to request that the member resign, the city secretary shall include such request and specify that a written response thereto be provided to the city within ten days of receipt of the certified mail notice to the councilmember.

(b) *Dismissal, acquittal, and similar resolutions.* In the event the felony indictment or charge is dismissed, the member is acquitted, or the matter is otherwise finally resolved in any manner except by conviction, plea of guilty or plea of nolo contendere, the member shall be fully reinstated to the member's office on the council.

(c) *Plea of guilty or nolo contendere or conviction.* In the event the member pleads guilty or nolo contendere, or is convicted of the felony charge, such member shall immediately forfeit the member's office as provided in section 2.03 of the city Charter, and such office shall be vacant.

(Code 1996, § 1.02.007; Ord. No. 826-06, 9-18-2006)

Sec. 2-38. Authority of council to initiate investigations.

The council shall have the authority to initiate investigations into any city business, and councilmembers may make inquiries into items and issues before council in accordance with law and the Charter.

(Code 1996, § 1.02.046; Ord. No. O-27-12, 2-19-2013)

Sec. 2-39. Public notices, disclosures, and records; investigation of officers and employees.

(a) *Conference calls; polling of members.* Members of the council and mayor should avoid conference call meetings not posted in accordance with the Texas Open Meetings Act, V.T.C.A., Government Code § 551.001 et seq. and shall not poll its members regarding matters of public concern.

(b) *Providing public records; fees.* Upon a written request of a citizen, public records shall be copied and distributed according to the state law. Fees will be charged in accordance with the fee schedule promulgated by the Office of the Texas Attorney General. A form will be provided at the city office.

(c) *Internal investigations.* Council is required to investigate allegations of ethical wrongdoing by employees or officers only when such an allegation is not the responsibility of the city manager or is an allegation involving the city manager.
(Code 1996, § 1.02.047; Ord. No. O-27-12, 2-19-2013)

Sec. 2-40. Reimbursement of councilmember expenditures and expenses.

(a) *Generally.* The mayor and members of the city council shall be entitled to be reimbursed, from funds available and budgeted as the councilmember travel and training fund, for expenditures as allowed in this section which are made on behalf of the city and incurred in the performance of their duties. Compliance with the procedure provided in this section shall be considered approval by the city council for purposes of section 2.01 of the city Charter.

(b) *Types of reimbursable expenditures.* Reimbursable expenditures, when made on behalf of the city and incurred in the performance of official duties, and supported by proper documentation shall include:

(1) Items within the traditional scope of supplies, equipment, and consumables utilized and furnished by the city for use or consumption by city officers or employees, including office supplies;

(2) Refreshments for official city functions or meetings;

(3) Gasoline for vehicles transporting multiple city representatives;

(4) Registration at training seminars or other city-related functions for multiple persons;

(5) Meals attended by multiple city representatives or guests;

(6) Repairs of city-owned vehicles or equipment;

(7) Mileage incurred for performance of official duties, at the current federal reimbursement rate, for the most direct route to/from the place of residence or employment, measured as accurately as possible (e.g., using an odometer);

(8) Costs of taxi, bus, or light rail incurred in the performance of official duties, on the most direct route to/from places of residence or employment;

(9) Parking costs incurred to attend city functions;

(10) Tuition or registration for city-related seminars, training, and conferences, such as TML or Council of Government sessions;

(11) Meals if travel to or from a meeting takes more than one hour and occurs over a normal meal period and a meal has not been provided for a city function;

(12) Breakfast reimbursement if the individual is away from home or work overnight or departs for a city function or meeting before 6:00 a.m.;

(13) Dinner reimbursement if the individual is away from home or work overnight or is traveling to or from a city function other than regular or special council meetings (including workshops) until after 7:00 p.m.;

(14) Lunch if the individual is over 35 miles from the city on city business that extends over the normal meal period, not to exceed the maximum rate allowed as a per diem rate under current Internal Revenue Service regulations, and provided that receipts are submitted for all reimbursements exceeding the per diem;

(15) Lodging if the individual is required to travel more than two hours one way to attend a city-related meeting or function if the individual is required to leave home before 6:00 a.m. in order to arrive on time for the meeting or if the individual is required to be on the road after 8:00 p.m. in order to arrive home from a meeting, provided that reimbursement is limited to the maximum rate allowed as a per diem rate under current Internal Revenue Service guidelines;

(16) Access to a city-paid cellular telephone and city-issued laptop computer, but only for the mayor and city councilmembers; and

(17) Other expenditures not listed in this subsection (b) that are preapproved in writing by the city manager or a majority of the city council.

(c) *Expenses that are not reimbursable.* Expenditures that will not be reimbursed by the city include, but are not limited to, the following:

(1) Alcoholic beverages;

(2) Personal entertainment costs, such as movie tickets, sports event admission, and night club shows;

(3) Expenses of a spouse or other family member of the mayor or councilmember; and

(4) Expenses related to an event sponsored by one or a group of individual councilmembers, including the mayor, but less than the full council.

(d) *Reimbursement form; receipts required.* Expense reimbursement forms are available from the finance director and shall be completed and signed by the mayor or councilmember seeking reimbursement. Receipts for all costs incurred except mileage, bus/light rail fare, and meter parking shall be submitted with the completed form and shall be submitted to the finance director within 30 days of the expenditure for which reimbursement is sought.

(e) *Approval; time for payment.* Reimbursement, if approved, shall occur no more than 30 days after the completed forms and receipts are received by the finance director.

(f) *Denial of reimbursement; review by city manager or city council.* Any request for reimbursement that is denied by the finance director or which is not included above may be submitted to the city manager or the city council for review. A decision by the majority of the city council that an expenditure may not be reimbursed shall be final.

(g) *Exemption for annual state of the city address.* Expenditures associated with the mayor's annual state of the city address shall be paid or reimbursed from city funds and shall be exempt from the requirements of this section.
(Code 1996, § 1.02.009; Ord. No. O-25-10, 9-20-2010; Ord. No. O-17-22, 10-18-2022)

Secs. 2-41—2-68. Reserved.

DIVISION 2. MEETINGS

Sec. 2-69. Duties of mayor.

The mayor shall preside over the meetings of the city council, shall preserve order and decorum, shall speak upon all questions, and may vote but shall have no veto power.
(Code 1996, § 1.02.041; Ord. No. O-27-12, 2-19-2013)

Sec. 2-70. Sergeant-at-arms; code of conduct for public attendees.

(a) The police chief shall act as sergeant-at-arms. In the absence of the police chief, the presiding officer of a majority of the council shall appoint a person to act as sergeant-at-arms for that meeting. The city manager shall furnish whatever assistance is needed to enforce the rules of the city council.

(b) A copy of the code of conduct relative to citizens and other visitors shall be available to the public at all open meetings of the city council and shall provide the requisite notice and requirements of the code of conduct.
(Code 1996, § 1.02.048; Ord. No. O-27-12, 2-19-2013)

Sec. 2-71. Meeting schedule; call of meetings; procedure.

(a) The city council shall hold two regular meetings each month, except for the month of December, and may hold as many special meetings as may be necessary to conduct city business.

(b) Special meetings may be called by the mayor upon written notice. Special meetings can also be requested through the mayor by the city manager. Notice of special meetings shall be given by the city secretary personally to each member of the council, including the mayor and the city manager, by notice left at such person's residence or voice mail message when possible. The time, place, and purpose of such meetings shall be stated in each instance in accordance with law.

(c) The regular meetings of the city council shall be held on the first and third Tuesdays of each month at 7:00 p.m. in the city hall, unless otherwise authorized by the city council. Each such regular meeting shall adjourn no later than 10:00 p.m. unless a motion is approved by a two-thirds vote of the councilmembers in attendance to extend the time for adjournment to a later time. Such motion shall be made before 10:00 p.m. or as soon thereafter as practicable. If no such motion has been made by 10:00 p.m., the city secretary shall inform the council when that hour arrives and a motion to either adjourn or to extend

the meeting to a time certain shall be in order. If extended, the time for adjournment may be further extended by the same procedure before, at, or as soon as practicable after such time certain.

(d) On the motion of the mayor, or on the application of at least three councilmembers, a special meeting may be called by notice to each member of the city council, the city secretary, and the city attorney with notice provided to the official email address of those officials.

(e) Notice of all meetings shall be posted in accordance with the requirements of the Texas Open Meetings Act, V.T.C.A., Government Code § 551.001 et seq., regarding open meetings.

(f) The procedure at all meetings of the city council shall be in accordance with the provisions of the latest edition of Robert's Rules of Order.
(Code 1996, §§ 1.02.003, 1.02.043; Ord. No. O-27-12, 2-19-2013; Ord. No. O-16-21, 2-1-2022)

Sec. 2-72. Council to determine rules of procedure; compel attendance of members.

The city council shall determine its own rules of procedure and may compel the attendance of its members.
(Code 1996, § 1.02.045(intro. ¶); Ord. No. O-27-12, 2-19-2013; Ord. No. O-08-22, 7-19-2022)

Sec. 2-73. Meeting agenda.

(a) The mayor, in conjunction with the city manager, shall establish the agenda for each council meeting.

(b) Any councilmember desiring a particular item to be placed on the council agenda shall contact the city manager or city secretary, on or before 5:00 p.m., a minimum of two business days before the deadline to post the scheduled council meeting agenda, who shall forward the request to the mayor and the mayor shall place the item on the next agenda. The councilmember requesting the agenda item shall be responsible for the agenda briefing or presentation of the item at the meeting. Any staff assistance should be requested through the city manager's office. Completed agenda items must reach the city secretary's office at city hall, on or before 5:00 p.m., a minimum of two business days before the deadline to post the scheduled council meeting agenda.

(c) Any resident of the city or any member of the city staff may request, in writing, that an item be placed on the council agenda by submitting a request to the city manager. In such cases, the mayor and city council shall be notified of the request, and the mayor and city manager shall determine whether to place the item on the agenda.

(d) Once an item is placed on an agenda which has been posted, it may only be removed prior to the 72-hour deadline for posting of the agenda and with permission of the person who requested the item, or by action of the council at the meeting for which the item is posted.

(e) Upon objection by any councilmember, any matter on the agenda shall be considered out of its regular order only upon a two-thirds vote of the members present.
(Code 1996, §§ 1.02.044, 1.02.045(3); Ord. No. O-27-12, 2-19-2013; Ord. No. O-01-26, § 1, 2-3-2026)

Sec. 2-74. Parliamentary rules.

(a) Robert's Rules of Order shall be followed to the fullest extent possible for the purpose of conducting orderly meetings. The city attorney and city secretary shall be familiar with Robert's Rules of Order and shall serve as parliamentarians.

(b) In the event a parliamentarian is not present at a meeting or cannot be reached by telephone, electronic mail or other reasonable means, or in the event that attempting to contact a parliamentarian will result in unnecessary delay, the mayor shall decide all questions of order unless a majority of council votes to decide such a question in an alternative, reasonable manner.

(c) Robert's Rules of Order shall not be used for the purpose of delay, intimidation, thwarting the will of the council, or to make ineffective a lawful vote of the council.
(Code 1996, § 1.02.045(5); Ord. No. O-27-12, 2-19-2013; Ord. No. O-08-22, 7-19-2022)

Sec. 2-75. Procedural constraints and rules of decorum for mayor and city councilmembers.

(a) Each councilmember shall, while the council is in session, occupy the member's assigned seat. Members away from their seats shall not be allowed to speak or vote on any matter before the council by telephone, electronic mail or other means of communication without council approval.

(b) During city council meetings, the mayor and city councilmembers shall assist in preserving order and decorum and shall neither by conversation or otherwise delay or interrupt the proceedings nor refuse to obey the orders of the presiding officer or the rules of the city council.

(c) Each councilmember may speak at any time with respect and courtesy to other members, visitors, and the mayor. The mayor shall ensure that all councilmembers desiring to speak may do so, including the mayor. If the mayor is in debate with another councilmember, the mayor shall restrain the mayor's prerogative so as not to limit a response from the other member.

(d) A city councilmember desiring to speak shall address the chairperson by hand or voice signal and, upon recognition by the presiding officer, shall confine discussion to the question under debate, avoid discussion of personalities and indecorous language, and shall refrain from personal attacks and verbal abuse. The presiding officer shall recognize each member desiring to speak, in the order of request, unless a member's comments have become disruptive, confrontational, or disorderly.

(e) A city councilmember desiring to question a member of city staff shall address questions to the city manager, who shall be entitled either to answer the inquiries or to designate some member of city staff for that purpose. The mayor and city councilmember shall not berate nor admonish staff members in open session.

(f) A city councilmember, once recognized, shall not be interrupted while speaking unless called to order by the presiding officer, a point of order is raised by another member, or the speaker chooses to yield to questions from another member. If a city councilmember is called to order while speaking, that member shall cease speaking immediately until the question of order is determined. If ruled to be in order, the member shall be permitted to proceed. If ruled to be not in order, the member shall remain silent or make additional remarks only for the purpose of complying with rules of the city council.

(g) If a member in debate transgresses the rules, the mayor shall, or any member may, call the member to order. Should the mayor fail to do so, a majority vote of the remainder of the council shall require the member to enforce the procedures.

(h) Members of the city council shall wear appropriate business attire at meetings of the city council and shall avoid wearing clothing and accessories that would detract from the professional image of the city. To this end, the following restrictions shall apply:

(1) The city council has a business casual dress code and, within that dress code, councilmembers are expected to project a professional image to citizens and city partners. Clothing that is appropriate for the beach, yard work, exercise sessions, and sports contests may not be appropriate business casual attire;

(2) Clothing should be pressed and never wrinkled. Torn, dirty, or frayed clothing is unacceptable. All seams must be finished;

(3) Any clothing that has words, terms or pictures that may be offensive to others is unacceptable. Clothing that displays the city logo is encouraged;

(4) Reasonable accommodations for clothing necessitated by medical conditions and for religious or ethnic clothing will be made consistent with the business necessity to present a professional appearance to the public.

(Code 1996, § 1.02.045(1); Ord. No. O-27-12, 2-19-2013; Ord. No. O-08-22, 7-19-2022)

Sec. 2-76. Voting.

The ayes and nays may be demanded on any question, by any member, and in all cases of calling the ayes and nays, every member may vote unless abstention is required by law.
(Code 1996, § 1.02.045(4); Ord. No. O-27-12, 2-19-2013; Ord. No. O-08-22, 7-19-2022)

Sec. 2-77. Citizens and other visitor participation in meetings.

(a) Citizens and other visitors are welcome to attend all public meetings of the city council and will be admitted to the city council chamber or other room in which the city council is meeting in open session up to the fire safety capacity of the room.

(b) Any person desiring to address the council during a regular, special or workshop meeting shall fill out a visitor's card, provided by the city, prior to the meeting. The card shall contain, at a minimum, the person's name, address, and the topic on which the person wishes to speak. Visitors shall give completed sheets to the city secretary prior to the convening of the meeting. Cards shall not be accepted after the meeting has convened unless invited or approved by the mayor or a majority of the council. Visitors shall observe the rules of decorum and courtesy and shall speak only upon recognition of the mayor.

(c) Public comment shall be allowed regarding subjects on the agenda or not on the agenda. No formal action shall be taken on any issue not listed on the agenda. The mayor or a majority of the city council may set a uniform speaking time limit per speaker. The speakers will be called in the order in which their visitor's cards are received.

(d) No one except councilmembers and officers and employees of the city in the discharge of their official duties shall be permitted to participate in the deliberations of the council concerning agenda items. Members of the public may not participate in deliberations of the council regarding items on the agenda or during a council workshop meeting unless invited to do so.

(e) Members of the public may not address or be present during any executive session unless such presence is allowed by law and the person is invited to be present by the mayor or majority of the council.

(f) Public hearings may be held as determined by the mayor or as required by the laws of the state. Citizens shall be given the opportunity to speak for or against an item after being recognized by the mayor in accordance with the procedures outlined above.

(g) Everyone attending the meeting will refrain from private conversations while the city council is in session.

(h) Citizens and other visitors attending city council meetings shall observe the same rules of propriety; decorum and good conduct applicable to members of the city council. Any person making personal, impertinent, profane or slanderous remarks or who becomes boisterous while addressing the city council or while attending the city council meeting shall be removed from the room if the sergeant-at-arms is so directed by the presiding officer, and the person shall be barred from further audience before the city council during that session of the city council. If the presiding officer fails to act, any member of the city council may move to require enforcement of the rules, and the affirmative vote of a majority of the city council shall require the presiding officer to act.

(i) Unauthorized remarks from the audience, stamping of feet, whistles, yells, and similar demonstrations shall not be permitted by the presiding officer, who may direct the sergeant-at-arms to remove offenders from the room. Aggravated cases shall be prosecuted on appropriate complaint signed by the presiding officer. If the presiding officer fails to act, any member of the city council may move to require enforcement of the rules, and the affirmative vote of the majority of the city council shall require the presiding officer to act.

(j) No cards, banners, or signs shall be permitted in the city council chamber or in any other room in which the city council is meeting. Exhibits, displays, and visual aids used in connection with presentations to the city council, however, are permitted.

(k) Citizens and other visitors attending city council meetings shall not bring food or drink into the city council chamber or into any room in which the city council is meeting.
(Code 1996, § 1.02.045(2); Ord. No. O-27-12, 2-19-2013; Ord. No. O-08-22, 7-19-2022)

Secs. 2-78—2-97. Reserved.

ARTICLE III. OFFICERS AND EMPLOYEES

DIVISION 1. GENERALLY

Sec. 2-98. City manager authority regarding personnel management.

The city manager is authorized to hire, fire, promote, demote, or transfer employees of the city, except as otherwise provided by the city Charter and except as the manager may authorize, the head of a department to appoint and remove subordinates in such department.
(Code 1996, § 9.02.001)

Sec. 2-99. City council authority to make inquiries regarding city offices and personnel.

(a) In accordance with section 5.04 of the city Charter, the city council shall have the power to inquire into the conduct of any office, department, agency, officer, or employee of the city and to make investigation as to municipal affairs. For that purpose, the council may subpoena witnesses, administer oaths, and compel the production of books, papers, and other evidence.

(b) Any person who shall fail to obey such subpoena or who shall fail to produce such books, papers or other evidence shall be guilty of a misdemeanor.
(Code 1996, § 9.02.002)

Sec. 2-100. Organizational chart.

The city council has established an organizational chart as maintained on file in the office of the city secretary for the officers, officials and employees of the city. The various positions for officers and employees of the city, as shown on the organizational chart, have been approved by the city council.
(Code 1996, § 9.03.001)

Sec. 2-101. Personnel policy manual adopted.

That certain manual adopted and approved by the city council and entitled "City of Glenn Heights, Personnel Policies Manual," dated June 2010, as amended, shall be the official policy of the city with regard to personnel administration. A copy of the manual is on file in the office of the city secretary, who shall maintain the manual and keep it up to date.
(Code 1996, art. 9.09; Ord. No. O-06-10, 6-7-2010)

Sec. 2-102. State municipal retirement system ordinances saved from repeal.

The ordinances of the city regarding participation in the Texas Municipal Retirement System (TMRS) have not been included in this Code but are hereby specifically saved from repeal and shall be maintained on file in the office of the city secretary.
(Code 1996, art. 9.10)

Sec. 2-103. City retiree health benefits.

(a) *Availability.* The city offers health and dental insurance to retirees subject to the terms and conditions described in this section.

(b) *Administration of benefits; costs of coverage.* A retiree receiving medical and dental insurance benefits is subject to all rules and procedures of the city's insurance carrier, as such carrier may change from time to time. The retiree shall also be responsible for any out-of-pocket payments, co-pay fees and required employee contribution to costs of coverage for the retiree and the retiree's dependents, if any. A retiree shall communicate directly with the carrier or health care provider regarding question of coverage and benefits.

(c) *Coverage restricted to those existing at retirement.* A retiree is eligible to continue to receive city insurance, at retiree's cost, but only those types of insurance coverage that are offered at the time of retirement. If at any time following the retirement of a city employee the city provides additional types of health insurance coverage that are different from the health insurance benefits offered at the employee's retirement, the retiree shall not be eligible for the additional benefits.
(Code 1996, §§ 9.14.001, 9.14.004; Ord. No. 764-03, 11-3-2003)

Secs. 2-104—2-134. Reserved.

DIVISION 2. CITY MANAGER

Sec. 2-135. Conditions of employment.

(a) *Surety bond required.* The city manager shall furnish such surety bond as may be required by the city council, by ordinances, with the premiums to be paid by the city.

(b) *Contract of employment required.* The city manager shall enter into a written contract of employment which has been approved by a majority of the city council, and which shall be signed by each member and the mayor and attested by the city secretary.

(c) *Term of employment; suspension and removal.* The city manager shall not be appointed for a definite term and may be removed at the will and pleasure of the city council by a vote of the majority of the entire city council. The action by the city council in suspending or removing the city manager shall be final.

(d) *Absence from office or disability.* In case of absence or disability of the city manager, the city council may designate some qualified person to perform the duties of the office during such absence or disability.

(e) *Compensation.* The city manager shall receive compensation as fixed by the city council from time to time.
(Code 1996, § 9.04.001)

Sec. 2-136. Exclusive authority of city manager for administrative service; exception.

Except for the purpose of inquiry, the mayor and city council and its members shall deal with the administrative service solely through the city manager, and neither the mayor, city council, nor any member thereof shall give orders to any of the subordinates of the city manager, either publicly or privately, except during a state of emergency as formally declared by the mayor in accordance with state law.
(Code 1996, § 9.04.001)

Sec. 2-137. Powers and duties generally.

(a) *Responsibility for administration of city affairs.* The city manager shall be the administrative head of the municipal government and shall be responsible to the mayor and city council for the administration of the affairs of the city.

(b) *Department head appointment and discharge.* The city manager shall have the authority to appoint and to discharge heads of all departments except the city attorney and city judge.

(c) *Personal management.* The city manager shall have the authority to hire and discharge all other employees authorized by the council to be hired, at such compensation as may be set or authorized by the city council; provided, however, that the city manager may authorize the head of a department to hire and discharge subordinates in such department. All such employees shall perform their duties subject to the direction of the city manager or that of the superior to whom the city manager may assign such employee.

(d) *Recommendations for legislation.* The city manager shall recommend to the city council for adoption such measures as the manager may deem necessary or expedient.

(e) *Attendance at council meetings.* The city manager shall attend all meetings of the city council with the right to take part in the discussion but having no vote.

(f) *Act as budget officer.* The city manager shall act as budget officer and shall prepare, or cause to be prepared, the annual budget to be submitted to the city council for adoption in accordance with state statute. He shall be responsible for its administration after adoption by the city council.

(g) *Quarterly report to city council.* On a quarterly basis, the city manager shall make a full report to the city council showing the operations and expenditures for each department and shall keep the city council fully advised at all times as to the financial condition and needs of the city.

(h) *Recommending employee compensation.* The city manager shall recommend to the city council the salaries, and adoption of a schedule governing compensation for all employees of the city. It shall be the duty of the city council to pass ordinances and resolutions from time to time fixing these rates of compensation. The mayor or individual city councilmembers shall not attempt to dictate such recommendations but act thereon in approving and disapproving.

(i) *Revising job descriptions and position classifications.* The city manager is expressly delegated the authority to make revisions, amendments, and other changes to any and all job descriptions contained in the city's position classification plan that, in the city manager's professional judgment, are in the best interests of the city. The city manager is not, however, authorized to make changes to the city's payroll classification schedule without council approval.

(j) *Other duties.* The city manager shall perform such other duties as may be provided in this division or prescribed by the city council from time to time.
(Code 1996, § 9.04.002(1)—(8); Ord. No. 776-04, 6-7-2004; Ord No. O-09-22, 8-16-2022)

Secs. 2-138—2-157. Reserved.

DIVISION 3. OTHER OFFICERS

Sec. 2-158. Health officer.

(a) *Office established; appointment by city manager; compensation.* The city has established the office of city health officer. The health officer shall be appointed by the city manager. The health officer shall receive such compensation as may be fixed by the city council.

(b) *Qualifications.* The health officer shall be a duly licensed medical doctor authorized to practice medicine in the state and be well trained in the science of preventative medicine. The health officer shall qualify by taking the oath of office prescribed by the state constitution, a copy of which shall be filed by the city secretary with the state board of health.

(c) *State board of health rules and regulations applicable.* The health officer shall act under and be governed by the rules and regulations prescribed by the state board of health.

(d) *Authority to establish additional local rules and regulations.* The health officer shall have the power to establish such rules and regulations as the health officer may think needful for the health and welfare of the citizens of this city, and shall investigate all conditions within the city limits from which communicable diseases may arise, and with the utmost care and diligence shall study such diseases and disorders; and shall institute and direct such measures as may be necessary to eradicate and destroy such conditions wherever found in the city.

(e) *Duties generally.* The health officer shall perform such duties as are required by V.T.C.A., Health and Safety Code § 121.024(c) and other duties as prescribed by state law or the city council.

(f) *Police to assist with enforcement.* When it may be necessary to use any force to secure the observation and execution of any rules, regulations, or order issued by the health officer, under authority of this section, it shall be the duty of the police chief to detail the necessary men and execute the same upon the requisition made by the health officer and approved by the city manager.
(Code 1996, §§ 9.12.001—9.12.008)

Secs. 2-159—2-184. Reserved.

DIVISION 4. INDEMNIFICATION AND DEFENSE

Sec. 2-185. Definitions.

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

Employee includes any current or former full-time, part-time, permanent, or temporary employee of the city but does not include independent contractors or the employees of contractors.

Officer includes any person currently or formerly elected or appointed to be a member of any official body of the city, including the city council and boards, commissions, and committees authorized and created under the city's Charter or this Code.
(Code 1996, § 1.24.001; Ord. No. O-05-22, 5-3-2022)

Sec. 2-186. Indemnification and defense of city officers and employees.

(a) The city shall provide indemnification and defense of the officers and employees of the city against any loss, cost, or expense, including court costs and attorney's fees, to the extent allowed by law, arising out of any claim, suit, judgment, or settlement thereof, resulting from any alleged act or omission of such officer or employee during the discharge of the officer's or

the employee's duties and within the course and scope of the officer's or the employee's office or employment with the city, or in any other case where the city is directed or authorized by law to do so.

(b) Such indemnification and defense will not be provided for any act ultimately determined by final judgment to have arisen out of the intentional or knowing violation of any penal statute or ordinance or to have arisen out of any conduct determined by final judgment to be an act of fraud or to have been taken with the intent to deceive or defraud, or for any personal or private business of such officer or employee or for the gross negligence or official misconduct, or willful or wrongful act or omission, of such officer or employee.

(c) In accordance with this section, the city shall pay actual damages awarded against an employee or officer of the city if the damages result from an act or omission of the employee or officer in the course and scope of the officer's or the employee's employment for the city and payment is not otherwise prohibited by this article or by law. The city shall also pay the court costs and attorney's fees awarded against such officer or employee in such cause of action.

(d) The city may not pay damages awarded against an employee or officer that arise from a cause of action for official misconduct or involve a willful or wrongful act or omission or an act or omission constituting gross negligence or to the extent otherwise disallowed by this section. The city may not pay damages awarded against an employee or officer to the extent that the damages are recoverable under an insurance contract owned by the city, including coverage through a municipal risk pool.

(e) The city shall provide legal counsel to represent any employee or officer entitled to protection under this section. The counsel provided shall be the city attorney, unless there is a potential conflict of interest between the city and the officer or employee, in which case the city shall employ other legal counsel to defend the officer or employee.
(Code 1996, § 1.24.002; Ord. No. O-05-22, 5-3-2022)

Sec. 2-187. Requirements for indemnification.

To be entitled to indemnification by the city under the provisions of this division, the officer or employee shall notify the city manager in writing as soon as practicable after receipt of written notice of any claim or suit, or, in the case of a claim or suit against the city manager, the city manager shall notify the city council in writing as soon as practicable after receipt of written notice of the claim or suit. Such officer or employee shall:

(1) Cooperate in the investigation, defense, negotiation, or settlement of any claim or suit;

(2) Attend any hearing or trial held in connection with such claim or suit and assist in securing and giving evidence and obtaining the attendance of witnesses;

(3) Not give any oral or written statement or enter into any stipulation or agreement concerning a claim or suit except upon the advice of the city attorney or other defense counsel provided in accordance with the provisions of this section or when questioned by a police officer at the scene of an accident;

(4) Not make any voluntary payment or assume any obligation or incur any expense with respect to any claim or suit without the consent of the city manager or, in the case of the city manager, the consent of the city council.

(Code 1996, § 1.24.003; Ord. No. O-05-22, 5-3-2022)

Sec. 2-188. Investigation, negotiation, or settlement.

The city may investigate, negotiate or settle any claim or suit against an officer or employee that results from an act for which such officer or employee is entitled to indemnification under the provisions of this division.

(Code 1996, § 1.24.004; Ord. No. O-05-22, 5-3-2022)

Sec. 2-189. Notification of carrier.

In the event of any claim or suit against any officer or employee, the insurance carrier for the city, including any municipal risk pool, shall be immediately notified and furnished a copy of any such claim or suit, along with the appropriate documents giving a history of the claim or suit, and a request for provision of coverage and defense.

(Code 1996, § 1.24.005; Ord. No. O-05-22, 5-3-2022)

Secs. 2-190—2-216. Reserved.

ARTICLE IV. BOARDS, COMMISSIONS, COMMITTEES AND SIMILAR BODIES

DIVISION 1. GENERALLY

Sec. 2-217. Application process for members of boards, commissions and committees.

(a) All applicants must complete an application for city board, commission and committee appointment. The application must be completed and submitted to the city manager by the appropriate deadline.

(b) The city council shall review the applications for board, commission and committee appointments, and may conduct applicant interviews.

(c) Any appointed member of a board, commission or committee may submit an application for appointment to a different board, commission or committee without forfeiting membership as a member of the initial board, commission or committee. However,

acceptance of a position as a member of a new board, commission or committee shall result in automatic resignation of any previously held board, commission or committee membership.
(Code 1996, § 1.20.001; Ord. No. O-857-07, 10-1-2007)

Sec. 2-218. Appointment and removal of members.

(a) Board and commission members are appointed by the city council and may be removed at any time, with or without cause, by a simple majority vote of the full council either upon its own motion or upon the formal recommendation from the board or commission.

(b) Any member of a board, commission or committee may be removed by the city council on the grounds of incompetence, corruption, misconduct, malfeasance in office, ineffectiveness or causing embarrassment to the city after being provided with written notice and an opportunity for a requested hearing. The request for a hearing must be filed within ten days of receipt of the written notice or the hearing shall be considered to be waived.
(Code 1996, §§ 1.20.002, 1.20.035(1)(A); Ord. No. O-857-07, 10-1-2007; Ord. No. O-28-10, 12-6-2010)

Sec. 2-219. Election and duties of the board or commission chairperson.

The chairperson of the appointed board or commission shall be elected from among the body appointed by the city council, and said election shall be held at the first meeting after the annual appointment of the members of any board or commission or upon the appointment of the vacancy of the chairperson position, after the new appointees are sworn in, or as soon thereafter as is practicable.
(Code 1996, § 1.20.031; Ord. No. O-28-10, 12-6-2010)

Sec. 2-220. Election and duties of board or commission vice-chairperson.

At the first meeting after the annual appointment of members of any board or commission and all newly appointed members are sworn in, or as soon thereafter as is practicable, the board or commission shall elect a vice-chairperson from among its members. The vice-chairperson shall act in the absence, illness, or failure or refusal of the chairperson to act.
(Code 1996, § 1.20.032; Ord. No. O-28-10, 12-6-2010)

Sec. 2-221. Orientation for new members by city manager.

The city manager is responsible for seeing that all newly appointed board or commission members are provided with an orientation on city facilities, staff procedures and other information of interest to city officials. Additionally, board and commission members shall be fully informed of all public expectations and responsibilities of the position they have been appointed to and subsequently accepted.
(Code 1996, § 1.20.036(a); Ord. No. O-28-10, 12-6-2010)

Sec. 2-222. Chairperson to inform members of pending issues.

The chairperson is responsible for informing all board or commission members of any and all issues related to that board or commission's city business, provided that doing so is accomplished in compliance with the requirements of the Texas Open Meetings Act, V.T.C.A., Government Code § 551.001 et seq.
(Code 1996, § 1.20.036(b); Ord. No. O-28-10, 12-6-2010)

Sec. 2-223. Authority to promulgate rules and compel attendance of members.

The board or commission may determine its own rules of procedure and may compel the attendance of its members.
(Code 1996, § 1.20.035(intro. ¶); Ord. No. O-28-10, 12-6-2010)

Sec. 2-224. Sergeant-at-arms; preservation of order and decorum.

If present, the police chief or designee shall act as sergeant-at-arms. In the absence of the police chief or a designee, the chairperson or a majority of the board or commission may rely on the city manager or designee to furnish whatever assistance is needed or may require the police chief or designee to report to the meeting to enforce the rules of decorum of the city.
(Code 1996, § 1.20.038(a); Ord. No. O-28-10, 12-6-2010)

Sec. 2-225. Types of meetings; schedule; notice.

(a) *Regular meetings.* Regular meetings shall be held as often as business necessitates or as prescribed by the city Charter. Executive sessions and public hearings shall be held as needed and as authorized and notice of such meetings shall be given in accordance with law. Regular meetings of the zoning board of adjustment, parks and recreation board, and any other duly appointed board or commission shall be held as prescribed by this article.

(b) *Special meetings.* Special meetings may be requested through the city manager or designee. Notice of special meetings shall be given by the city secretary personally to each member of the board or commission, respectively, by notice left at such person's residence, voice mail or email message when possible. The time, place, and purpose of such meetings shall be stated in each instance in accordance with the requirements of the Texas Open Meetings Act, V.T.C.A., Government Code § 551.001 et seq.

(c) *Workshop meetings.* Workshop meetings may be requested through the city manager or designee. The purpose of a workshop meeting shall be to discuss in detail, or explore in depth, matters of particular interest to the city or the specific board or commission. The public and staff may not participate in the discussions at a workshop meeting unless invited to do so by the board or commission. No formal action shall be taken at a workshop meeting. The time, place, and purpose of such meetings shall be stated in each instance in accordance with the requirements of the Texas Open Meetings Act, V.T.C.A., Government Code § 551.001 et seq.
(Code 1996, § 1.20.033; Ord. No. O-28-10, 12-6-2010)

Sec. 2-226. Agenda.

(a) The city manager or designee shall establish the agenda for each board or commission meeting. The chairperson shall be apprised of the agenda prior to posting.

(b) Any board or commission member desiring that a particular item be placed on the respective agenda shall contact the city manager or designee or city secretary on or before 1:00 p.m. on Monday of the week preceding the scheduled meeting. The board or commission member requesting the agenda item shall be responsible for the agenda briefing or presentation of the item at the meeting. Any staff assistance should be requested through the city manager or designee. Completed agenda items must reach the city manager or designee's office by Monday at 1:00 p.m. of the week preceding the scheduled meeting in order to ensure proper review time. The final documents shall be submitted to the city secretary's office at city hall by 1:00 p.m., Wednesday, of the week preceding the scheduled meeting.

(c) Any resident of the city or any member of the city staff may request, in writing, that an item be placed on a board or commission agenda, with the exception of the zoning board of adjustment, by submitting a request to the city manager or designee. The city manager or designee shall determine whether to place the item on the agenda.

(d) Once an item is placed on an agenda which has been posted in compliance with the 72-hour deadline, it may not be removed from the posted agenda but may be pulled at the meeting by the person who requested the item, or by action of the board or commission at the meeting for which the item is posted.

(e) The current agenda format shall remain in force and effect. Upon objection by any board or commission member, any matter on the agenda shall be considered out of its regular order only upon a two-thirds vote of the members present.
(Code 1996, §§ 1.20.034, 1.20.035(3); Ord. No. O-28-10, 12-6-2010)

Sec. 2-227. Attendance; absences; attendance records and reports.

(a) Members of boards and commissions, including the chairperson, shall make a good faith effort to attend all regular, workshop and special meetings, and shall, to the extent possible, provide advance notice of at least 12 hours preceding the meeting of an expected absence and request an absence be excused by notifying the city manager or designee of the anticipated absence and the reason therefor.

(b) Attendance may be excused for good cause by a majority of the board or commission. The term "good cause" means a personal illness, family emergency or a work-related conflict. Documented proof of cause may be required from any member for any absence.

(c) An absence that is not considered to be for cause may include one of individual choice to miss the meeting in lieu of another activity.

(d) Unless provided otherwise in the Charter or by enabling ordinance, three consecutive unexcused absences of regular, workshop or special meetings, or four nonconsecutive unexcused absences during a 12-month period shall cause the office held by such member or chairperson to become vacant.

(e) At such time a member exceeds the maximum permissible number of absences from duly called meetings, whether for good cause or otherwise, the city council shall be advised and the matter placed on an agenda for consideration.

(f) If a member or chairperson of a board or commission is found by a majority of the board or commission, or by a majority of the city council, to have been intentionally absent for the purpose of affecting or preventing a vote on a particular matter, such intentional absence shall be addressed by the city council at a council meeting and shall be grounds for reprimand, censure, or removal of that member or chairperson.

(g) The city secretary shall maintain accurate and up-to-date attendance records of all board and commission members. On a quarterly basis the city council shall be provided with the attendance records.

(h) If the city council deems it necessary, written notification from the council shall be forwarded to those members who have been absent for three or more meetings within a six-month period. Members receiving such written notification will be required to make a personal response to the city council to attempt to arrive at an acceptable resolution. If a resolution is not reached, the matter shall be placed on an agenda. At the meeting, the member shall provide information sufficient for a satisfactory resolution or the city council shall remove the member from the appointed position and consider a satisfactory replacement.
(Code 1996, § 1.20.035(7); Ord. No. O-28-10, 12-6-2010)

Sec. 2-228. Conflicts of interest.

(a) V.T.C.A., Local Government Code ch. 171, shall govern each board and commission with regard to conflicts of interest. Members and chairs of boards and commissions should seek legal advice before participating in any matter about which they may have a conflict of interest and should avoid any appearance of impropriety at all times.

(b) Members and chairs of boards and commissions should not meet with applicants or other persons who have or may have business before the board or commission outside of a public meeting without first informing the city manager or designee and being provided with legal advice on the propriety of such a meeting.
(Code 1996, § 1.20.035(8); Ord. No. O-28-10, 12-6-2010)

Sec. 2-229. Voting.

The ayes and nays may be demanded from each individual member on any question, by any member, and in all cases of calling the ayes and nays, every member shall vote unless abstention is required by law.
(Code 1996, § 1.20.035(4); Ord. No. O-28-10, 12-6-2010)

Sec. 2-230. Legal advice and assistance.

(a) If the chairperson or a majority of a board or commission desires to receive the advice or assistance of the city attorney, the same may be requested through the city manager or designee. Such advice or assistance from the city attorney, if approved by the city manager, may be by attendance at a meeting, either in person or by telephone, video conferencing, or electronic mail, or by written memo, letter, or other document.

(b) A board or commission should follow such legal advice or direction and, before a majority of a board or commission votes to act in a manner contrary to such advice should ascertain whether doing so may subject the city or individual members to liability.
(Code 1996, § 1.20.035(6); Ord. No. O-28-10, 12-6-2010)

Secs. 2-231—2-253. Reserved.

DIVISION 2. MEMBER PARTICIPATION, RULES OF ORDER, AND DECORUM

Sec. 2-254. Parliamentary rules; parliamentarian.

(a) In addition to the rules of procedure provided in this article, Robert's Rules of Order shall be followed to the fullest extent possible for the purpose of conducting orderly meetings. In the event of conflict, the provisions of this article shall be controlling.

(b) The city attorney and city secretary or designee shall be familiar with Robert's Rules of Order and shall serve as parliamentarian. In the event a parliamentarian is not present at a meeting or cannot be reached by telephone, electronic mail or other reasonable means, or in the event that attempting to contact a parliamentarian will result in unnecessary delay, the chairperson shall decide all questions of order unless a majority of board or commission votes to decide such a question in an alternative, reasonable manner.

(c) Robert's Rules of Order shall not be used for the purpose of delay, intimidation, thwarting the will of the board or commission, or to make ineffective a lawful vote.
(Code 1996, § 1.20.035(5); Ord. No. O-28-10, 12-6-2010)

Sec. 2-255. Conduct of members.

(a) *Generally.* Members and chairs of boards and commissions should conduct themselves at all times in a manner that reflects positively on the city. During meetings, the chairperson and board or commission members shall assist in preserving order and decorum and shall neither by conversation nor otherwise delay or interrupt the proceedings nor refuse to obey the orders of the chairperson or the rules of the city.

(b) *Members to utilize assigned seating.* Each board or commission member shall, while the respective meeting is in session, occupy the member's assigned seat and, if away, shall not be allowed to speak or vote on any matter before the board or commission by telephone, electronic mail or other means of communication.

(c) *Demeaning and disrespectful conduct prohibited.* Neither the chairperson nor any member of a board or commission shall speak in a demeaning or disrespectful manner about or to any applicant, witness, staff member, or member of the public in attendance at the meeting.

(d) *Members entitled to speak; procedure; constraints.* After recognition by the chairperson, each board or commission member may speak at any time with respect and courtesy to other members, visitors, and the chairperson, subject to the following:

(1) The chairperson shall ensure that all members desiring to speak may do so, including the chairperson. If the chairperson is in debate with another board or commission member, the chairperson shall restrain the chair's prerogative so as not to limit a response from the other member;

(2) A board or commission member desiring to speak shall address the chairperson by hand or voice signal, and upon recognition by the chairperson, shall confine discussion to the question under debate, avoid discussion of personalities and indecorous language, and shall refrain from personal attacks and verbal abuse;

(3) The chairperson shall recognize each member desiring to speak, in the order of request, unless a member's comments have become disruptive, confrontational, or disorderly;

(4) A board or commission member desiring to question a member of city staff shall address questions to the city manager or designee, who shall be entitled either to answer the inquiries or to designate another member of city staff for that purpose. The board or commission member shall not berate nor admonish staff members in open session;

(5) A board or commission member, once recognized, shall not be interrupted while speaking unless called to order by the chairperson or a point of order is raised by another member, or unless the speaker chooses to yield to questions from another member. If a board or commission member is called to order while speaking, that member shall cease speaking immediately until the question of order is determined. If ruled to be in order, the member shall be permitted to proceed. If ruled to be not in order, the member shall remain silent or make additional remarks only for the purpose of complying with decorum rules of the city;

(6) If a member in debate transgresses the rules, the chairperson shall, or any member may, call the member to order. Should the chairperson fail to do so, a majority vote of the remainder of the board or commission shall require the chairperson to enforce the procedures.

(Code 1996, § 1.20.035(1)(B)—(I); Ord. No. O-28-10, 12-6-2010)

Sec. 2-256. Members addressing a board or commission as a member of the public.

(a) Due to potential violation of the requirements of the Texas Open Meetings Act, V.T.C.A., Government Code § 551.001 et seq., members and chairs of boards and commissions are discouraged from leaving the horseshoe or dais for the purpose of addressing the board or commission during a meeting.

(b) A member or chairperson desiring to exercise the right of freedom of speech by addressing a board or commission as a citizen should first advise the city manager or designee of the desire to do so and should provide information on the topic to be discussed in order that the city manager or designee may seek legal advice from the city attorney, if necessary, in order to avoid possible violation of the Texas Open Meetings Act, V.T.C.A., Government Code § 551.001 et seq.
(Code 1996, § 1.20.035(9); Ord. No. O-28-10, 12-6-2010)

Sec. 2-257. Conference call meetings restricted; unauthorized polling of members prohibited.

Members of the board or commission and chairperson shall avoid conference call meetings not legally posted or other means of circumventing the requirements of the Texas Open Meetings Act, V.T.C.A., Government Code § 551.001 et seq., and shall not poll its members regarding matters of public concern.
(Code 1996, § 1.20.037(a); Ord. No. O-28-10, 12-6-2010)

Secs. 2-258—2-277. Reserved.

DIVISION 3. PUBLIC PARTICIPATION IN MEETINGS

Sec. 2-278. Rules of conduct for citizens and visitors.

(a) Citizens and other visitors are welcome to attend all public meetings of the board and commissions and will be admitted to the council chambers or other room in which the board or commission is meeting in open session up to the fire safety capacity of the room.

(b) Persons attending the meeting will refrain from private conversations while the meeting is in session.

(c) Citizens and other visitors attending board or commission meetings shall not bring food or drink into the council chamber or into any room in which the board or commission is meeting.

(d) Public comment may be allowed regarding subjects on the agenda or not on the agenda, but no formal action be taken or deliberation of the board or commission conducted on any issue not on the agenda. The chairperson or a majority of the board or commission may set a uniform speaking time limit per speaker. The speakers will be called in the order their visitor's cards are received. Citizens and visitors shall observe the rules of decorum and courtesy and shall speak only upon recognition of the chairperson.

(e) At public hearings, citizens shall be given the opportunity to speak for or against an item after being recognized by the chairperson in accordance with the procedures provided in this article. Members of the public may not address or be present during any executive session unless such presence is allowed by law and the person is invited to be present by the chairperson or majority of the board or commission.

(f) Any person desiring to address a board or commission during a regular, special or workshop meeting shall fill out a visitor card provided by the city prior to the meeting. The card shall contain, at a minimum, the person's name, address, and the topic on which the person wishes to speak. Visitors shall give their completed sheets to the city secretary prior to the convening of the meeting. Cards shall not be accepted after the meeting has convened unless invited or approved by a majority of the board or commission.

(g) No one except board or commission members and officers and employees of the city in the discharge of their official duties shall be permitted to participate in the deliberations of the board or commission concerning agenda items. Members of the public may not participate in deliberations of the board of commission regarding items on the agenda or during a workshop meeting unless invited to do so.

(h) Citizens and other visitors attending board or commission meetings shall observe the same rules of propriety, decorum and good conduct applicable to members of the board or commission. Any person making personal, impertinent, profane or slanderous remarks or who becomes boisterous while addressing the board or commission or while attending the meeting shall be removed from the room if the sergeant-at-arms is so directed by the chairperson, and the person shall be barred from further audience before the board or commission during that session of the board or commission. If the chairperson fails to act, any member of the board or commission may move to require enforcement of the rules, and the affirmative vote of a majority of the board or commission shall require the chairperson to act.

(i) Unauthorized remarks from the audience, stamping of feet, whistles, yells, and similar demonstrations shall not be permitted by the chairperson, who may direct the sergeant-at-arms to remove offenders from the room. Aggravated cases shall be prosecuted on appropriate complaint signed by the chairperson. If the chairperson fails to act, any member of the board or commission may move to require enforcement of the rules, and the affirmative vote of the majority of the board or commission shall require the chairperson to act.

(j) No cards, banners, or signs shall be permitted in the council chamber or in any other room in which the board or commission is meeting. Exhibits, displays, and visual aids used in connection with presentations, however, are permitted.
(Code 1996, § 1.20.035(2); Ord. No. O-28-10, 12-6-2010)

Sec. 2-279. Copy of rules to be provided to public meeting attendees.

A copy of the conduct restrictions relative to citizens and other visitors shall be available to the public at all open meetings of the boards and commissions and shall provide the requisite notice and requirements of the code of conduct.
(Code 1996, § 1.20.038(b); Ord. No. O-28-10, 12-6-2010)

Sec. 2-280. Public records requests.

Upon a written request of a citizen, public records shall be copied and distributed according to the state law. Fees will be charged in accordance with the fee schedule promulgated by the Office of the Texas Attorney General. A form will be provided at the city office.
(Code 1996, § 1.20.037(b); Ord. No. O-28-10, 12-6-2010)

Secs. 2-281—2-308. Reserved.

DIVISION 4. PARKS AND RECREATION BOARD

Sec. 2-309. Established; composition; member appointment, terms, and compensation.

(a) The city has established an advisory board known as the city parks and recreation board consisting of seven citizens of the city serving staggered three-year terms. The members of the board shall be appointed by majority vote of the city council.

(b) In addition to the regular members, the city council shall appoint two alternate members who shall serve in the absence of one or more regular members. The alternates shall also serve staggered three-year terms. In determining who shall serve in the event of an absence, the alternate with the longest tenure shall so serve. If, for any reason, the alternate with the longest tenure cannot serve, the second alternate shall serve.

(c) For purposes of this division, a term year is from July 1 until the following June 30. The terms of the board members and alternate members shall expire on June 30 of the third year. New members shall begin serving at the first regular meeting following the anniversary date or as soon thereafter as practicable.

(d) Any individual who is interested in serving on the board shall submit to the city secretary an application to be obtained from city hall. The city council reviews the applications and may interview said applicants. The appointments are made during the public portion of the council meeting.

(e) The application submitted to the city secretary for consideration by the city council shall be completed in its entirety with an affirmation under oath that all information contained therein is true and correct. This information shall be subject to verification and may also be released for other purposes, such as conducting a background check. Any material misinformation contained on the application, as determined by the city council, shall be cause for immediate removal by majority vote of the city council.

(f) Members and alternate members of the board shall serve without compensation.
(Code 1996, §§ 9.11.001, 9.11.002; Ord. No. 770-04, §§ 3, 4, 2-16-2004)

Sec. 2-310. Member eligibility.

All board members and alternate members shall be qualified voters of the city and shall remain eligible to vote in city elections during their tenure. Members and alternate members shall demonstrate a genuine interest in city parks and the community generally and the ability to work with the public and the time to devote to service.
(Code 1996, § 9.11.003; Ord. No. 770-04, § 5, 2-16-2004)

Sec. 2-311. Attendance.

(a) A member of the board may not miss more than two consecutive meetings, and in no event shall a member miss more than 25 percent of the regular meetings during a single term year. The chairperson shall record the attendance of the board and submit the findings to the city manager.

(b) When, in the opinion of the chairperson, or by virtue of the attendance record, a member has not complied with the attendance requirement, the city manager will be notified, and the manager will advise the council of the need to fill a vacancy on said board.

(c) Alternate members are encouraged to, and should, attend all regularly scheduled and special meetings of the board. Alternates shall be given an opportunity to participate in the discussion and ask questions of staff and the applicant. Only seated members have voting privileges.
(Code 1996, § 9.11.004; Ord. No. 770-04, § 6, 2-16-2004)

Sec. 2-312. Resignation or removal of members; filling vacancies.

(a) A position shall be declared vacant if a term expires, if a member misses two consecutive regularly scheduled meetings without a valid excuse as determined by council or without otherwise being excused by a majority of the board, or if the member misses more than 25 percent of the regular meetings during a term year.

(b) The council shall appoint a replacement to fill an unexpired term in case of a vacancy. Current alternate members may be considered prior to new applicants at the discretion of council. The alternate member with the longest tenure shall assume the duties of the vacant position until the expiration of the term of office of the vacated position unless the council otherwise appoints a replacement.

(c) If more than one vacancy on the board exists, the alternate member with the longest tenure shall assume the duties of the vacant positions, with the alternate member with the longest tenure assuming the longest remaining term of office, unless council otherwise appoints a replacement.

(d) Resignation of a member of the board shall be in writing. Resignation by a member of the board is effective, and not subject to revocation, upon tendering written notification to the city secretary, and such vacancy shall be filled by the city council for the remaining term, as set forth herein.

(e) Regular and alternate members may be removed from office prior to the expiration of the term by a majority decision of the city council.

(f) A member or alternate member who ceases to reside in the city or is no longer a qualified voter during the member's term of office shall immediately forfeit the office. Notice must be submitted to the city secretary as soon as practicable.
(Code 1996, § 9.11.005; Ord. No. 770-04, § 7, 2-16-2004)

Sec. 2-313. Powers and duties of city manager and board.

The city manager, or designee, shall have management and control over all public parks, recreational facilities and programs within the city, and the board shall have the following powers and duties:

(1) Recommend a comprehensive plan for the physical development of the parks and recreation facilities of the city;

(2) Advise the staff and city council in policy matters, such as goals, objectives and programs;

(3) Assist the staff and city council in the planning process for parks, recreational facilities and programs;

(4) Recommend to city council approval or disapproval of proposed changes in the parks, recreational facilities and programs;

(5) Assist the city manager, in an advisory capacity, to supervise, manage and control the parks, recreational facilities and programs;

(6) Promote park use and recreation program participation;

(7) Assist the staff and city council in the recruitment of volunteers and solicitation of voluntary contributions; and

(8) Have and perform such additional duties as may be prescribed by ordinance.
(Code 1996, §§ 9.11.006, 9.11.007; Ord. No. 770-04, §§ 8, 9, 2-16-2004)

Sec. 2-314. Meetings.

(a) *Dates and times.* Dates and times of the regular meetings of the board shall be as determined by the city council, but in no event shall the board meet less than once a month. Specially scheduled meetings may be set, in coordination with the city secretary, and as properly noticed. Regular scheduled meetings may be reset upon the majority vote of the members.

(b) *Quorum.* A meeting of the board must have a quorum of its members present to conduct business. A quorum is comprised of five members; however, the affirmative vote of at least four of those attending the meeting at which there is a quorum present shall be necessary to make any decision on behalf of the board.
(Code 1996, § 9.11.008(1); Ord. No. 770-04, § 10, 2-16-2004)

Sec. 2-315. Chairperson and vice-chairperson appointment, powers, and duties.

(a) The board shall appoint a chairperson and vice-chairperson each year at the first meeting following appointments, or as soon as practicable thereafter. Only members may vote for a chairperson and vice-chairperson. A chairperson may serve multiple terms. The chairperson may vote on all issues before the board. The vice-chairperson acts as a chairperson in the absence of the chairperson.

(b) The chairperson or, in the chairperson's absence, the vice-chairperson shall preside at all meetings and shall decide all points of order and shall perform duties that ensure that the board achieves the tasks as directed by the city council. Examples of such duties are as follows:

(1) Exercise leadership and make suggestions to ensure that the group reaches a conclusion on the matter before them;

(2) After any debate or discussion, summarize the major points of the issue as discussed;

(3) Ensure that all parties act in accordance with the established rules;

(4) Ensure that the meeting moves along and stays on track;

(5) Ensure that attendance records are maintained and that the minutes of each meeting are acted upon and submitted for council review;

(6) Work with the city staff to ensure that agendas are properly prepared and posted.

(Code 1996, § 9.11.008(2)—(4); Ord. No. 770-04, § 10, 2-16-2004)

Sec. 2-316. Rules of order; deliberations and voting.

(a) Robert's Rules of Order shall govern all meetings. The chairperson shall rule on all points of order. The purpose of the rules of order are to ensure an orderly, efficient meeting that allows all persons the opportunity to speak.

(b) All official action must be by motion, be seconded, and receive the affirmative vote of the required number of members. The chairperson shall state the motion, call for the vote, and announce the results of the vote.

(c) The vote shall be by ayes and nays and entered into the record. Any abstentions due to conflict shall also be noted for the record. Members abstaining due to a conflict of interest shall submit a written statement of abstention to the city secretary.

(d) All official action must take place in open session.

(e) Any member desiring to speak on the matter before the board shall do so only when recognized by the chairperson. That member shall hold the floor until the member yields the floor to the chairperson. The member shall confine all remarks and discussion to the matter under consideration. Unless otherwise recognized by the chairperson, no member shall speak more than once on a particular subject until every member requesting to be recognized shall have had the opportunity to speak.

(f) Only one agenda item may be discussed at a time, unless logic and practical considerations allow similar topics to be considered together for purposes of convenience and efficiency. Notwithstanding the foregoing, the vote must be on one agenda item at a time and the record shall so reflect.
(Code 1996, § 9.11.008(4)—(5); Ord. No. 770-04, § 10, 2-16-2004)

Sec. 2-317. Minutes and audio taping of meetings; board secretary.

(a) The board shall meet in open session to consider issues that may be brought before it for action and must keep minutes of the meetings. A member of the city staff will be designated by the city manager to act as the secretary and record and prepare minutes for review and submission to the board and the city council. Minutes of each meeting shall be provided to the city council.

(b) The minutes shall reflect the date, time, place, attendance of members, issues that are addressed, vote taken and a brief description of the discussion. The board must vote to accept the minutes of any previous meetings as a standard practice and a standing agenda item. The minutes of the meeting shall be approved by majority vote of the board at the next regularly scheduled meeting or as soon thereafter as practicable.

(c) An audio tape recording of the meetings must be made.

(d) A copy of all minutes, after acceptance by a majority of the voting members, must be filed with the city secretary and become a part of the official city records.
(Code 1996, § 9.11.008(6); Ord. No. 770-04, § 10, 2-16-2004)

Secs. 2-318—2-337. Reserved.

DIVISION 5. OTHER ENTITIES

Sec. 2-338. Youth advisory committee.

(a) *Creation; duties; advisory nature.* The youth advisory committee has been created to provide participation by local youth in city government and to routinely report thereon to the city council. The youth advisory committee is advisory in nature only, charged with evaluating relevant issues and submitting recommendations to the city council and others. The committee shall adopt such bylaws which govern its meetings and duties. The committee shall elect annually from among its members a chairperson and a vice-chairperson. The mayor shall serve as an advisor and one city councilmember shall serve as council liaison to the youth advisory committee.

(b) *Composition; appointment; terms.* The youth advisory committee shall consist of seven youth members and two alternate members, all being high school students, and one adult sponsor. The adult sponsor shall be appointed by a majority of the city council from among

registered voters of the city. Each of the seven youth members and two alternate youth members shall be appointed by a majority of the city council. Terms of office shall be two years for the adult sponsor and one year for the youth members and alternates.

(c) *Applications for appointment.* The appointments to the youth advisory committee shall be made from applications submitted to the mayor and city council.
(Code 1996, §§ 1.22.001—1.22.003; Ord. No. O-17-18, 10-2-2018)

Sec. 2-339. Citizens police advisory committee.

(a) There is hereby established the Glenn Heights Citizens Police Advisory Committee ("committee" or "CPAC"). The committee shall be solely advisory. Its purposes are as follows:

(1) To work together with the chief of police to develop a more transparent police department;

(2) To be involved in the review of and assist in the decision-making process of improving the police department's policies and procedures and continue to foster community trust and confidence in the Glenn Heights Police Department (GHPD); and

(3) To perform such other advisory tasks as the city council may from time to time direct.

(b) The committee shall consist of seven committee members. The mayor and each member of the city council (Places 1 through 6) shall appoint one committee member, for a total of seven committee members. All appointed committee members must be residents of the city. Committee members are appointed for a term of two years. Committee members may be reappointed to serve additional terms but are prohibited from serving more than three consecutive terms.

(c) Committee members are appointed for a term of two years, with three members' terms ending during odd-numbered years and four members' terms ending during even-numbered years. The three members rotating off CPAC each odd-numbered year shall be those members appointed by councilmember places one, three, and five. The remaining CPAC members shall rotate off CPAC each even-numbered year. No initial appointee's term shall be less than two years; the first term of an initial appointee to CPAC may, where necessary, be extended by one year to ensure that the appointee is allowed to serve at least two years.

(d) The committee's duties and responsibilities shall include, but may not be limited to:

(1) Becoming familiar with GHPD's policies and procedures;

(2) Gathering, evaluating and discussing all information relative to specific use of force incidents and to review and discuss specific GHPD policies, procedures and processes, as allowed by law and rules of evidence;

(3) Identifying policing issues suitable for further review as requested by the chief of police, city manager, or city council;

(4) Recommending changes in the GHPD's policies and procedures to the chief of police or city manager, as needed, relating to GHPD's administrative directives, policies, procedures and processes; and

(5) Reviewing GHPD policies as requested by the chief of police or city manager.

(6) On at least a quarterly basis, providing a summary report of CPAC activity to the city council.

(e) The committee may establish its own rules of procedure, subject to the following:

(1) The committee may meet on a monthly basis (if there is business to be conducted);

(2) A quorum of the committee, required to conduct business, shall be four members;

(3) The committee shall select from its membership a chairperson by majority vote of the membership, who shall preside over meetings of the committee;

(4) The committee shall elect from its membership a vice-chairperson, who shall preside over meetings of the committee in the absence of the chairperson, and a secretary, who shall be responsible for maintaining the minutes of the meetings;

(5) The chairperson shall be a voting member of the committee;

(6) All actions of the committee must be approved by a majority of the membership of the committee;

(7) Three absences from regularly scheduled CPAC meetings without excuse approved by majority vote of members present shall be grounds for the immediate removal of the member from the appointed position on CPAC.

(Ord. No. O-16-20, § 1(1.24), 1-19-2021)

Secs. 2-340—2-364. Reserved.

ARTICLE V. FINANCE

DIVISION 1. GENERALLY

Sec. 2-365. City manager to act as or designate purchasing agent; purchasing authority.

(a) The city manager shall act as or designate a purchasing agent for the city, who shall ensure that all merchandise, materials, supplies, equipment, and services utilized by the city are procured in accordance with state law and good city purchasing practices.

(b) Purchases shall be based on competitive bid for like quality and function except in instances when competition is impossible or impractical. The bid format shall be in accordance with law and is subject to the following limitations:

(1) Expenditures of $500.00 or less shall be informal;

(2) Expenditures of $500.01 to $2,999.99 shall be by telephone or in writing;

(3) Expenditures of $3,000.00 to $4,999.99 shall be in writing;

(4) Expenditures of $5,000.00 and over shall be by formal public bid.

(c) Bids for public works contracts shall be in conformance with V.T.C.A., Local Government Code §§ 271.021 through 271.029. Procurement involving high-tech items may utilize provision of state law allowing for negotiated purchases.

(d) The city manager has authority to budget operational purchases and expenditures not exceeding $50,000.00 and, subject to formal procurement policy, those capital equipment purchases approved by the council upon adoption of the budget.

(e) In cases of accident or other circumstances creating an emergency, the city manager may, with consent of the city council, award contracts and make purchases for the purpose of repairing damages caused by such accident or avoiding such public emergency, but immediately after the emergency is abated, the manager shall file with the council a certificate showing such emergency and necessity for such action, together with an itemized account of all expenditures.
(Code 1996, § 9.04.002(9), (10); Ord. No. 776-04, 6-7-2004; Ord No. O-09-22, 8-16-2022)

Sec. 2-366. Conflicts between state law and city Charter regarding purchasing.

V.T.C.A., Local Government Code ch. 252 shall supersede the provisions of the city Charter where there is conflict between chapter 252 and the Charter as it relates to the notice of contracts, advertisement of the notice, requirements for the taking of sealed bids based on specifications for public improvements or purchases, the manner of publicly opening bids or reading them aloud, or the manner of letting contracts. This section shall not prevent the city, acting through its city council or its administrators, from adopting administrative procedures as to the matters listed in this section.
(Code 1996, § 1.19.001; Ord. No. 688-00, 9-5-2000)

Secs. 2-367—2-390. Reserved.

DIVISION 2. CLAIMS AGAINST CITY FOR DAMAGES

Sec. 2-391. Notice required.

The city shall never be liable for any claim for property damage or for personal injury, whether such personal injury results in death or not, unless the person damaged or injured, or someone in the person's behalf, or in the event the injury results in death, the person who may have a cause of action under the law by reason of such death or injury shall, within 90 days from the date the damage or injury was received, give notice in writing to the mayor and city council of the following facts:

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

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

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

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

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

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

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

(8) In 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 happening of the damage or any part thereof.

(Code 1996, § 1.11.001)

Sec. 2-392. Notice to be sworn.

The written notice required under this division shall be sworn to by the person claiming the damage or injuries or by someone authorized by the person to do so on the person's behalf. Failure to swear to the notice as required herein shall not render the notice fatally defective, but failure to so verify the notice may be considered by the city council as a factor relating to the allegations and to the weight to be given to the allegations contained therein.
(Code 1996, § 1.11.005)

Sec. 2-393. Exemptions.

The notice provisions required herein shall not be applicable in cases in which the plaintiff can demonstrate good cause, actual notice by the city, or civil rights violation.
(Code 1996, § 1.11.006)

Sec. 2-394. Refusal by city council as a prerequisite.

No suit of any nature whatsoever shall be instituted or maintained against the city unless the plaintiff therein shall aver and prove that previous to the filing of the original petition the plaintiff applied to the city council for redress, satisfaction, compensation, or relief, as the case may be, and that the same was by vote of the city council refused.
(Code 1996, § 1.11.002)

Sec. 2-395. Address for filing notices.

All notices required by this division shall be effectuated by serving them upon the city manager at City Hall, 1938 South Hampton Road, Glenn Heights, Texas 75154. All such notices shall be effective only when actually received in the office of the city manager.
(Code 1996, § 1.11.003)

Sec. 2-396. No authority to waive provisions.

Neither the mayor, a city councilmember, nor any other officer or employee of the city shall have the authority to waive any provision of this division.
(Code 1996, § 1.11.004)

Secs. 2-397—2-420. Reserved.

ARTICLE VI. CITY PROPERTY

DIVISION 1. GENERALLY

Sec. 2-421. Sale of surplus city personal property.

The city may sell surplus personal property owned by the city in any manner not prohibited by state law or the state constitution. All sales are final. No refunds or exchanges will be authorized. All personal property must be removed within five days following the date of sale. No city employee, or city official, or member of the employee or official's family may purchase any item, either directly or indirectly.
(Code 1996, art. 1.10; Ord. No. O-848-07, 8-6-2007)

Secs. 2-422—2-440. Reserved.

DIVISION 2. CITY VEHICLE MAINTENANCE

Sec. 2-441. Findings, purpose, and intent.

(a) The regional transportation council, comprised primarily of local elected officials, is the regional transportation policy body associated with the North Central Texas Council of Governments, and has been and continues to be a forum for cooperative decisions on transportation.

(b) The regional transportation council supports the adoption and implementation of a clean fleet vehicle policy by the city which was resolved on October 6, 2005.

(c) The Dallas-Fort Worth area is a federally designated non-attainment area for the pollutant ozone and air quality impacts the public health of the entire region.

(d) The regional transportation council is responsible for air quality conformity, and the Clean Air Act Amendments of 1990 require that in air quality non-attainment areas transportation plans and improvement programs conform to the applicable air quality implementation plan.

(e) The city wants to set achievable goals and provide workable, cost-effective solutions to improve the Dallas-Fort Worth Metropolitan Area air and implement those measures as soon as practicable to improve air quality.

(f) Approximately 50 percent of the nitrogen oxide (NOx) emissions in the Dallas-Fort Worth non-attainment area come from on-road vehicles.
(Code 1996, § 1.21.001; Ord. No. O-33-08, 10-6-2008)

Sec. 2-442. Vehicle acquisition.

(a) Vehicle acquisitions for fleet expansion or replacement of model year 2004 or newer shall be newest model year or engine standard only.

(b) Vehicle acquisitions to replace model year 2003 or older vehicles must show at least a 25 percent reduction in nitrogen oxides (NOx) emissions rate compared to the vehicle being replaced. (Waivers are possible when new technologies or achievements of the required emission reduction are not possible.)

(c) Aftermarket technologies and conversions are acceptable for fleet expansion and fleet replacements.

(1) Aftermarket technologies and conversions must be Environmental Protection Agency (EPA) or CARB verified or certified or technology equivalent or better, as determined by the North Central Texas Council of Governments (NCTCOG) staff;

(2) Conversions must comply with the provisions of EPA Memorandum 1A and Addendum Revision (June 25, 1974, and June 1, 1998).
(Code 1996, § 1.21.002; Ord. No. O-33-08, 10-6-2008)

Sec. 2-443. Vehicle operation.

(a) Vehicle idling is allowed only for safety, emergency response, vehicle maintenance, equipment activity, warm-up/operations in cold temperature, and manufacturer-recommended minimum idle/warm-up times.

(b) Vehicles with the lowest NOx emissions that are capable of performing the required operational demands shall drive the most miles.

(c) The fleet manager shall abide by latest refueling time/season guidance published by NCTCOG air quality planning.

(d) Nonemergency vehicles shall drive no more than the posted speed limit and avoid rapid acceleration.

(e) All drivers shall be trained on air quality appropriate operational requirements.
(Code 1996, § 1.21.003; Ord. No. O-33-08, 10-6-2008)

Sec. 2-444. Vehicle maintenance.

(a) Annual emission and safety inspections shall be performed for all vehicles, even for vehicles with no state-mandated inspection requirement.

(b) All vehicles with over 100,000 miles must have emission inspections every 25,000 miles thereafter.

(c) Manufacturer's recommended maintenance shall be performed.

(d) Participation in any diesel or other state commission on environmental quality or NCTCOG inspection/maintenance program, including applicable test or pilot programs shall be mandatory.
(Code 1996, § 1.21.004; Ord. No. O-33-08, 10-6-2008)

Sec. 2-445. Compliance verification.

(a) The public sector entity shall provide NCTCOG with an annual electronic update of fleet size and activity in a format established by NCTCOG.

(b) The city acknowledges that entities not adopting and complying with the clean fleet vehicle policy or reporting requirements will not be eligible for future clean vehicle funding, and RTC may assess city compliance when considering other RTC funding actions.
(Code 1996, § 1.21.005; Ord. No. O-33-08, 10-6-2008)

Secs. 2-446—2-473. Reserved.

ARTICLE VII. RECORDS MANAGEMENT

Sec. 2-474. 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:

City records means all documents, papers, letters, books, maps, photographs, sound or video recordings, microfilm, magnetic tape, electronic media, or other information recording media, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by the city or any of its officers or employees pursuant to law or in the transaction of public business 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.

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

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

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

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

Records liaison officers means the persons designated under section 2-482.

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 "records management" includes the development of records control schedules, the management of filing and information retrieval systems, the protection of essential and permanent records, the economical and space-effective storage of inactive records, control over the creation and distribution of forms, reports, and correspondence, and the management of micrographics and electronic and other records storage systems.

Records management committee means the committee established in section 2-478.

Records management officer means the person designated in section 2-477.

Records management plan means the plan developed under section 2-479.

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.
(Code 1996, §§ 1.17.001, 1.17.002)

Sec. 2-475. City records declared public property.

All city records are the property of the city. No city official or employee has, by virtue of the official or employee's position, any personal or property right to such records even though the official or employee may have developed or compiled them. The unauthorized destruction, removal from files, or use of such records is prohibited.
(Code 1996, § 1.17.003)

Sec. 2-476. Policy.

It is the policy of the city to provide efficient, economical, and effective controls over the creation, distribution, organization, maintenance, use, and disposition of all city records through a comprehensive system of integrated procedures for the management of records from their creation to their ultimate disposition, consistent with the requirements of the Local Government Records Act, V.T.C.A., Local Government Code ch. 201, and accepted records management practice.
(Code 1996, § 1.17.004)

Sec. 2-477. Designation of records management officer.

The city secretary, and the successive holders of the office, shall serve as records management officer for the city. As provided by state law, each successive holder of the office shall file the holder's name with the director and librarian of the Texas State Library within 30 days of the initial designation or of taking up the office, as applicable.
(Code 1996, § 1.17.005)

Sec. 2-478. Establishment and duties of records management committee.

A records management committee consisting of the city manager, city attorney and finance director is hereby established. The committee shall:

(1) Assist the records management officer in the development of policies and procedures governing the records management program;

(2) Review the performance of the program on a regular basis and propose changes and improvements if needed;

(3) Review and approve records control schedules submitted by the records management officer;

(4) Give final approval to the destruction of records in accordance with approved records control schedules; and

(5) Actively support and promote the records management program throughout the city.
(Code 1996, § 1.17.006)

Sec. 2-479. Records management plan development, approval and authority.

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

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

(c) State law relating to the duties, other responsibilities, or recordkeeping requirements of a department head do not exempt the department head or the records in the department head's care from the application of this article and the records management plan adopted under it and may not be used by the department head as a basis for refusal to participate in the records management program of the city.
(Code 1996, § 1.17.007)

Sec. 2-480. 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 city office and department to ensure maximum availability of the records in order to reestablish operations quickly and with minimum disruption and expense;

(4) Develop procedures to ensure the permanent preservation of the historically valuable records of the city;

(5) Establish standards for filing and storage equipment and for recordkeeping supplies;

(6) Study the feasibility of and, if appropriate, establish a uniform filing system and a forms design and control system for the city;

(7) Provide records management advice and assistance to all city departments by preparation of a manual of procedure and policy and by on-site consultation;

(8) Monitor records retention schedules and administrative rules issued by the state library and archives commission to determine if the records management program and the city's records control schedules are in compliance with state regulations;

(9) Disseminate to the city council and department heads information concerning state laws and administrative rules relating to local government records;

(10) Instruct records liaison officers and other personnel in policies and procedures of the records management plan and their duties in the records management program;

(11) Direct records liaison officers or other personnel in the conduct of records inventories in preparation for the development of records control schedules as required by state law and this article;

(12) Ensure that the maintenance, preservation, microfilming, destruction, or other disposition of the city is carried out in accordance with the policies and procedures of the records management program and the requirements of state law;

(13) Maintain records on the volume of records destroyed under approved records control schedules, the volume of records microfilmed or stored electronically, and the estimated cost and space savings as the result of such disposal or disposition;

(14) Report annually to the city council on the implementation of the records management plan in each department of the city, including summaries of the statistical and fiscal data compiled under subsection (13) of this section; and

(15) Bring to the attention of the city council noncompliance by department heads or other city personnel with the policies and procedures of the records management program or the Local Government Records Act, V.T.C.A., Local Government Code ch. 201.

(Code 1996, § 1.17.008)

Sec. 2-481. 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 staff are responsible; and

(3) Maintain the records in the department's 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.

(Code 1996, § 1.17.009)

Sec. 2-482. Designation of records liaison officers.

(a) Each department head shall designate a member of staff to serve as records liaison officer for the implementation of the records management program in the department.

(b) If the records management officer determines that, in the best interests of the records management program, more than one records liaison officer should be designated for a department, the department head shall designate the number of records liaison officers specified by the records management officer.

(c) Persons designated as records liaison officers shall be thoroughly familiar with all the records created and maintained by the department and shall have full access to the records of the city maintained by the department.

(d) In the event of the resignation, retirement, dismissal, or removal by action of the department head of a person designated as a records liaison officer, the department head shall promptly designate another person to fill the vacancy. A department head may serve as records liaison officer for the department.

(Code 1996, § 1.17.010)

Sec. 2-483. Duties and responsibilities of records liaison officers.

In addition to other duties assigned in this article, records liaison officers shall:

(1) Conduct or supervise the conduct of inventories of the records of the department in preparation for the development of records control schedules;

(2) In cooperation with the records management officer, coordinate and implement the policies and procedures of the records management program in their departments; and

(3) Disseminate information to department staff concerning the records management program.

(Code 1996, § 1.17.011)

Sec. 2-484. Development and approval of records control schedules; filing with state.

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

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

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

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

(Code 1996, § 1.17.012)

Sec. 2-485. 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 2-484 shall be implemented by department heads and records liaison officers 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 committee that the record be retained for an additional period.

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

(Code 1996, § 1.17.013)

Sec. 2-486. 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.
(Code 1996, § 1.17.014)

Sec. 2-487. Records center.

A records center, developed pursuant to the plan required by section 2-479, is under the direct control and supervision of the records management officer. Policies and procedures regulating the operations and use of the records center shall be contained in the records management plan developed under section 2-479.
(Code 1996, § 1.17.015)

Sec. 2-488. Time limits for responding to certain requests.

(a) *Annual time limit.* Pursuant to V.T.C.A., Government Code § 552.275(a) and (b), 36 hours is established as the reasonable limit on the amount of time that personnel of the city are required to spend producing public information for inspection or duplication by a requestor in any given 12-month period, commencing on October 1 of each year, without recovering the city's costs attributable to that personnel time.

(b) *Monthly time limit.* Pursuant to V.T.C.A., Government Code § 551.275(a) and (b), 15 hours is hereby established as the reasonable limit on the amount of time that personnel of the city are required to spend producing public information for inspection or duplication by a requestor in any given one-month period, without recovering the city's costs attributable to that personnel time.

(c) *Records of time spent fulfilling requests.* The city secretary or designee shall be responsible for maintaining records of the cumulative amount of personnel time spent complying with requests for public information from each individual requestor.

(d) *Charges for personnel time spent in excess of time limits.* Subject to the provisions of V.T.C.A., Government Code § 551.275, when the 36-hour fiscal year or 15-hour monthly limit is met or exceeded, the city will require a requestor to pay costs attributable to costs of materials, overhead, and personnel time necessary to comply with the request prior to furnishing any responsive information for inspection or duplication by a requestor or providing copies of public information to a requestor. The city secretary shall be responsible for providing all notices to the requestor as required by law, including written statements of accrued time required by V.T.C.A., Government Code § 552.275(d) and written estimates of charges required by V.T.C.A., Government Code § 552.275(e).

(e) *Requestor defined.* For purposes of this section, the term "requestor" shall have the meaning set forth in V.T.C.A., Government Code § 552.003(6).
(Code 1996, § 1.17.016; Ord. No. O-18-22, 12-21-2022)

Chapter 3

RESERVED

Chapter 4

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ARTICLE I. IN GENERAL

Sec. 4-1. Definitions.

To the extent not otherwise defined herein, reference may be made, for purposes of clarifying definitions, to state law or generally accepted industry publications. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandon means to dump, desert, or leave any animal on public or private property with the intent of terminating any further responsibility for said animal; and shall also mean failing to timely redeem any animal impounded or quarantined by the city, as specified herein.

Adequate/proper shelter means a shelter for a dog that shall effectively protect the animal from any form of cold, overheating, inclement weather and direct effects of wind, rain, snow, ice or the sun. By way of example, and not limitation, a shelter may consist of a three-sided structure, with a roof. The shelter shall provide shade during hot weather months, with provisions for cooling the animal when temperatures exceed 90 degrees Fahrenheit. During temperatures 50 degrees Fahrenheit or lower, auxiliary heat or clean, dry bedding material shall be provided for insulation against the cold.

Animal means any living creature classified as a member of the animal kingdom, including, but not limited to, birds, fish, mammals and reptiles, but specifically excluding human beings.

Animal control facility means an establishment that is operated, controlled or contracted with by the city for the impoundment, confinement, safekeeping, control, caring or destruction of animals which come into the custody of the city.

Animal control officer means the person designated by the city to represent and act for the city in the impoundment of animals, in the controlling of stray animals and all other matters as otherwise required by this chapter.

At large means any animal, other than a domestic cat, that is off the premises of the owner and not under the immediate, effective control of a person. A domestic cat shall be considered at large when not located on the premises owned or controlled by its owner and not otherwise under immediate, effective control.

(1) The term "off premises" means any animal:

a. Which is not under immediate, effective control of a person by means of a cage, leash, physical restraint, or when such animal fails to respond to the voice command or other audible command of the person immediately upon issuance of said command, and is, at all times, within the visible presence of said person and not more than ten feet from said person;

b. Which, even when in the visible presence of the owner, or under physical restraint, as defined herein, enters onto the private property of another person, without that property owner's consent;

(2) The term "on premises" means any animal not confined on 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 metal chain or leash sufficient in strength to prevent the animal from escaping from the premises, and so arranged that the animal will remain upon the premises and not come any closer than six feet to a public walkway or sidewalk when the restraint leash is stretched to full length.

City enforcement agent means animal control officers, or other authorized representatives, including, but not limited to, police officers of the city.

Dangerous animal means:

(1) Any animal which has been determined to be dangerous as set forth herein by the animal control officer or appropriate court;

(2) Any animal which demonstrates behavior or possesses the vicious propensity to inflict serious bodily injury or death upon human beings and constitutes a danger to human life or domestic animals; or

(3) Any animal which has behaved in such a manner that the owner thereof knows, or reasonably should know, that the animal is possessed of tendencies to commit unprovoked attacks or to injure human beings or domestic animals; or

(4) Any animal certified by a doctor of veterinary medicine, licensed in the state, after observation thereof, as posing a danger to human beings or animals; or

(5) Any animal that commits an unprovoked attack upon a human being or other domestic animal; or

(6) Any animal that commits an unprovoked act that causes a person to reasonably believe that the animal will attack and cause bodily injury to that person.

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

Enclosure means a securely fenced yard, kennel, structure or device used to immediately restrict any animal to the premises that is locked, capable of preventing entry by the general public, including children, and capable of preventing the escape or release of the animal. Invisible fences consisting of electronic containment systems using radio signals to define boundaries shall not be regarded as an enclosure.

Exotic animal means any nondomesticated animal, other than livestock, that is native to a foreign country or of foreign origin or character, is not native to the United States, or was introduced from abroad. The term "exotic animal" specifically includes, but is not limited to,

animals such as lions, tigers, jackals, dingoes, leopards, elephants, pandas, camels, antelope, anteaters, kangaroos, chimpanzees, gorillas, orangutans, water buffalo, and species of foreign domestic livestock requiring state or federal permits.

Fowl means a bird of any kind, including, but not limited to, chickens, ducks, geese, guineas, pigeons, roosters, turkeys and pheasants.

Guard dog means a dog that has received protection or guard dog training and is used by law enforcement, private security, or in protective functions where the dog is responsive to control by its owner or handler and used only for protective functions, irrespective of its status as a personal pet of its owner or handler.

Guide dog means a dog that is trained to assist a disabled person.

Immediate, effective control.

(1) The term "immediate, effective control" means:

a. An animal which is under the power or restraint of a person by a means of cage, leash or physical restraint. An animal is not under the immediate, effective control of a person when it is not restrained by means of a leash or chain of sufficient strength and not more than six feet in length to control the actions of such animal while off the owner's property;

b. When such animal responds to the voice command of the person immediately upon issuance of said command and is, at all times, within the visible presence of said person and not more than ten feet from said person. It shall be prima facie evidence for purposes of this chapter that the animal is at large when the animal is not in the visible presence of the owner or fails to respond immediately to a verbal command;

(2) The term "immediate, effective control" does not include an animal not secured by restraint or leash.

Leash means a physical tether consisting of a cord, rope or chain not exceeding six feet in length, held by a person capable of controlling the dog.

Inhumane treatment of animals means any treatment of an animal prohibited by V.T.C.A. Penal Code § 42.09; V.T.C.A., Health and Safety Code ch. 821, 822 or 826, as amended; or any other provision of law, including federal, state and local laws, ordinances or rules.

Kennel means any business or establishment other than a veterinary hospital, whether operated separately or in connection with another business or establishment, that keeps, boards or trains dogs or cats for profit. Kennels must be established, maintained and operated in compliance with all applicable zoning and land use regulations of the city.

Livestock means any horses, mules, donkeys, cattle, bison, goats, sheet, swine, ostriches, emus or rheas.

Owner means any person, partnership, corporation or association that harbors, shelters, keeps, controls, manages, possesses or has whole or part interest in any animal. The

occupant, owner or head of a household of any premises where an animal remains for 24 hours or more shall be presumed to be the owner of such animal for the purpose of this chapter. This presumption is rebuttable and shall have the effects and consequences set forth in V.T.C.A., Penal Code § 2.05, as amended.

Pet means any animal normally kept for pleasure rather than utility, excluding livestock.

Pet store means any business or establishment other than a veterinary hospital, whether operated separately or in connection with another business or establishment, that buys and sells dogs, cats, or other species of pets for profit. Pet stores or pet shops must be established, maintained and operated in compliance with all applicable zoning and land use regulations of the city.

Public auction means any place or facility where animals are sold to the highest bidder. This definition does not apply to individual sales of animals by private owners to other private owners.

Public nuisance means the following:

(1) An owner's failure to control, restrain or otherwise allow, either by conduct or condition, any animal to:

a. Engage in conduct which establishes such animal as a dangerous animal; or

b. Be at large as defined herein; or

c. Cause a disturbance by excessive, continuous or untimely barking, howling, whining, crowing or otherwise make excessive noise near the private residence of another; or continual barking, howling, whining, crowing or other audible noise in excess of 15 minutes, even if in sporadic bursts, shall be prima facie evidence that the same constitutes a nuisance; or

d. Produce maggots, flies, odors or unclean conditions sufficient to annoy adjacent property owners or residents; or

e. Chase vehicles or molest, attack or interfere with other animals or persons on public property; or

f. Damage, soil, defile, or defecate on private property other than the owner's property or on public walks or recreation areas unless such waste is immediately removed and properly disposed of by the owner; or

g. Allow such fecal matter or other animal waste to accumulate to such a degree as to cause unsanitary, dangerous or offensive conditions.

(2) Any animal normally found in the wild that has entered onto any public or private property by its presence is committing a threat to public health and safety or is generally interrupting the tranquility of the location.

Public space means any place to which the public or a substantial group of the public may have access, including, but not limited to, streets, sidewalks, parks, trails, and other property open to the general public.

Quarter or *quartered,* as it relates to livestock or other animals regulated herein, means to provide shelter or to be sheltered.

Residential breeder means any person licensed by the city to keep, harbor, breed or raise in excess of four, but not more than ten, dogs and ten cats six months of age or older on any premises used or zoned for residential purposes and less than two acres in area.

Residential foster owner means any person licensed by the city to keep, harbor or foster in excess of four, but not more than ten, dogs and ten cats six months of age or older, including dogs or cats belonging to or owned by the foster owner, on any premises used or zoned for residential purposes and less than two acres in area.

Restraint means secured by a leash or secured within an enclosure that prevents an animal from coming any closer than six feet to a public walkway or sidewalk.

Serious bodily injury means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ. An injury characterized by severe bite wounds or severe ripping and tearing of muscle that would cause a reasonably prudent person to seek treatment from a medical professional and would require hospitalization without regard to whether the person actually sought medical treatment satisfies this definition. The term "serious bodily injury" includes, but is not limited to, injuries for which the injured party seeks emergency or inpatient treatment, irrespective of length of hospital stay.

Stray means an animal that is improperly restrained and that wanders upon a public place, roadway, street, highway, or the property of another person.

Vaccination means the inoculation of an animal with a rabies vaccine or other medicine that is accepted by the United States Department of Agriculture for use in that species, and which is administered by a veterinarian, licensed in the state, for the purpose of immunizing the animal against rabies or other diseases.

Veterinary hospital or clinic means any establishment that is maintained and operated by a veterinarian, licensed in the state, for the diagnosis, treatment or surgery of injuries and diseases to animals.

Wild animal means any animal not normally considered domesticated and which is now or historically has been found in the wild, or in a wild state, including, but not limited to, the following:

(1) Reptiles: venomous reptiles, any type of crocodile or alligator; or

(2) Fish: piranha; or

(3) Birds: condors, eagles, hawks, falcons, owls; or

(4) Mammals: ocelots, lions, tigers, jaguars, leopards, cougars, wolves or wolf hybrids, dingoes, coyotes and coyote mixes, jackals, weasels, martens, minks, badgers,

skunks, bats, raccoons, pandas, bears, kangaroos, opossums, sloths, anteaters, armadillos, monkeys, chimpanzees, gorillas, orangutans, porcupines, antelope, deer, foxes, elephants, lynx, camels, squirrels; or

(5) Any species of animal illegal to own under federal, state or local law.

Zoonotic disease means an illness which is of animal origin and usually causes illness to other animals but which can be transmitted to and cause illness in humans.
(Code 1996, § 2.01.001; Ord. No. 695-01, 3-5-2001; Ord. No. O-14-25, § 1, 8-5-2025)

Sec. 4-2. Care standards generally.

Animals shall be provided humane care, treated and transported in a humane manner and not in violation of V.T.C.A., Penal Code § 42.09, V.T.C.A., Health and Safety Code, title 10, or any other provision of law, including federal, state and local laws, ordinances and rules.
(Code 1996, § 2.02.001; Ord. No. 695-01, 3-5-2001)

Sec. 4-3. Animal cruelty and neglect.

A person commits an offense if:

(1) A person fails to provide an animal under the person's control or ownership with adequate wholesome food and water, proper shelter and protection from inclement weather, and veterinary care when needed to prevent suffering;

(2) A person having charge, care, custody or control of an animal places or confines such animal, or allows such animal to be placed or confined, in a motor vehicle trailer or other enclosure under such conditions, or for such a period of time, as to endanger the health of the animal due to heat, lack of food or water, or such other circumstances as may cause injury or death to the animal;

(3) A person treats an animal in an inhumane or cruel manner as defined by V.T.C.A., Penal Code § 42.09 or V.T.C.A., Health and Safety Code ch. 821;

(4) A person knowingly owns, harbors, trains, sells or offers for sale any animal which is to be used for the purpose of fighting; or to be trained, tormented, badgered or baited for the purpose of causing or encouraging said animal to attack human beings or animals when not provoked, except that this subsection shall not apply to guard dogs;

(5) A person mutilates any animal, whether such animal is dead or alive. This subsection does not apply to medical or veterinary medical research, medical or veterinary medical autopsies, or biology class use of animals for educational purposes;

(6) A person causes an animal to fight another animal or person;

(7) A person, other than a licensed veterinarian, docks an animal's tail, or crops an animal's ears, or castrates an animal; provided, however, this subsection shall not apply to normal livestock operations occurring within the city;

(8) A person dyes or colors chicks, ducks, rabbits, reptiles or birds;

(9) A person transporting an animal fails to effectively restrain an animal so as to prevent the animal from leaving or being accidentally thrown from a vehicle during normal operation of the vehicle or fails to effectively restrain an animal so as to prevent infliction of bodily harm to a passerby; provided, however, the provisions of this subsection shall not prohibit a person from transporting an effectively confined or tethered dog in the open bed of a pickup truck;

(10) A person is in control of a motor vehicle which strikes a domestic animal or livestock within the corporate limits of the city and fails to report the accident to the city enforcement agent as soon as practical;

(11) A person abandons any animal, including the abandonment of an impounded animal at the animal control facility with the intent to readopt the animal to avoid impoundment fees;

(12) A person ties or tethers a dog in such a manner that prevents the animal from access to adequate shelter, food and water;

(13) A person ties or tethers a dog in such a manner that the animal could become entangled or injured;

(14) A person cruelly confines an animal in a manner that prevents the animal from being able to stand to its full height, stretch out, turn around and lie down and make normal postural adjustments comfortably for a period of 24 hours or more;

(15) A person confines an animal in such a way that the animal is forced to stand or lay within its own feces, standing water or other unsanitary conditions.

(Code 1996, § 2.02.002; Ord. No. 695-01, 3-5-2001)

Sec. 4-4. Microchipping of dogs.

(a) For the purposes of this section, the term "microchip" means a passive electronic device that is injected or implanted subcutaneously into a dog for the purposes of identification and recovery.

(b) A person commits an offense if a dog owned by the person does not have a microchip.

(c) A person commits an offense if the person fails to maintain current contact information with a microchip registration company for a microchipped dog owned by the person.

(d) It is a defense to prosecution under this section if:

(1) The dog is under the age of four months;

(2) The dog has been kept or has resided in the city for less than 30 days;

(3) The dog is being held for adoption by the city's animal control facility or an animal welfare organization;

(4) The owner presents a medical certification from a licensed veterinarian indicating that microchipping would be harmful to the dog;

(5) The person establishes that the dog was microchipped within 30 days after the citation charging the person with an offense under this section was issued; or

(6) The person establishes that the person's contact information with a microchip registration company was updated and made current within 30 days after the citation charging the person with an offense under this section was issued.

(Ord. No. O-14-25, § 2.02.003, 8-5-2025)

Sec. 4-5. Poisoning of animals.

No person shall place any substance or article which has in any manner been treated with any poisonous substance, or is known to be toxic to animals, in any place accessible to human beings, birds, dogs, cats or other animals with the intent to kill or harm animals. This shall include antifreeze purposely left exposed to poison animals. This section, however, does not preclude the use of commercially sold rodent poisons when applied in accordance with the manufacturer's directions for such use in that person's residence, accessory structure or commercial establishment.

(Code 1996, art. 2.14)

Sec. 4-6. Animal trapping.

(a) *Approval required.* It is unlawful for any person to place, set or bait any trap for the purpose of catching, wounding or killing any animal, fowl or reptile without the permission and assistance of a city animal control officer. This section, however, does not preclude the use of commercially sold rat and mouse traps, to be utilized as intended by the manufacturer in accordance with the manufacturer's direction for use, in that person's residence, accessory structure or commercial establishment.

(b) *Trap type; prohibited traps.* Only humane live animal traps may be used for capturing animals roaming unrestrained in the city. The placing or baiting of any steel jawed trap (commonly known as a bear trap, wolf trap or coyote trap) within the corporate limits of the city is expressly prohibited. As an exception to this subsection, governmental agencies and entities shall be permitted to use such traps and equipment as necessary and permitted by state law or regulations.

(c) *Traps on public property.* Any animal traps found on public property are deemed abandoned, and the city enforcement agents are authorized and directed to seize any such trap and process the same as abandoned property in accordance with the applicable provisions of state law and this Code.

(d) *Bait type.* It shall be a violation of this chapter to use anything other than commercially sold animal food to bait any trap used for the purpose of trapping any animal.

(e) *Trap placement.* Unless the adjacent properties are separated by a solid masonry or wood fence at least six feet high, animal traps shall not be placed or located within ten feet of adjacent property lines. If no fence exists and the size, shape or other characteristics of the property preclude traps from being placed or located ten feet from adjacent property lines, the traps shall be placed or located as far from adjacent property lines as practicable.
(Code 1996, §§ 2.13.001—2.13.004; Ord. No. 695-01, 3-5-2001)

Sec. 4-7. Disposal of dead animals.

(a) *Authority of animal control officer.* The city animal control officer shall have the authority to take custody of and dispose of all deceased animals found on any roadway, street, highway, or public or private property where the owner cannot otherwise be identified.

(b) *Disposal of livestock.* It shall be the specific responsibility of the owner of any livestock to have the livestock removed and properly disposed of within 24 hours of the death of said livestock, consistent with state law.

(c) *Disposal of other animals.* It shall be the owner's responsibility to remove and properly dispose of a deceased animal within 24 hours of the death of the animal. If requested by the owner, the city animal control officer will pick up a deceased domestic animal if the animal has been placed in a sealed clear plastic bag and left in a convenient place adjacent to a public roadway, or at curbside.
(Code 1996, §§ 2.15.001, 2.15.002; Ord. No. 695-01, 3-5-2001)

Sec. 4-8. Guard dog registration.

(a) Each dog which has received protection or guard dog training and is kept in the city must be registered as a guard dog with animal control annually. It shall be a violation of this chapter for any person who keeps or allows any such dog to be kept upon the person's premises to fail or refuse to present proof to the city enforcement agent, upon request, that such dog has been registered as a guard dog within the preceding 12-month period.

(b) The city enforcement agent shall issue a permit to each qualifying dog. Such permit and tag shall be valid for a period of 12 months and are not transferable to any other animal. The registration tag shall be prominently displayed on the dog at all times by securely affixing it to a properly fitted collar, harness, or similar device worn by the dog. The tag and permit can only be issued provided the owner first presents proof that the dog is currently vaccinated against rabies. No fee shall be required for the issuance of a guard dog permit as provided herein.
(Code 1996, § 2.03.006; Ord. No. 695-01, 3-5-2001)

Sec. 4-9. State law regarding cat and dog sterilization adopted.

The city shall comply with all sterilization laws as set forth in V.T.C.A., Health and Safety Code ch. 828.
(Code 1996, § 2.04.003; Ord. No. 695-01, 3-5-2001)

Sec. 4-10. Rabies control law adopted; local rabies control authority.

The Rabies Control Act of 1981, V.T.C.A., Health and Safety Code ch. 826 and the state minimum standards for rabies control and quarantine are adopted by reference as though fully set forth herein, including particularly V.T.C.A., Health and Safety Code §§ 826.015 and 826.033. The animal control officer shall act as the local rabies control authority for the purposes of this section and enforcing the provisions of V.T.C.A., Health and Safety Code ch. 826.
(Code 1996, §§ 2.03.001, 2.03.002; Ord. No. 695-01, 3-5-2001)

Sec. 4-11. Dog and cat identification, registration, and vaccination.

(a) No owner shall have within the city any dog or cat four months of age or older unless the dog or cat is currently registered as required in this section. The animal control facility or city animal control officer shall annually register and issue identification tags to any person living in the city who owns or possesses a dog or cat, provided that no dog or cat shall be registered until it has a current vaccination.

(b) Application for initial issuance or renewal of each registration must be made annually by the owner in writing or in person and must be accompanied by a fee for each animal. If the dog or cat has been spayed or neutered, proof of sterilization shall be provided with the registration application.

(c) Registration certificates shall be renewed annually. The registration period will be from January 1 to December 31. Certificates for the new period shall be available for sale at least 30 days in advance and shall constitute valid registration upon issuance.

(d) Upon registration, a current metal registration tag will be issued by animal control or a veterinarian authorized by animal control to issue the certificate. The tag must be affixed to a collar or harness that must be worn by the dog or cat at all times.

(e) Registration or vaccination certificates (and tags) shall be valid only for the animal for which the certificate or tag was originally issued. If there is a change in ownership of a registered dog or cat, the new owner shall have the identification tag transferred to the new owner's name within ten days after taking possession of the dog or cat. The application for transfer shall be made to animal control in writing or in person. There shall be no charge for a transfer of registration.

(f) Fees for registration of sterilized and unsterilized dogs and cats shall be as provided in the city fee schedule. Fee-exempt registrations may be issued for police or sheriff's department dogs and service dogs as defined in V.T.C.A., Human Resources Code § 121.002(4). Veterinarians authorized by animal control to issue animal registration certificates may retain $1.00 of the registration fee for every animal registered in accordance with this section.
(Code 1996, § 2.03.003; Ord. No. 695-01, 3-5-2001)

Sec. 4-12. Residential breeder or foster owner license; facility standards.

(a) *License application.* Upon approval of the city council, the animal control officer shall issue annual residential breeder and residential foster owner licenses. The initial and renewal application for a license under this section shall include, at a minimum:

(1) The name and permanent address of applicant and, if different, the location or address of the subject property or premises;

(2) The maximum number of dogs or cats that the applicant will keep, harbor, breed, raise and/or foster on the subject property or premises; and

(3) A drawing showing the dimensions of the subject property or premises and identifying all structures on the premises, all fenced or enclosed areas, and the proximity of adjacent property owners and public streets.

(b) *Public hearing required; notice.* The city council shall hold a public hearing on any application for either a residential breeder license or a residential foster owner license or the renewal thereof. Public notice of the hearing shall be given by depositing written notice thereof in the mail addressed to all owners of real property located within 200 feet of the subject property or premises, as determined from the last approved city tax roll, and by publication thereof in a newspaper of general circulation in the city. Both the mailed and published notices shall be given at least ten days prior to the date set for the hearing.

(c) *Content of notice of hearing.* The notice shall state the date, time and place of the public hearing and adequately identify the location or address of the subject property or premises, state the nature of the application to be considered, and state that any party may appear in person or by attorney or agent. The public hearing procedure prescribed herein shall apply to the initial application for license and application for renewal thereof.

(d) *Fees.* An annual license and inspection fee shall be paid to the city prior to the issuance of any residential breeder or residential foster owner license or the annual renewal thereof in the amount provided in the city fee schedule.

(e) *Inspections; care and control standards.* The subject property or premises shall be subject to inspection by the city enforcement agent between the hours of 8:00 a.m. and 7:00 p.m. to ensure compliance with the following standards:

(1) The dogs or cats shall be housed in cages or pens inside a residence or a completely enclosed accessory structure;

(2) The dogs or cats shall be kept, harbored, bred, raised or fostered so as not to be a nuisance or detriment to any adjoining property or adjacent neighbors;

(3) The dogs or cats shall not bark, howl, create noises that cause the peace and quiet of the neighborhood or the adjacent premises to be disturbed, or create a public nuisance as defined by this chapter;

(4) The cages or pens in which the dogs or cats are housed shall be maintained in a sanitary condition, subject to the provisions of sections 4-96 and 4-98, so as not to create any hazards to the general health and welfare of the community;

(5) The subject property or premises shall provide an enclosed or fenced area for the exercise of the dogs or cats that will be kept, harbored, bred, raised or fostered thereon containing a minimum area equal to or greater than 500 square feet multiplied by the number of dogs or cats six months of age or older, including dogs or cats belonging to or owned by foster owners;

(6) The enclosed area in which the dogs or cats are to be housed shall be of adequate size, height and construction to prevent the dogs or cats from running at large.

(Code 1996, § 2.17.001; Ord. No. 695-01, 3-5-2001)

Sec. 4-13. Keeping of fowl, rabbits, and guinea pigs.

(a) *Enclosure requirements.* Fowl, rabbits, and guinea pigs must be kept indoors or, if outdoors, in a secure pen or enclosure. Litter and droppings from these animals must be collected and disposed of in accordance with section 4-96. However, the provisions of this section shall not apply to ducks or other waterfowl inhabiting natural or human-made watercourses or bodies of water.

(b) *Locational restrictions.* It is unlawful for any person to be in possession of fowl, rabbits or guinea pigs on any lot or tract of less than one acre or within 150 feet of any human living quarters in the city.

(Code 1996, §§ 2.11.001, 2.11.002; Ord. No. 695-01, 3-5-2001)

Sec. 4-14. Beekeeping.

It is unlawful for any person to keep, or allow to be kept, bees in such a manner as to deny the reasonable use and enjoyment of adjacent property or endanger the personal health, safety and welfare of the inhabitants of the city. Honeybees may be kept if the following conditions are met:

(1) a. All hives shall be located a minimum of 150 feet from any inhabited dwelling other than that of the person keeping such bees; and

b. No more than three hives shall be allowed on lots or tracts of land less than one acre in area;

(2) There is an adequate source of water within 20 feet of all hives; and

(3) Any hive contaminated with or known to have Africanized honeybees (killer bees) shall be destroyed by a qualified beekeeper or licensed bee remover at the owner's expense.

(Code 1996, § 2.12.001; Ord. No. 695-01, 3-5-2001)

Secs. 4-15—4-31. Reserved.

ARTICLE II. LIVESTOCK

Sec. 4-32. Keeping of livestock generally.

It is unlawful for any person to keep or permit the keeping of livestock on premises owned by or under the person's control, except in compliance with the following regulations:

(1) a. Livestock shall not be kept on lots and tracts of land less than one acre in area;

b. On lots and tracts of land between one acre and two acres in area, inclusive, no more than five livestock shall be kept; and

c. On lots and tracts of land greater than two acres in area, there shall be no limit to the number of livestock that may be kept, provided that adequate fences, barriers and other facilities are provided as required in sections 4-33 and 4-34; and

d. Provided, further, that a public nuisance is not created;

(2) The provisions of article I of this chapter, relative to animal care in general, shall specifically apply to the keeping of livestock;

(3) It shall be a defense to prosecution regarding the number of livestock being kept that the same livestock and no more than the number and kinds of livestock in question were being kept on the same premises, by the same owner, prior to March 5, 2001. Notwithstanding the foregoing, at such times as the livestock on the property dies or is otherwise disposed of by the owner, it may not be replaced until such time as the livestock meets the requirements set forth herein and then may only be replaced to the extent such number and kind is in conformance with this section;

(4) Notwithstanding anything herein to the contrary, it is unlawful for any person, other than a veterinarian, to keep any live swine within the city, except in areas zoned or designated for rural or agricultural purposes by the city zoning ordinance. This subsection shall not prohibit the keeping of not more than two purebred Vietnamese potbellied pigs with appropriate documentation as to breeding. Such documentation shall be kept available for inspection by a city enforcement agent upon demand. These potbellied pigs shall be no more than 40 inches from nose to tail, no higher than 20 inches at the shoulder and no heavier than 95 pounds;

(5) Livestock shall not be kept in designated front yard areas as defined in city zoning regulations as set out in chapter 74;

(6) It is unlawful for any person to keep on premises under the person's control, within the city limits, any small or large livestock in such a manner that the livestock will be quartered closer than 150 feet to any human living quarters, other than the living quarters of the owner or keeper;

(7) Notwithstanding the provisions of subsections (1) through (6) of this section, should another provision of this Code, such as zoning regulations, govern the setback requirement for a specific structure, or relate to the keeping of livestock, the other

provision controls. Further, any structure that is in existence on March 5, 2001, shall constitute a nonconforming structure, which shall be grandfathered until such time as the same is removed with the intent to abandon or relocate the structure or is otherwise deemed to be a nuisance.

(Code 1996, § 2.09.001; Ord. No. 695-01, 3-5-2001)

Sec. 4-33. Adequate fences and barriers.

(a) It is unlawful for any person to keep on the person's premises any livestock without providing adequate fences or barriers that will prevent such livestock from escaping or damaging neighboring flowers, trees, shrubbery or other property located on adjacent property.

(b) It shall be a rebuttable presumption that such fences or barriers are inadequate for the designated purpose if livestock escapes from the premises. This presumption is rebuttable and shall have the effects and consequences set forth in V.T.C.A., Penal Code § 2.05.

(c) A fence or barrier may include, but is not limited to, electronic barriers, whether underground, electrified wiring, or the erection of any structure of wood or wire, wood and wire, masonry or any other material, whether it encloses land on all sides or only on one or more sides, which is intended to prevent the passage of livestock. Such a fence or barrier is the means by which the land is enclosed so as to prevent the ingress and egress of livestock, and to make a complete enclosure that is sufficient, in unusual circumstances, to turn livestock of ordinary habits and disposition.

(Code 1996, § 2.09.002; Ord. No. 695-01, 3-5-2001)

Sec. 4-34. Barns, stables and other animal facilities.

All barns, stables, and other animal facilities constructed after March 5, 2001, shall meet the requirements of the city building code and zoning regulations as applicable thereto.

(Code 1996, § 2.09.003; Ord. No. 695-01, 3-5-2001)

Sec. 4-35. Places livestock prohibited.

It is unlawful for any person to ride or allow any type of livestock upon any public school ground, public park or city grounds within the city other than public rights-of-way or areas designated for such purpose; provided, however, the provisions of this section shall not apply to the riding or showing of horses or other livestock in conjunction with authorized parades, carnivals or other school or civic sponsored programs or events.

(Code 1996, § 2.09.004; Ord. No. 695-01, 3-5-2001)

Sec. 4-36. Authority to impound livestock.

Any livestock found running at large within the corporate limits of the city may be impounded by a city enforcement agent, the county sheriff's department, or designee.

(Code 1996, § 2.10.001; Ord. No. 695-01, 3-5-2001)

Sec. 4-37. Disposal of impounded livestock.

(a) In the event that ownership of the impounded livestock cannot be determined, the livestock will be held at the Dallas County holding facility for livestock and impounded by the Dallas County sheriff's department. At such time, the livestock shall become the responsibility of Dallas County. Should the owner be located within the five-day period, the owner shall pay all required fees. It is the intent of the city to comply with applicable provisions of state law relative to the impoundment of estrays.

(b) If, for any reason, the livestock are not able to be held at the Dallas County holding facility, the livestock shall be held at the designated animal shelter in use by the city for a period of five days. At such time, the livestock shall become the responsibility of the city. Should the owner be located within the five-day period, the owner shall pay all required fees.

(c) If impounded livestock are sold at public auction by the Dallas County sheriff's department, the county holding facility will apply such amount to the proceeds as necessary to satisfy the fees and costs incurred because of animal impoundment and auction, and any fees and costs incurred by the city for impounding the livestock, restitution for any damage sustained by a property owner for said livestock having been at large, upon submission of a notarized affidavit and satisfactory proof of such damage, and shall deposit the remainder of such monies, if any, in the city general fund. Upon payment of all fees, costs and restitution, any remaining monies shall be returned to the owner of the livestock upon submission of a sworn notarized affidavit that the applicant was in fact the owner of the livestock immediately prior to the sale.
(Code 1996, § 2.10.02; Ord. No. 695-01, 3-5-2001)

Secs. 4-38—4-62. Reserved.

ARTICLE III. WILD AND EXOTIC ANIMALS

Sec. 4-63. Keeping of wild or exotic animals prohibited.

Any species of wild or exotic animal, not considered domesticated according to generally accepted animal control or veterinary practices, that poses a potentially serious threat to public health, safety or welfare, or is protected by international, federal or state regulations or any other wild animal, including birds of prey capable of or inclined to do serious bodily harm to humans or other domestic animals or fowl, shall not be kept within the corporate limits of the city.
(Code 1996, § 2.08.001; Ord. No. 695-01, 3-5-2001)

Sec. 4-64. Exemptions for certain persons and entities

The provisions in section 4-63 shall not apply to the keeping of wild or exotic animals if the owner or possessor:

(1) Is a governmental agency or entity; or

(2) Holds a circus, carnival or zoo license from the state; or

(3) Is a licensed individual, or a member of a non-profit animal rehabilitation organization holding a permit from the state department of parks and wildlife; or

(4) Is a research institution or an accredited educational institution.

(Code 1996, § 2.08.002; Ord. No. 695-01, 3-5-2001)

Sec. 4-65. Exceptions permitting wild or exotic animals and conditions for keeping.

(a) The following wild or exotic animals may be kept within the city, provided certain requirements are met:

(1) Bison, provided they are kept on lots or tracts of land two acres or greater in area; however, it shall be a defense to prosecution regarding the keeping of bison on lots or tracts of land less than two acres in area that the same bison and no more than the number of bison in question were being kept on the same premises, by the same owner, prior to March 5, 2001;

(2) Exotic birds, provided they are not birds of prey;

(3) Emus, ostriches, or rheas, pursuant to the provisions of sections 4-2, 4-3, and 4-32 through 4-35; however, it shall be a defense to prosecution regarding the number of emus, ostriches or rheas being kept that no more than the number of emus, ostriches or rheas in question were being kept on the same premises, by the same owner, prior to March 5, 2001;

(4) Any other animal not previously excluded in section 4-63 and legally procured from breeders, pet stores or other persons, businesses or corporations engaged in the buying, selling or trading of said animals.

(b) The animals listed in this section may be kept within the city, provided the owner or possessor of such animals meets the following requirements:

(1) Any area within the city where these animals are kept is zoned so as to allow the keeping of such animals;

(2) Any enclosure, corral, pen, cage or restrictive area in which these animals are kept is constructed so as to prevent their escape;

(3) All necessary international, federal, state, or local licenses or permits have been obtained, if required.

(Code 1996, § 2.08.003; Ord. No. 695-01, 3-5-2001)

Sec. 4-66. Authority to seize or destroy dangerous and wild or exotic animal.

(a) In the event that any animal is declared to be a dangerous animal, or where a wild or exotic animal is found in violation of any provision of this chapter, a justice court, county court or municipal court may order the city enforcement agent to seize and impound such animal and shall issue a warrant authorizing the seizure.

(b) If the animal is found at large and is presenting a clear and present danger of imminent bodily injury or death to the city enforcement agent or any other person or animal, the animal may be destroyed and the owner notified, if the owner can be established.
(Code 1996, § 2.06.011; Ord. No. 695-01, 3-5-2001)

Sec. 4-67. Wild or exotic animal permits.

(a) The city animal control officer shall register and issue wild or exotic animal permits consistent and in accordance with the applicable provisions of this article for the purpose of owner identification in cases where an animal has bitten, scratched, attacked or injured a human being or another animal and in cases where the animal might become impounded, lost or injured. No permits will be issued for the purpose of keeping any wild or prohibited animal as a pet.

(b) If international, federal or state licenses or permits are required, the owner of the wild or exotic animal shall also obtain a wild or exotic animal permit from the city.
(Code 1996, § 2.03.005; Ord. No. 695-01, 3-5-2001)

Sec. 4-68. Impoundment or quarantine of wild or exotic animals; hearing.

(a) The city enforcement agent may seize or order the immediate impoundment or quarantine, at the owner's expense, of any wild or exotic animal found in the city where there is a potentially serious threat to public health, safety or welfare, or if in violation of any provision of this chapter. The city enforcement agent may seek a seizure warrant from a justice court, county court or municipal court, which court, upon probable cause, may issue a warrant authorizing a seizure.

(b) A hearing shall be conducted on this disposition of the animal within ten business days of the date of seizure. The owner or harborer of the animal, to the extent the same is known or can be determined through reasonable due diligence, shall receive written notice of the hearing, by personal service or certified mail, return receipt requested, as soon as practicable but not later than five days prior to the hearing.
(Code 1996, § 2.08.004; Ord. No. 695-01, 3-5-2001)

Secs. 4-69—4-94. Reserved.

ARTICLE IV. ANIMAL NUISANCES

Sec. 4-95. Maximum number of animals.

It is unlawful to keep or harbor more than six dogs or cats or combination thereof that are six months of age or older on any premises used or zoned for residential purposes and less than two acres in area; provided, however, the provisions hereof shall not apply to licensed residential breeders or licensed residential foster owners. The keeping of more than the maximum number of animals permitted by this section shall be a public nuisance.
(Code 1996, § 2.16.001; Ord. No. 695-01, 3-5-2001)

Sec. 4-96. Disposal of excrement.

(a) All animal manure and other excrement shall be disposed of in such a manner so as to prevent it from becoming a public nuisance.

(b) An owner, harborer, or other person having care, custody, or control of a dog commits an offense if the person knowingly permits, or by insufficient control allows, the dog to defecate in the city:

(1) On private property other than property owned, leased, or controlled by the owner, harborer, or person having care, custody, or control of the dog; or

(2) On public property or any other place to which the public or a substantial group of the public has access, including, but not limited to, a street, a sidewalk, an alley, a park, or a playground, or any common area of a school, a hospital, an apartment house, an office building, a transport facility, or a shop.

(c) It is a defense to a prosecution under subsection (b) of this section that:

(1) The owner, harborer, or other person having care, custody, or control of the dog immediately and in a sanitary manner removed and disposed of, or caused the removal and disposal of, all excreta deposited on the property by the dog;

(2) The dog was specially trained to assist a person with a disability and was in the care, custody, or control of that disabled person at the time it defecated on the property;

(3) The owner or person in control of the property had given prior consent for the dog to defecate on the property; or

(4) The dog was being used in official law enforcement activities.

(d) A person who violates this section is guilty of an offense and, upon conviction, is punishable by a fine not to exceed $50.00 for the first offense, $100.00 for the second offense, and $200.00 for the third and each subsequent offense.
(Code 1996, § 2.16.002; Ord. No. 695-01, 3-5-2001)

Sec. 4-97. Noise prohibited.

It is unlawful for any owner to allow an animal to cause a disturbance by excessive, continuous, habitual or untimely barking, howling, crowing or noise-making near the private residence of another. A person shall be deemed to have knowingly violated the terms of this section if such person is notified by animal control or the police department of a complaint regarding an animal noise disturbance and fails to cease and thereafter prevent its recurrence.
(Code 1996, § 2.16.004; Ord. No. 695-01, 3-5-2001)

Sec. 4-98. Odors or unclean conditions prohibited.

(a) It is unlawful for any owner to allow an animal to produce odors or unclean conditions sufficient to create a public nuisance.

(b) It is unlawful for any owner to allow an animal to be kept in a manner or under conditions which create foul odors, unsanitary conditions, an unreasonable presence of vermin or their offspring, or other harmful or offensive conditions which can be attributed to the presence of the animal or to its physical or environmental conditions, including, but not limited to, the accumulation of animal excreta.

(c) A person who violates this section is guilty of a misdemeanor offense and, upon conviction, is punishable by a fine in accordance with the general penalty provision found in section 1-9.
(Code 1996, § 2.16.005; Ord. No. 695-01, 3-5-2001)

Sec. 4-99. Animals at large prohibited.

(a) It shall be unlawful for any owner to fail to prevent an animal from chasing vehicles or molesting, attacking, or interfering with other animals or persons off the premises of the owner.

(b) A dog must be under the immediate, effective control of the owner when in a public space.

(c) While on the premises of the owner, dogs must be confined within a secure enclosure or physically restrained by a leash or tether. Open garages, unfenced yards, or invisible fences (electronic containment systems using radio signals to define boundaries) shall not constitute an enclosure or sufficient restraint.

(d) It shall be unlawful for an owner to fail to prevent an animal from running at large. It shall be a defense to the foregoing prohibition if:

(1) A dog is in a designated off-leash dog park;

(2) A dog is in a city-approved no-leash zone;

(3) A dog is in an enclosed area where conspicuous signage indicates that lease-free access is permitted.

(4) A dog is used by a law enforcement agency actively engaged in official law enforcement duties;

(5) An animal is a certified service animal when performing duties for individuals with disabilities; or

(6) A dog is participating in an organized permitted public event authorized by the city.

(e) Any animal found at large may be seized and impounded by city enforcement agents.
(Code 1996, § 2.16.006; Ord. No. 695-01, 3-5-2001)

Sec. 4-100. Penalty.

(a) Notwithstanding any other provision of this chapter, a violation of this article is a misdemeanor offense and, upon conviction, is punishable by fine not to exceed:

(1) $250.00 for the first offense;

(2) $500.00 for a second offense occurring within 12 months of a conviction for a first offense; and

(3) $1,000.00 for a third or subsequent offense.

(b) Upon conviction of a third or subsequent offense under this article, the city enforcement agent may refer the matter to the city's municipal court, which may, after a hearing, declare ownership of the animal forfeited and order transfer of ownership of the animal to the city.

(c) Violations of the provisions of this article are deemed strict liability offenses. No intent need be pleaded or proven in the prosecution of any offense or violation of any provision of this article.
(Code 1996, § 2.16.007; Ord. No. 695-01, 3-5-2001; Ord. No. O-14-25, § 5, 8-5-2025)

Secs. 4-101—4-128. Reserved.

ARTICLE V. DANGEROUS ANIMALS

Sec. 4-129. State law adopted.

The city council adopts the regulations and procedures outlined in the V.T.C.A., Health and Safety Code ch. 822, regulation of animals.
(Code 1996, § 2.06.001; Ord. No. 695-01, 3-5-2001)

Sec. 4-130. Permit required.

No person shall knowingly sell, own, offer for sale, breed, possess, keep, buy or attempt to buy, or train a dangerous animal within the city unless the owner has received the proper permit pursuant to this chapter.
(Code 1996, § 2.06.002; Ord. No. 695-01, 3-5-2001)

Sec. 4-131. Complaints regarding dangerous animals.

(a) Upon receipt of a written, sworn, notarized affidavit by any person, charging that a particular animal is dangerous, a city enforcement agent shall investigate the incident within three working days to determine whether such animal is, in fact, dangerous. If the animal has bitten a human, then the animal must be held at the animal control facility or at an approved quarantine veterinarian clinic for the period required by law. Any written, sworn, and notarized affidavit shall contain at least the following information:

(1) The name, address and telephone number of the complainant and witnesses;

(2) The date, time and location of the incident;

(3) A complete description of the animal, including breed, color, sex, size, etc.;

(4) The name, address and telephone number of the animal's owner, if known, or the premises where the animal is kept;

(5) A statement that the animal bit or attacked with as much detail as possible with regard to the incident and whether medical attention was required; and

(6) Any other facts that the complainant believes to be relevant.

(b) The following will apply regarding the investigation to determine whether an animal shall be declared dangerous:

(1) Notice of such investigation shall be provided by a city enforcement agent to the owner of the animal either in person or by certified mail, return receipt requested. The complainant in the matter shall also be notified either in person or by certified mail, return receipt requested. During the investigation, all parties shall be given the opportunity to present evidence on the issue of whether such animal is to be declared dangerous;

(2) If required by the animal control officer and in accordance with state law, the owner of the animal shall deliver the animal to the city enforcement officer for impoundment within five days of the notice that a sworn complaint has been filed;

(3) The suspect animal shall be seized by the city enforcement agent pursuant to a sworn complaint, impounded, and if necessary, medically examined at the owner's expense if the animal caused serious bodily injury to a person. An animal causing serious bodily injury shall be held at an animal control facility pending the outcome of an investigation and determination as to whether the animal is, in fact, classifiable as dangerous. Such an investigation to determine if an animal is dangerous shall be conducted within ten days after receipt of the complaint or seizure of the animal.

(c) Upon conclusion of the investigation to determine if an animal is dangerous, the city enforcement agent may find that the animal is not dangerous. In such case, the animal shall be returned to the owner, provided the animal has been properly vaccinated and registered and all impoundment and medical fees paid.

(d) Should the animal be classified as a dangerous animal, the owner shall comply with one of the following requirements:

(1) Provide for the keeping of the animal as detailed in sections 4-132 and 4-133; or

(2) The court may order the seizure and humane destruction of the dangerous animal by a person listed in V.T.C.A., Health and Safety Code § 822.004, consistent with state law requirements.

(e) No animal shall be declared a dangerous animal if the threat, injury or damages caused by the animal were the result of a willful trespass upon another's property; or the person injured was tormenting, abusing or assaulting the animal or its owner, or was committing or attempting to commit a crime at the time of injury.

(f) If an animal that has been declared to be a dangerous animal causes death or serious bodily injury to a person, the court may order the dangerous animal destroyed, consistent with state law requirements, by a person listed in V.T.C.A., Health and Safety Code § 822.003, and all related expenses will be paid by the owner.

(g) Findings of the city enforcement agent pertaining to dangerous animals may be appealed to the city municipal court. An owner may appeal the decision of the city enforcement agent to the judge of the municipal court in the same manner as an appeal is made for other criminal cases. During the pendency of such appeal, however, the animal shall be confined in such a manner so as to protect the health and safety of the public until a final disposition is reached, unless otherwise ordered by the court, and provided the requisites for the keeping of a dangerous animal, as stated in this article, are satisfied.

(h) The owner may permanently remove the dangerous animal from the city limits, upon compliance with the following conditions:

(1) The new owner must comply with local and state regulations for owning a dangerous dog and acknowledge, by sworn affidavit, that the new owner has been advised that the dog has been deemed dangerous, is aware of the state law requirements and agrees to be bound by state law requirements;

(2) The name, address and phone number of the new owner and the location where the animal will be kept must be submitted to the animal control officer;

(3) The animal control officer shall notify the local authority of the classification of said animal as dangerous;

(4) Proof of compliance with the local and state laws from the local authority relating to dangerous dogs must be provided to the city.

(Code 1996, § 2.06.003; Ord. No. 695-01, 3-5-2001)

Sec. 4-132. Keeping of dangerous dogs; failure to comply.

(a) *Responsibility of owner*. Not later than the 30th day after a person learns that the person is the owner of a dangerous dog, the person shall:

(1) Register the dangerous animal with the city animal control officer;

(2) Obtain liability insurance or show financial responsibility in an amount of at least $100,000.00 to cover damages resulting from an attack by the dangerous dog causing bodily injury or death of any person, or for damages to any person's property, resulting from the keeping of such dangerous animal. Acceptability of such proof of liability insurance coverage or financial responsibility shall be subject to the final review and approval of the city attorney, which coverage shall require that it may not be cancelled without prior written notification to the city not less than 30 days prior to cancellation. It is unlawful for an owner of any dangerous dog found in the city to fail or refuse to present proof to an animal control officer or a designated representative, upon request, of current liability insurance coverage or proof of financial responsibility as required under this subsection;

(3) Restrain the dangerous animal at all times on a leash in the immediate control of the owner, or in a secure pen or enclosure as prescribed in this chapter.

a. All dangerous dogs, if not in a secure pen, shall be securely confined indoors;

b. No dangerous animal may be kept on a porch, patio, or in any part of a house or structure that would allow the animal to exit such building of its own volition. In addition, no dangerous animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacles preventing the animal from exiting the structure;

(4) Provide to the city enforcement agent the name and address of the owner, breed, age, sex, color and any other identifying marks of said animal; the location where the animal is to be kept if not at the address of the owner; two color photographs of the dangerous animal; and the aforementioned certificate of liability insurance;

(5) Provide proof of the required documents necessary to register the animal and pay the required registration fee. The city enforcement agent shall provide to the owner a registration tag designating the animal as dangerous. The owner must place the tag on the animal's collar and must ensure that the animal wears such tag and collar at all times;

(6) Not allow the animal to go outside its pen, cage or enclosure unless the animal is under physical restraint and securely muzzled. No person shall permit a dangerous animal to be kept outside its cage, pen or enclosure on a chain, rope or other type of leash unless the owner is in physical control of the chain, rope or other type of leash. Dangerous animals shall not be leashed to inanimate objects, such as trees, posts, buildings, etc. Signs, approved by the animal control officer, giving notice of the dangerous animal shall be prominently displayed so that all persons entering said property are immediately notified that a dangerous animal is being kept at the location;

(7) Microchip the dangerous animal, provide the microchip identification number and proof of insertion from a licensed veterinarian to animal control.

(b) *Failure to comply.*

(1) If the owner fails to register and restrain the dangerous dog or obtain liability insurance or comply with all other city restrictions, regulations or requirements or otherwise deliver the dog to the city enforcement officer, said owner shall deliver the dog to the city enforcement officer not later than the 30th day after the owner learns that the dog is a dangerous dog. If, upon application, a justice court, county court or municipal court finds that the owner failed to comply with subsection (a) of this section, the court shall order the city enforcement officer to seize the dog and shall issue a warrant authorizing the seizure of the dog. The city enforcement officer shall seize or cause to be seized the dog and provide for impoundment under secure, humane conditions. The owner shall pay any cost or fee assessed by the city related to the seizure, acceptance and impoundment of the dog. The owner then has 11 days after the seizure to comply or the dog must be ordered humanely destroyed. The court can destroy the dog after 15 days if the owner cannot be found;

(2) Failure to comply constitutes a misdemeanor, which, upon conviction, is punishable by a fine in accordance with the general penalty provision found in section 1-9. Subsequent offenses are Class B misdemeanors and shall be referred to the appropriate court.

(Code 1996, § 2.06.004; Ord. No. 695-01, 3-5-2001)

Sec. 4-133. Dangerous animal enclosures.

The pen, cage or enclosure for a dangerous animal must be constructed from materials of sufficient strength to prevent the animal's escape, and must have secure sides, a secure top attached to the sides, and a secure bottom which is either attached to the sides or constructed so that the sides of the structure are embedded in the ground no less than two feet.

(Code 1996, § 2.06.005; Ord. No. 695-01, 3-5-2001)

Sec. 4-134. Seizure of dog.

(a) *Basis of seizure.* The municipal court shall order the seizure of a dog and issue a warrant authorizing said seizure upon:

(1) A sworn complaint that the dog caused the death or serious bodily injury to a person;

(2) A showing of probable cause to believe that the dog caused death or serious bodily injury to a person; and

(3) Any other basis authorized by state law.

The dog is to be seized and impounded until the court orders the disposition of the animal.

(b) *Hearing.* A hearing is to be set by the court not later than the tenth day after the date on which the warrant is issued. The court is to give written notice to the concerned parties, the owner or person from whom the dog was seized and the complainant, and any other interested party, including the city attorney.

(c) *Destruction of dog.* The dog must be destroyed if the court finds that the dog caused the death of a person. The dog may be ordered destroyed if the court finds it caused only serious bodily injury by attacking, biting or mauling a person. If such findings are not made, the court is to release the dog to the owner, the person from whom the dog was seized or to any other authorized person.

(d) *Exceptions to destruction.* Even if the dog caused serious bodily injury to a person by attacking, biting or mauling, the court may not order its destruction if it also finds one of the following to be true:

(1) The dog was being used for protection of a person or a person's property, and:

a. The attack, bite or mauling occurred in the dog's enclosure;

b. The enclosure was reasonably certain to prevent the dog from leaving the enclosure on its own;

c. Notice was provided of the presence of the dog;

d. The injured person was at least eight years old; and

e. Was trespassing in the enclosure at the time of the attack, bite or mauling.

(2) The dog was not being used for the protection of a person or a person's property, but:

a. The attack, bite or mauling occurred in the dog's enclosure;

b. The injured person was at least eight years old; and

c. Was trespassing in the enclosure at the time of the attack, bite or mauling.

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

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

(5) The injured person was younger than eight years of age, and:

a. The attack, bite or mauling occurred in the dog's enclosure; and

b. The enclosure was reasonably certain to keep a person younger than eight years of age from entering the enclosure.

(Code 1996, § 2.06.006; Ord. No. 695-01, 3-5-2001)

Sec. 4-135. Dangerous dog determination.

(a) An owner learns that the same is the owner of a dangerous dog when one of the following events occurs:

(1) The owner knows of an attack as described in V.T.C.A., Health and Safety Code § 822.041(2)(A) or (B), and as provided herein;

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

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

(4) The owner is informed by the city enforcement agent that the dog is dangerous as determined by the city enforcement agent through investigations and upon sworn statements. The owner may appeal this decision to the municipal court within 15 days, as set forth in section 4-136; or

(5) The owner receives notice that the municipal court has found the dog is dangerous after a hearing on the matter, either on a report of an attack that caused bodily injury, or after an owner fails to comply with the requirements of an owner of a dangerous dog.

(b) Criminal responsibility for the keeping of a dangerous dog may be established by intent, knowledge or recklessness.
(Code 1996, § 2.06.007; Ord. No. 695-01, 3-5-2001)

Sec. 4-136. Appeal of dangerous dog determination.

Findings of the city enforcement agent pertaining to dangerous animals may be appealed to the city municipal court, county court, or justice court of competent jurisdiction in accordance with the V.T.C.A., Health and Safety Code § 822.0421(b), as amended. An owner may appeal the decision of the city enforcement agent to the judge of the municipal court in the same manner as an appeal is made for other criminal cases, but not later than the 15th day after the owner is notified of the city enforcement agent's determination. During the pendency of such appeal, the findings of the city enforcement agent shall be suspended; however, the animal shall continue to be impounded at the owner's expense at the designated animal control facility for observation and to protect the health and safety of the public until a final disposition is reached, or compliance with the requirements for the keeping of a dangerous dog are satisfied, unless otherwise ordered by the court. Appeal from the municipal court determination is the same as any other appeal from the municipal court.
(Code 1996, § 2.06.008; Ord. No. 695-01, 3-5-2001)

Sec. 4-137. Report of dangerous dog to municipal court.

(a) A person may report a V.T.C.A., Health and Safety Code § 822.041(2) incident to the municipal court requiring only the establishment of bodily injury and not serious bodily injury.

(b) The dog owner must then deliver the dog to the animal control officer not later than the fifth day from the date the owner receives notice that the report has been filed.

(c) If the owner fails to deliver the animal, the municipal court may issue a warrant authorizing the seizure of the dog. The dog will be impounded, at the owner's expense, until the court orders the disposition of the dog.

(d) Once the court has received an incident report or an application of a violation of Health and Safety Code § 822.042(c), the court will hold a hearing to determine whether a dog is dangerous or whether the owner has complied with the requirements for an owner of a dangerous dog not later than the tenth day after the dog is seized or delivered. (V.T.C.A., Health and Safety Code § 822.0423)

(e) The appeal of the municipal court's decision is in the same manner as provided in the appeal of other municipal court cases. (V.T.C.A., Health and Safety Code § 822.0423.)
(Code 1996, § 2.06.009; Ord. No. 695-01, 3-5-2001)

Sec. 4-138. Dogs that attack domestic animals.

(a) The city enforcement agent, to the extent applicable, shall adhere to procedures relative to dogs that are a danger to animals, as set forth in V.T.C.A., Health and Safety Code §§ 822.001 through 822.013.

(b) Dogs deemed to be dangerous due to attacks on domestic animals shall be subject to the procedures set forth in this article for registration, hearing, determination or destruction.
(Code 1996, § 2.06.010; Ord. No. 695-01, 3-5-2001)

Secs. 4-139—4-159. Reserved.

ARTICLE VI. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. GENERALLY

Sec. 4-160. Enforcement authority; compliance with citations.

(a) The city enforcement agent shall be responsible for enforcement of this chapter, except as may be provided herein. Enforcement may be by the filing of a complaint in municipal court, by proceedings to enjoin nuisances or in any other manner authorized by law. An animal control officer and the city enforcement agent is authorized to issue citations for a violation of this chapter.

(b) It is unlawful for any person being issued a citation for a violation of this chapter to be filed in municipal court or any civil proceeding to intentionally or knowingly fail to give the city enforcement agent the person's true name and address or to intentionally or knowingly fail to appear in accordance with the terms of a citation or civil process issued by the city enforcement agent.

(c) If the individual who is to receive the citation is not present, the city enforcement agent may send the citation to the alleged offender by certified or registered mail, return receipt requested. If said citation should come back unclaimed, the citation shall be sent regular mail. If this regular mailing does not come back unclaimed, then service shall be deemed completed.
(Code 1996, § 2.01.003; Ord. No. 695-01, 3-5-2001)

Sec. 4-161. Right of entry; search warrants; seizure warrants.

(a) City enforcement agents are hereby authorized to enter upon any fenced or unfenced lot, tract or parcel of land, to the extent allowed by law, for the purpose of capturing, impounding or quarantining any animal upon having probable cause to believe said animal to have bitten, injured or otherwise attacked a human being or other animal; to have, or have been exposed to, rabies or another communicable disease posing a danger to the public health, safety or welfare; or otherwise posing a clear and present danger to human beings or other animals.

(b) This authorization is granted due to the emergency created by the potential rabies hazard or danger of injury to persons or other animals, and in recognition of the likelihood that such animal will otherwise escape capture. As a matter of policy, city enforcement

agents shall not enter upon private property to capture or impound any animal known to belong to the owner of said property without probable cause. An animal control agent may enter upon a person's property if it is believed that said animal poses a threat or danger to property, human beings or other animals, or is in violation of the restraint law.

(c) Furthermore, should the city enforcement agent have probable cause to believe an animal has been, or is being, cruelly treated or has rabies or another communicable disease, the city animal control may, pursuant to V.T.C.A., Health and Safety Code § 821.022, obtain a seizure warrant and impound such animal, even if it is enclosed on private property.

(d) The city enforcement agents may seek all available remedies allowed by law to gain entry onto property, including, but not limited to, search and seizure warrants.
(Code 1996, § 2.07.001; Ord. No. 695-01, 3-5-2001)

Sec. 4-162. Failure to deliver animal for quarantine upon demand.

It is unlawful, and a violation of this chapter, for any person to fail to deliver an animal to the city enforcement agent, upon demand for impoundment, when an animal must be quarantined for legitimate medical reasons or for other health and safety reasons stated in this chapter.
(Code 1996, § 2.07.002; Ord. No 695-01, 3-5-2001)

Sec. 4-163. Penalties.

(a) Any person violating any provision of this chapter, upon conviction, shall be deemed guilty of a Class C misdemeanor, and fined in accordance with the general penalty provision found in section 1-9 or the amount fixed by state law if the violation is one for which the state has a fixed fine. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues to occur.

(b) Unless otherwise specifically set forth herein, or in state law as adopted, allegation and evidence of culpable mental state are not required for proof of an offense defined by this chapter.
(Code 1996, § 2.01.002; Ord. No. 695-01, 3-5-2001)

Secs. 4-164—4-194. Reserved.

DIVISION 2. IMPOUNDMENT, REDEMPTION AND DISPOSITION

Sec. 4-195. Authority and duties of enforcement agents.

(a) City enforcement agents are hereby authorized to capture and impound any animal found at large or upon having probable cause to believe said animal to be in violation of any provision of this chapter or state law which authorizes or requires the animal's capture and impoundment and, in so doing, to enter upon any fenced or unfenced lot, tract or parcel of land when deemed necessary for the protection of the public health, safety and welfare, as allowed by law. As a matter of policy, city enforcement agents shall not enter upon private

property to capture and/or impound any animal known to belong to the owner of said property without probable cause. An animal control agent may enter upon the property, as allowed by law, to capture an animal if it is believed that said animal poses a threat or danger to property, human beings or other animals.

(b) Additionally, it is the responsibility of the city enforcement agent to accept any animal delivered to the animal control facility pursuant to the requirements of this chapter, except those animals that are voluntarily released by their owners. For an animal to be voluntarily released, the owner must sign an owner release form, pay necessary fees and, if the animal is a dog, microchip the dog by placing or authorizing the placement of a microchip identification device on the dog. In addition, it is the duty of the city enforcement agent to capture and impound wild or nondomesticated animals in response to citizens' complaints of public nuisance or to control feral populations.

(c) If the owner has not redeemed an impounded animal within three days from its capture and impoundment, ownership of the animal shall be deemed forfeited by the owner and shall automatically revert to the city. Transfer of ownership for animals wearing a current city license tag will occur six days after impoundment. The foregoing periods shall be extended for any period in which the animal is held under quarantine. As a precondition of forfeiture of ownership, the city shall take reasonable steps to notify or make the animal available for retrieval by the owner. An owner may nevertheless redeem the animal following the time periods at the discretion of the animal services manager; provided, however, that if the owner has failed to redeem the animal, the animal may be given to a nonprofit humane organization, placed for adoption, humanely destroyed, or disposed of in any manner deemed reasonable by the city.
(Code 1996, § 2.04.001; Ord. No. 695-01, 3-5-2001; Ord. No. O-14-25, § 2, 8-5-2025)

Sec. 4-196. Interference with impounding officers.

It is unlawful for any person to interfere with, or attempt to prevent, a city enforcement agent from capturing or impounding any animal which may be legally impounded or otherwise interfering with the city enforcement agent while carrying out the agent's lawful duties.
(Code 1996, art. 2.05; Ord. No. 695-01, 3-5-2001)

Sec. 4-197. Procedure generally.

(a) If, by identification tag, the owner of an impounded animal can be identified, the city enforcement agent will, as soon as practical, notify the owner either in person or by telephone of said impoundment. If the animal is locally owned within the city and telephone contact cannot be made, the city enforcement agent will leave a notice at the owner's residence indicating that the animal has been impounded.

(b) All impounded animals shall be kept for not less than five days, unless the animal is reclaimed earlier by the owner under acceptable conditions. However, no impoundment period is required for an animal voluntarily delivered and released to the animal control facility or city animal control officer by its owner.

(c) After the expiration of any required impoundment period, the impounded animal shall be released to the animal control facility. At that time, the animal shall be disposed of by adoption from the facility, by offering it to a local animal humane group for adoption, or by humanely destroying the animal. No record shall be kept by the city animal control department as to the disposition of an individual animal after release is made to the animal control facility.

(d) Any animal, whether licensed or unlicensed, which is in great pain and suffering due to injury and probably will not recover, or which appears to have rabies, or which is at large and is posing an imminent danger to human beings or to other animals, may be destroyed by the city animal control officer.

(e) Any owner or person redeeming an unsterilized animal from the animal control facility for the fourth time within any 12 consecutive months must have the animal sterilized within 30 days of the date the animal is released from the facility. Proof of sterilization must be provided to the animal control facility within ten days of compliance.
(Code 1996, § 2.04.002; Ord. No. 695-01, 3-5-2001)

Sec. 4-198. Adoption.

(a) A person may adopt a dog or cat from the animal control facility that has been spayed or neutered and classified as adoptable. If the animal has not been spayed or neutered, the adopting person must sign an agreement to have the animal spayed or neutered within a given period of time determined by an animal control agent. Written confirmation of such sterilization must be provided to animal control within seven days of the given date. The new owner shall be solely and legally responsible for compliance with all requirements specified in the adoption receipt and sterilization agreement executed at the time the animal is adopted.

(1) The animal control officer may establish an adoption receipt and sterilization agreement for use in the adoption process, and violation of any term of such agreement shall constitute a violation of this chapter;

(2) Any person who fails to sterilize the animal as set forth in the sterilization agreement is guilty of a misdemeanor offense and, upon conviction, is punishable by a fine in accordance with the general penalty provision found in section 1-9.

(b) The animal control officer may refuse to allow a person to adopt an animal for any reason, including, but not limited to, a person the officer has reason to believe:

(1) Would not have proper facilities to contain or care for the animal;

(2) Wants the animal for the purpose of resale or for purposes other than pet ownership;

(3) There are reasonable grounds to believe the animal would be subjected to abandonment or cruelty;

(4) The person is under the age of 18 years;

(5) That the purpose of the adoption is to avoid, or assist in the avoidance of, the enforcement of any provision of this chapter.

(c) The person adopting the animal shall pay all applicable costs of adoption as set forth in the city fee schedule.

(d) The animal control officer shall be the sole judge as to whether an animal is suitable to offer for adoption; however, a decision to offer a particular animal for adoption shall not constitute any warranty, expressed or implied, of the health, temperament, or age of the animal.

(e) The city and its agents, employees and officers shall have no liability associated with the adoption or impoundment of any animal.
(Code 1996, § 2.04.004; Ord. No. 695-01, 3-5-2001)

Sec. 4-199. Reclamation of adopted animals.

(a) If animal control does not receive written confirmation of sterilization or other written disposition regarding an adopted animal, as required in this chapter, after the seventh day after the sterilization completion date specified in the adoption receipt and sterilization agreement executed at the time the animal was adopted, animal control may promptly reclaim the animal from the new owner, or require the new owner to return the animal to animal control, or impose any other penalty as provided in this chapter.

(b) A person shall not be entitled to any refund, reimbursement, or other compensation regarding an animal reclaimed or returned under this section.
(Code 1996, § 2.04.005; Ord. No. 695-01, 3-5-2001)

Sec. 4-200. Requirements to redeem an impounded animal.

(a) An animal which has been impounded under the provisions of this chapter may be redeemed by its owner or the lawful representative, provided that the redeeming person:

(1) Is at least 18 years of age;

(2) Self-identifies as the owner of the impounded animal or provides proof that the person is the lawful representative of such owner;

(3) Presents identification, which verifies the person's identity and date of birth;

(4) Properly completes all applicable redemption forms as required; and

(5) Pays the applicable redemption fees and charges in the amount provided in the city fee schedule.

(b) The owner of an impounded animal which is subject to the rabies vaccination requirements of this chapter shall be required to provide positive proof that the animal is currently vaccinated against rabies at the time it is redeemed. If the owner cannot or refuses to provide proof that the animal is currently vaccinated against rabies at the time of redemption, the owner shall also be required to sign an agreement, as prescribed by animal control, and cause the animal to be vaccinated against rabies within three days. Failure to provide written confirmation of current rabies vaccinations is a violation of this chapter and subject to a fine.

(Code 1996, § 2.04.006; Ord. No. 695-01, 3-5-2001)

Chapter 5

RESERVED

Chapter 6

BUSINESSES AND OCCUPATIONS

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ARTICLE II. MASSAGE ESTABLISHMENTS

Sec. 6-19. 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:

Massage means any process consisting of kneading, rubbing, or otherwise manipulating the skin of the body of a human being, either with the hand or by means of electrical instruments or apparatus, or other special apparatus, but shall not include massage by any person not subject to the provisions of this article.

Massage establishment means a place of business that advertises or offers massage therapy or other massage services. The term "massage establishment" includes a place of business that advertises or offers any service described by a derivation of the term "massage therapy" or "other massage services."
(Code 1996, § 4.02.001)

Sec. 6-20. Enforcement.

The city police chief shall have the primary responsibility for administration and enforcement of this article.
(Code 1996, § 4.02.002)

Sec. 6-21. License required.

It is unlawful for any person to operate a massage establishment without first having obtained a license therefor from the police chief in accordance with the provisions of this article, or to operate a massage establishment after such license has been revoked, or during the period for which such license has been suspended. Such license shall be issued only upon the payment of the fees specified in section 6-25 and upon approval in writing of the police chief and issuance of a massage therapy license. Such license shall expire on December 31 of each year.
(Code 1996, § 4.02.003)

Sec. 6-22. License display.

The license required by this article shall be posted and kept in some conspicuous place in the massage establishment.
(Code 1996, § 4.02.004)

Sec. 6-23. Investigation.

After an investigation has been made for issuance of an original license or a renewal of an existing license to operate a massage establishment as defined herein, the police chief, as principal enforcement officer of this article, shall determine whether the applicant has been finally convicted in any court of theft, sodomy, procuring, pandering, keeping a bawdy house, keeping an assignation house, engaging in prostitution or engaging in assignation, or whether such establishment employs any person who has been finally convicted in any court of theft, sodomy, procuring, pandering, keeping a bawdy house, keeping an assignation house, engaging in prostitution or engaging in assignation.
(Code 1996, § 4.02.005)

Sec. 6-24. Information required on license application.

At the time of making application for the license required by this article, the applicant shall furnish to the police chief the following:

(1) The names, addresses, races, sexes, dates of birth, driver's license numbers, and telephone number of the applicant, applicant's spouse, and of all employees of the massage establishment;

(2) Evidence that all employees have obtained a health certificate from a physician certifying that such persons employed or to be employed by such establishment are free from any kind of infectious or communicable diseases;

(3) Evidence of required state licensures pursuant to V.T.C.A., Occupations Code ch. 455;

(4) The name, address, date of birth, telephone number, social security number and driver's license number of any person, organization, corporation, partnership, business, or other entity owning or having any interest or otherwise controlling the applicant, including, but not limited to, natural persons, partnerships, corporations, associations or other legal entities; and:

   a. If the applicant is a corporation, the applicant must state whether it is organized under the laws of the state or is a foreign corporation, and must show the mailing address, business location, telephone number, name of the main individual in charge of the local office of such corporation, if any, the names of all officers and directors and trustees of such corporation and, if a foreign corporation, the place of incorporation;

   b. If a partnership, the name of all partners and the principal business address and telephone number of each partner;

   c. If an association, then the association's principal business address and telephone number, if any, and the names of principal business or residence addresses and telephone numbers of all members of the association;

(5) The name, address, date of birth and telephone number of any person, officer, director or stockholder of a corporation, partners or any other entity which owns or

has an interest or otherwise controls the applicant or the establishment which has been convicted of, entered a plea of nolo contendere or guilty to, or received deferred adjudication for an offense under V.T.C.A., Penal Code ch. 20A; V.T.C.A., Penal Code § 22.011, 22.021, 43.021, 43.03, 43.031, 43.032, 43.04, 43.041, or 43.05, or any other defense defined by state law as a sexual offense, or an offense under federal law or the laws of another state containing elements that are substantially similar to the elements of an offense described by any of the listed statutes;

(6) The names, addresses, and telephone numbers of any other establishment owned, operated or managed by applicant during the five years immediately preceding the date of the application;

(7) A statement listing for the applicant and all employees of the applicant any conviction of, entry of a plea of nolo contendere or guilty to, or deferred adjudication for an offense under V.T.C.A., Penal Code ch. 20A; V.T.C.A., Penal Code § 22.011, 22.021, 43.021, 43.03, 43.031, 43.032, 43.04, 43.041, or 43.05, or any other defense defined by state law as a sexual offense, or an offense under federal law or the laws of another state containing elements that are substantially similar to the elements of an offense described by any of the listed statutes.

(Code 1996, § 4.02.006)

Sec. 6-25. License fee.

The application for the license required by this article shall be accompanied by a nonrefundable license fee as provided in the city fee schedule. The license fee shall be on an annual basis. If the license is obtained between January 1 and June 30 of any year, the full amount of such fee shall be paid. If such license is obtained between July 1 and December 31 of any year, the fee shall be one-half of such amount. No refund of license fee shall be made. Each applicant shall be required to pay a renewal fee.

(Code 1996, § 4.02.007)

Sec. 6-26. Refusal to issue or renew license.

(a) The police chief shall refuse to approve issuance or renewal of any license required by this article to any applicant or license holder who has been convicted of, entered a plea of nolo contendere or guilty to, or received deferred adjudication for an offense under V.T.C.A., Penal Code ch. 20A; V.T.C.A., Penal Code § 22.011, 22.021, 43.021, 43.03, 43.031, 43.032, 43.04, 43.041, or 43.05, or any other defense defined by state law as a sexual offense, or an offense under federal law or the laws of another state containing elements that are substantially similar to the elements of an offense described by any of the listed statutes.

(b) The police chief shall refuse to approve issuance or renewal of any license required by this article to any applicant or license holder whose required state license has been suspended or revoked under V.T.C.A., Occupations Code ch. 455.

(c) The police chief shall refuse to approve issuance or renewal of any license required by this article to any applicant or license holder whose state license is subject to suspension on the grounds provided in V.T.C.A., Occupations Code § 455.251(a) or revocation on the grounds provided in V.T.C.A., Occupations Code § 455.251(b) or (c).
(Code 1996, § 4.02.008)

Sec. 6-27. Revocation or suspension of license.

(a) A license issued pursuant to this article shall be revoked if the license holder has been convicted of, entered a plea of nolo contendere or guilty to, or received deferred adjudication for an offense under V.T.C.A., Penal Code ch. 20A; V.T.C.A., Penal Code § 22.011, 22.021, 43.021, 43.03, 43.031, 43.032, 43.04, 43.041, or 43.05, or any other defense defined by state law as a sexual offense, or an offense under federal law or the laws of another state containing elements that are substantially similar to the elements of an offense described by any of the listed statutes.

(b) A license issued pursuant to this article shall be suspended for a period of not less than 30 days nor more than 90 days upon the license holder's conviction of or entry of a plea of nolo contendere or guilty to the operation of the massage establishment in violation of any state statute or any provision of this Code.

(c) Any license issued pursuant to this article shall be suspended for a period of 90 days if an employee of the massage establishment has been convicted of, entered a plea of nolo contendere or guilty to, or received deferred adjudication for an offense under V.T.C.A., Penal Code ch. 20A; V.T.C.A., Penal Code § 22.011, 22.021, 43.021, 43.03, 43.031, 43.032, 43.04, 43.041, or 43.05, or any other defense defined by state law as a sexual offense, or an offense under federal law or the laws of another state containing elements that are substantially similar to the elements of an offense described by any of the listed statutes.

(d) Any license issued pursuant to this article shall be suspended or revoked upon the suspension or revocation of any massage related license required by V.T.C.A., Occupations Code ch. 455. If the state license is suspended, the city license shall be suspended for the same period as the state suspension.

(e) Written notice of revocation or suspension shall be given by the police chief to the holder of such license at the holder's last known business address.
(Code 1996, § 4.02.009)

Sec. 6-28. Appeal of license denial, revocation or suspension.

In the event the police chief shall refuse to approve the issuance of an original license or the renewal of a license to any applicant, or revokes or suspends the license issued to any license holder under this article, this action shall be final unless the license holder files an appeal to the city manager or designated representative by submitting a letter to the police chief within ten days of the aggrieved action. A hearing shall be held within 15 days of the

appeal. The city manager or representative shall render a decision on the appeal within one day of the date of the hearing. The decision of the city manager or designated representative shall be final.
(Code 1996, § 4.02.010)

Sec. 6-29. Hours.

No massage establishment shall be kept open for any purpose between the hours of 10:00 p.m. and 8:00 a.m., and no such establishment shall be operated or conducted in connection with, either directly or indirectly, any place used for living or sleeping quarters.
(Code 1996, § 4.02.011)

Sec. 6-30. Inspection and examination of employees.

(a) The police chief shall be authorized to make or cause to be made inspections to determine the condition of any massage establishment in order to safeguard the health, safety and welfare of the public and to make examinations through licensed physicians as are necessary to determine whether employees of the massage establishments are infected with any infectious or communicable disease.

(b) If, in the opinion of the police chief, there is probable cause to enter a massage establishment for the purpose of making inspections and examinations pursuant to this article, the police chief shall request the owner or occupant thereof to grant permission for such entry, and if refused, the police chief shall make application to a magistrate for a search warrant, showing said magistrate why such search warrant should be issued for the purpose herein.
(Code 1996, § 4.02.012)

Sec. 6-31. List of employees.

The manager or person in charge of the massage establishment shall keep a list of the names, addresses and telephone numbers of all employees, both on-duty and off-duty, and such list shall be shown to all proper authorities of the police, health and other departments of the city upon request.
(Code 1996, § 4.02.013)

Sec. 6-32. Operation in residential area prohibited.

It is unlawful for any massage establishment to operate in any section of the city which is zoned for residential purposes.
(Code 1996, § 4.02.014)

Sec. 6-33. Transfer of license.

A licensee shall not transfer a license to another. In addition, no licensee shall operate a massage establishment under the authority of a license at any place other than the address designated in the application.
(Code 1996, § 4.02.017)

Sec. 6-34. Penalty.

A violation of any provision of this article is punishable by a fine in accordance with the general penalty provision found in section 1-9.
(Code 1996, § 4.02.018)

Secs. 6-35—6-56. Reserved.

ARTICLE III. COIN-OPERATED AMUSEMENT DEVICES

Sec. 6-57. 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:

Coin-operated amusement device means any amusement machine or device operated by means of the insertion of a coin, token, or similar object, for the purpose of amusement or skill and, for the playing of which, a fee is charged. The term "coin-operated amusement device" does not include vending machines in which are not incorporated gaming or amusement features, nor does the term "coin-operated amusement device" include any coin-operated mechanical musical devices.

Commercial establishment means any amusement establishment, office, store, restaurant, or business establishment which is designed for the purposes of carrying on any trade, profession, or business.

Operator means any person, firm, corporation, partnership, or association located within the city who sets up for operation by another or leases or distributes for the purpose of operation by another, any coin-operated amusement device as herein defined, whether such setting up for operation, leasing, or distributing be for a fixed charge or rental or on the basis of a division of the income derived from such device or otherwise.

Proprietor or *owner* means any person, firm, corporation, partnership, association, or club who, as the owner, lessee, or proprietor, has under control of the same any commercial establishment, place, or premises in or at which such device is placed or kept for use or play, or on exhibition for the purpose of use or play.
(Code 1996, § 4.03.001)

Sec. 6-58. Permit or license required.

No person, firm or corporation operating or being the proprietor of a commercial establishment shall engage in the business of an operator or proprietor of coin-operated amusement devices, as herein defined, without first having obtained the proper license or permit therefor.
(Code 1996, § 4.03.002)

Sec. 6-59. License fee for operator.

The license fee for each operator shall be as provided for in the city fee schedule. All operator's license fees shall be payable annually in advance; provided, however, that where application is made after the expiration of any portion of any year, a license may be issued for the remainder thereof upon payment of a proportionate part of the annual fee. In no case shall any portion of the license fee be refunded to the permittee.
(Code 1996, § 4.03.003)

Sec. 6-60. Permit fee for device.

The permit fee for each device as herein defined shall be for the maximum amount allowed by state law as provided for in the city fee schedule. All device permit fees shall be payable annually in advance, provided that, when application is made after the expiration of any portion of any permit year, a permit may be issued for the remainder thereof upon payment of a proportionate part of the annual fee. In no case shall any portion of the permit fee be repaid to the permittee.
(Code 1996, § 4.03.004)

Sec. 6-61. Application for license or permit; term; display; transfer.

(a) Application for license or permit hereunder shall be filed in writing with the city, on a form to be provided by the city, and shall specify:

(1) The name and address of the applicant and, if a firm, corporation, partnership, or association, the principal officers thereof and their addresses;

(2) The address of the premises where the licensed devices are to be operated, together with the character of the business as carried on at such place;

(3) The trade name and general description of the device to be permitted, the name of the manufacturer and the serial number, and, if the applicant is a proprietor, the number of devices to be permitted;

(4) The name and address of the operator of the devices, if other than the proprietor.

(b) The proper fee shall accompany the application.

(c) All licenses and permits under this article shall expire on December 31 following their issuance.

(d) The operator's license shall be posted in a conspicuous place in the establishment of the licensee. The device permit shall be posted on the device in a conspicuous place.

(e) Such permits shall be nonassignable and nontransferable and, in case of a proprietor or owner, shall apply only to the premises for which such permit is issued.
(Code 1996, § 4.03.005)

Sec. 6-62. Gambling.

No person shall gamble, wager, or bet on the outcome of any activity engaged in on the premises of a commercial establishment, nor shall any operator, employee, owner or license holder permit any such gamble, wager, or bet to be conducted on said premises.
(Code 1996, § 4.03.006)

Sec. 6-63. Minors prohibited on premises licensed to sell alcoholic beverages.

No operator, owner, manager, or employee of a commercial establishment shall knowingly or recklessly permit an underage patron to remain on the premises when the premises has been licensed by the state alcoholic beverage commission to sell or dispense alcoholic beverages unless accompanied by a parent or legal guardian.
(Code 1996, § 4.03.007)

Sec. 6-64. Controlled substances prohibited.

No operator, owner, manager, or employee of a commercial establishment shall, knowingly or recklessly, permit any person to illegally possess, use, or sell any drugs or controlled substances on the premises.
(Code 1996, § 4.03.008)

Sec. 6-65. Location of establishments.

No permit shall be issued hereunder nor be renewed to any commercial establishment located within 300 feet of any school, public or private, church, or any hospital, home for the aged or infirmed, or funeral parlor.
(Code 1996, § 4.03.009)

Sec. 6-66. Evidence of ownership of newly acquired devices.

Any proprietor purchasing a device after the effective date of the ordinance from which this article is derived shall file with the city evidence of ownership thereof before exhibiting or placing the devices for use or play.
(Code 1996, § 4.03.010)

Secs. 6-67—6-90. Reserved.

ARTICLE IV. PEDDLERS, SOLICITORS, AND ITINERANT VENDORS

Sec. 6-91. 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:

Canvasser means any individual, whether a resident of this city or not, traveling by foot, wagon, automobile, motor truck of any other type of conveyance, from place to place, from

house to house, or from street to street, for the promotion of political or religious ideas, usually through handbills, questionnaires, and verbal messages, but who does not ask for donations.

Interstate commerce means soliciting, selling, taking orders for, or offering to take orders for any goods, wares, merchandise, photographs, magazines, or things which, at the time the order is taken, are in any federal district or territory, any commonwealth, or in any state other than Texas and shipped or introduced into the city in fulfillment of such orders.

Itinerant vendor means any individual, whether a resident of this city or not, who offers for sale food, beverages, goods, merchandise, delivery, or services to be performed immediately or in the future, from a certain location which is not within a building or structure for which a certificate of occupancy is required by the city. The term "itinerant vendor" shall not apply to businesses that operate from within a building or structure within the city for which a certificate of occupancy is required but which display or sell food, beverages, goods, or merchandise outside the building or structure. The term "itinerant vendor" shall include itinerant merchant.

Motor vehicle means any vehicle used for displaying, storing, or transporting of articles for sale by an itinerant vendor which is required to be licensed and registered by the state department of motor vehicles. The term "motor vehicle" includes trailers, trucks, and automobiles.

Peddler means any individual, whether a resident of this city or not, traveling by foot, wagon, automobile, motor truck or any other type of conveyance, from place to place, from house to house, or from street to street, for the sale of goods, wares and merchandise, personal property of any nature whatsoever for future or immediate delivery, or for services to be performed immediately or in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether the person is collecting advance payments on such sales. The term "peddler" shall include the term "solicitor" but not the term "canvasser." The term "peddler" shall not include individuals traveling to businesses, houses, or places at the invitation of the resident or owner.

Public way means all areas legally open to public use, such as public streets, sidewalks, roadways, highways, parkways, alleys, and parks, as well as the interior and areas surrounding public buildings.

Special event means any occasion, including, but not limited to, fairs, shows, exhibitions, citywide celebrations, festivals, etc., within a specifically defined area of the city for a period of time established by the council.

Stand means any newsstand, table, bench, booth, rack, handcart, pushcart, vehicle or any other fixture or device used for the display or storage of articles offered for sale by an itinerant vendor or peddler. Such stands must be located at least ten feet away from all property lines adjacent to a street. All stands must be removed from the property on which business is conducted each day.

(Code 1996, § 4.04.001; Ord. No. O-26-10, 10-18-2010)

Sec. 6-92. Business and residence displaying "no soliciting" notice.

It is unlawful for any peddler or itinerant vendor to go to a residence, business, or commercial establishment for the purpose of taking orders or the selling of merchandise or services if the establishment has posted a sign which states "No Soliciting." This warning must be displayed prominently at the main entrance to the residence or business.
(Code 1996, § 4.04.002; Ord. No. O-26-10, 10-18-2010)

Sec. 6-93. Sales tax permit required.

It is unlawful for any peddler or itinerant vendor to engage in business within the city without having obtained and presented a sales tax permit issued by the state.
(Code 1996, § 4.04.003; Ord. No. O-26-10, 10-18-2010)

Sec. 6-94. Sales tax permit exemptions.

The following are exempt from having to present a sales tax permit:

(1) Farmers who sell agricultural products that were raised or grown by them;

(2) Nonprofit organizations;

(3) Any other business or activity exempt by the state comptroller from collecting a state sales tax.

(Code 1996, § 4.04.004; Ord. No. O-26-10, 10-18-2010)

Sec. 6-95. Peddler/itinerant vendor permit required.

It is unlawful for any peddler or itinerant vendor to solicit or to engage in business within the city without first obtaining a permit from the police chief or designee as provided in this article.
(Code 1996, § 4.04.005; Ord. No. O-26-10, 10-18-2010)

Sec. 6-96. Peddler/itinerant vendor permit exemptions.

The following are excluded from permitting provisions:

(1) Newspaper carriers;

(2) Farmers who sell agricultural products that were raised or grown by them when located within a public way and at a time designated by the city manager;

(3) Peddlers and itinerant vendors operating within a designated public way in connection with a special event approved by the city manager and appropriate body organizing and implementing the special event;

(4) Religious proselytizing;

(5) Individuals advocating for or against a political party, candidate, or ballot measure;

(6) Ordinary commercial travelers who sell or exhibit for sale goods or services to local firms or businesses and not to residences;

(7) Insurance salespeople, real estate salespeople, and other professionals licensed by the state, except that insurance salespeople shall personally solicit only at the specific request of the owner or occupant of the business or residence at which the solicitation is being made.

(Code 1996, § 4.04.006; Ord. No. O-26-10, 10-18-2010)

Sec. 6-97. Written application for permit required.

Any peddler or itinerant vendor desiring to engage in business within the city must file a written application for permit with the police chief or designee, and which shall provide the following information:

(1) The applicant's name, telephone number, address, birthdate, physical description, and either:

a. A driver's license number and state; or

b. A social security number and an official, government-issued picture identification card;

(2) If the applicant is peddling or making solicitations for any commercial, charitable or political organization, the name, telephone number and address of such organization;

(3) A full and complete list of goods or services to be sold;

(4) If different than or in addition to the applicant, for each individual involved as a peddler or itinerant vendor: name, telephone number, address, birthdate, physical description, and either:

a. A driver's license number and state; or

b. A social security number and official, government-issued picture identification card number;

(5) The description (year, make, type) and license plate number and state of all motor vehicles to be used in soliciting and peddling;

(6) A statement that the applicant has not been convicted of any felonies of any nature or any other crimes of moral turpitude in this state or any other state; and, if having been so convicted, a full statement as to the place of conviction and crime for which the applicant was convicted;

(7) Itinerant vendors, except for special events, shall provide the following additional information:

a. A letter from the owner of the property on which the itinerant vendor intends to conduct business stating that the itinerant vendor has permission to operate at that location;

b. A site plan of the subject property indicating where the itinerant vendor will be located in relation to the adjacent right-of-way, adjacent buildings, and the location of two nine-foot by 18-foot on-site parking spaces with a 20-foot backup lane.

(Code 1996, § 4.04.007; Ord. No. O-26-10, 10-18-2010)

Sec. 6-98. Permit application fee.

A nonrefundable application fee for a peddler/itinerant merchant permit in the amount provided in the city fee schedule shall be paid upon application for such permit; provided, however, when any person, firm, company, partnership, corporation or association acts through one or more agents or employees, such person, firm, company, partnership, corporation or association shall, in addition to such fee, pay an application fee for each agent or employee so engaged, as provided in the city fee schedule.

(Code 1996, § 4.04.008; Ord. No. O-26-10, 10-18-2010)

Sec. 6-99. Permit fee exemption.

Any individual soliciting or peddling for a philanthropic, charitable, political or religious organization, provided such activity is for the sole exclusive benefit of that organization and so long as the person engaging in such activity does not receive compensation in the form of a commission, salary, or other monies paid to the person for such activity is exempt from the permit fee.

(Code 1996, § 4.04.009; Ord. No. O-26-10, 10-18-2010)

Sec. 6-100. Permit issuance; investigation.

A copy of the application for permit will be referred to the police chief, who will undertake an investigation of the applicant's record and background such as shall be reasonably necessary to protect the public. An applicant for permit under this article may be reasonably denied if the applicant is currently wanted on a warrant for arrest, or if the applicant has been convicted of a felony involving theft, fraud, bribery, perjury, or any proof is developed that false information was presented for purposes of permit issuance.

(Code 1996, § 4.04.010; Ord. No. O-26-10, 10-18-2010)

Sec. 6-101. Procedures for permit issuance; permit term.

(a) If the police chief or designee finds that all of the conditions precedent to the issuance of an itinerant vendor permit have been met and the applicant is qualified to receive a peddler and itinerant vendor permit, the police chief or designee shall issue the permit. Said determination shall be made within a reasonable time of the filing of the application or registration information, but in no case shall such time be longer than ten business days. Permits will be issued for a period of up to one year, ending on December 31 of the same year. Renewal permits shall be issued for a period of one year beginning on January 1 and ending on December 31 of the same year.

(b) Any changes to agents or itinerant vendors must be submitted as an addendum to the original application and subject to the same permit fees and investigation. Failure to register new agents will be grounds for cancellation of the permit.
(Code 1996, § 4.04.011; Ord. No. O-26-10, 10-18-2010)

Sec. 6-102. Identification of solicitors and itinerant vendors.

(a) Upon issuance of a permit, the city shall also issue a badge or other identification to the permit holder.

(b) All permit holders shall keep such badge or identification plainly visible on their person while engaging in any solicitation or itinerant vending, or any other activity which would require the issuance of a permit under this article. Such badge or identification must be clearly displayed so that individuals will know that the solicitor is complying with this article.

(c) It is unlawful for any permit holder to fail to clearly and visibly display such badge or city-issued identification while the permit holder is engaged in solicitation or itinerant vending, or any other activity which would require the issuance of a permit under this article.
(Code 1996, § 4.04.012; Ord. No. O-26-10, 10-18-2010)

Sec. 6-103. Bond required.

(a) Solicitors requiring cash deposits or payment for future delivery or who require a contract of agreement to finance the sale of goods or services for future delivery, or for services to be performed in the future, shall furnish to the city a bond with the application in the amount listed in subsection (c) of this section. This bond is to be signed by the applicant and a surety company authorized to do business in the state, conditioned:

(1) For the final delivery of goods or services in accordance with the terms of any order obtained;

(2) To indemnify purchasers for defects in material or work quality that may exist in the goods sold and that are discovered within 30 days after delivery; and

(3) For the use and benefit of persons or entities that may make a purchase or give an order to the principal of the bond or to the agent or employee of the principal of the bond.

(b) If the applicant is a person or entity engaging in solicitation activities through one or more agents or employees, only one bond is required for the activities of all the agents or employee solicitors.

(c) The required bond amount shall be calculated based upon the total estimated amount that the permit holder will collect in cash deposits and other payments for the duration of the permit. This estimated amount must be provided by the permit holder, with supporting documentation. The amount of the required bond shall be 25 percent of the total estimated amount of cash deposits and other payments the permit holder anticipates that the permit

holder will collect during the duration of the permit. In the event that the permit holder does not have sufficient supporting documentation to justify the proposed bond amount, the city may require a bond amount satisfactory to the city.
(Code 1996, § 4.04.013; Ord. No. O-26-10, 10-18-2010)

Sec. 6-104. Permit revocation.

After the registration provided for in this article has been issued, the police chief of the city or duly authorized representative may revoke such registration if it is found that:

(1) The registration was obtained by false representation;

(2) The holder of the registration has violated any ordinance of the city, or any law of the state in connection with any soliciting by such holder or in connection with the collecting or attempted collection of any account due to such registration holder or employer or in connection with the repossession or attempted repossession of goods sold;

(3) The holder of the registration is convicted of a felony, misdemeanor, or ordinance violation involving a sexual offense, assault, possession or sale of a controlled substance, or any violent act against person or property; also any judgment based upon or conviction for fraud, deceit, or misrepresentation or involving moral turpitude; or

(4) The holder of registration has endangered the health or safety of a citizen of the city.
(Code 1996, § 4.04.014; Ord. No. O-26-10, 10-18-2010)

Sec. 6-105. Permit renewal.

Upon application by a permit holder, a current permit may be renewed for a one-year period, beginning on January 1 and ending on December 31 of the same year. The requirements for receiving a permit renewal are the same as the requirements for an initial permit. Renewal fees shall be the same as the permit fees stated above. Renewal record and background checks will be performed at the discretion of the police chief.
(Code 1996, § 4.04.015; Ord. No. O-26-10, 10-18-2010)

Sec. 6-106. Appeals from decisions of police chief.

If the applicant for a permit under this article or the holder of such permit is dissatisfied with any holding or finding of the police chief, the applicant shall have the right to appeal to the city manager by filing a written notice of such appeal with the city secretary within ten days from the making and filing of such decision of the police chief. Upon filing of such notice of appeal, the application for the permit and all papers possessed by the police chief in connection with such application and such permit shall be delivered to the city manager. And such matter as may be in controversy shall be heard by the city manager within ten working days after the filing of the notice of appeal.
(Code 1996, § 4.04.016; Ord. No. O-26-10, 10-18-2010)

Sec. 6-107. Use of public ways prohibited.

Unless otherwise permitted or exempted by section 6-94, 6-96, or 6-108, it is unlawful for any peddler or itinerant vendor to engage in business within any public way within the city.
(Code 1996, § 4.04.017; Ord. No. O-26-10, 10-18-2010)

Sec. 6-108. Use of public ways exemption.

(a) Itinerant vendors may locate within a designated public way in connection with a special event approved by the city manager and the appropriate body organizing and implementing the special event; provided, however, that a business location for an itinerant vendor will not be allowed if it results in a reduction in the number of parking spaces serving an existing business to a number below that required by this Code.

(b) Farmers may sell agricultural products that were raised or grown by them within a public way at a time designated by the city manager.

(c) Permitted or exempted peddlers may utilize streets and roads to travel from house to house or place to place in pursuit of their business.
(Code 1996, § 4.04.018; Ord. No. O-26-10, 10-18-2010)

Sec. 6-109. Time restrictions.

It is unlawful for any peddler or itinerant vendor to vend, sell, or solicit at a private residence at any time other than between the hours of 8:00 a.m. to 9:00 p.m., or such other hours posted by the occupant, unless a prior invitation from the occupant has been received.
(Code 1996, § 4.04.019; Ord. No. O-26-10, 10-18-2010)

Sec. 6-110. Distribution of handbills and commercial flyers.

In addition to the other regulations contained herein, a solicitor or canvasser leaving handbills or commercial flyers in the city shall observe the following regulations:

(1) No handbill or flyer shall be left at or attached to any sign, utility pole, transit shelter or other structure within the public right-of-way. The police are authorized to remove any handbill or flyer found within the right-of-way;

(2) No handbill or flyer shall be left at or attached to any privately owned property in a manner that causes damage to such privately owned property;

(3) No handbill or flyer shall be left at or attached to any of the property having a "no solicitors" sign;

(4) Any person observed distributing handbills or flyers shall be required to self-identify to the police (either by producing a license or other form of identification). This is for the purpose of knowing the likely identity of the perpetrator if the city receives a complaint of damage caused to private property during the distribution of handbills or flyers.

(Code 1996, § 4.04.020; Ord. No. O-26-10, 10-18-2010)

Sec. 6-111. Penalty.

Any person or entity violating any provision of this article or failing to observe any provisions hereof shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not less than $100.00 nor more than $500.00, and each day or fraction of a day during which this article or any part thereof is further violated shall be deemed a separate offense and punishable as such.
(Code 1996, § 4.04.021; Ord. No. O-26-10, 10-18-2010)

Secs. 6-112—6-135. Reserved.

ARTICLE V. SEXUALLY ORIENTED BUSINESSES

Sec. 6-136. Purpose and intent.

(a) It is the purpose of this article to regulate sexually oriented businesses to promote the health, safety, morals, and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the continued concentration of sexually oriented businesses within the city. The provisions of this article have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.

(b) It is the intent of the city council that the location regulations of section 6-148 are promulgated pursuant to V.T.C.A., Local Government Code ch. 243. It is the intent of the city council that all other provisions of this article are promulgated pursuant to the city Charter and V.T.C.A., Local Government Code ch. 9.
(Code 1996, § 4.05.001)

Sec. 6-137. Definitions.

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

Adult arcade means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

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, videocassettes or video reproductions, slides, or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or

(2) Instruments, devices, paraphernalia which are designed for use in connection with specified sexual activities.

Adult cabaret means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:

(1) Persons who appear in a state of 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, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult motel means a hotel, motel or similar commercial establishment which:

(1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or

(2) Offers a sleeping room for rent for a period of time that is less than ten hours; or

(3) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten hours.

Adult motion picture theater means a commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult theater means a theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

Board of adjustment means the board of adjustment of the city, which shall act as the appeals board for all purposes of this article.

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 privately perform a striptease for another person.

Escort agency means a person or business association who furnishes, offers to furnish, or advertises to hire escorts as one of its primary business purposes, for a fee, tip, or other consideration.

Establishment means 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.

Licensee means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license.

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:

(1) The appearance of a human bare buttock, anus, male genitals, female genitals, or female breast; or

(2) A state of dress which fails to opaquely cover a human buttock, anus, male genitals, female genitals, or areola of the female breast.

Operates or *causes to be operated* means to cause to function or to put or keep in operation. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner, or licensee of the business.

Residential district means a single-family, duplex, townhouse, multiple-family or mobile home zoning district as defined in the city zoning ordinances, as amended.

Residential use means a single-family, duplex, multiple-family, townhouse, or mobile home park use as defined in the city zoning ordinances, as amended.

Semi-nude means a state of dress in which clothing covers no more than the genitals, pubic region, and areolae of the female 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 for any form of consideration:

(1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(2) Activities between male and female persons 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, 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 human genitals in a state of sexual arousal.

Specified sexual activities means any of the following:

(1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;

(2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;

(3) Masturbation, actual or simulated; or

(4) Excretory functions as part of or in connection with any of the activities set forth in subsections (1) through (3) of this definition.

Substantial enlargement of a sexually oriented business means the increase in floor area occupied by the business by more than 25 percent, as the floor area exists as of the date of adoption of the ordinance from which this article is derived.

Transfer of ownership or control of a sexually oriented business means 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.

(Code 1996, § 4.05.002)

Sec. 6-138. 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.

(Code 1996, § 4.05.003)

Sec. 6-139. License required.

(a) A person commits an offense if the person operates a sexually oriented business without a valid license, issued by the city for the particular type of business.

(b) An application for a license must be made on a form provided by the police chief. 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 or drawn with marked dimensions of the interior of the premises to the accuracy of plus or minus six inches. Applicants who must comply with section 6-154 shall submit a diagram meeting the requirements of section 6-154.

(c) The applicant must be qualified according to the provisions of this article.

(d) If a person who wishes to operate a sexually oriented business is an individual, the person must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a 20 percent or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under section 6-140 and each applicant shall be considered a licensee if a license is granted.

(e) The fact that a person possesses a valid license for any other type of business does not exempt the person from the requirement of obtaining a sexually oriented business license.

(Code 1996, § 4.05.004)

Sec. 6-140. Issuance of license.

(a) The police chief shall approve and issue any license required hereunder to an applicant within 30 days after receipt of an application unless the police chief finds one or more of the following to be true:

(1) An applicant is under 18 years of age;

(2) An applicant or an applicant's spouse is overdue in payment to the city of taxes, fees, fines, or penalties assessed against or imposed upon the applicant or the applicant's spouse in relation to a sexually oriented business;

(3) An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;

(4) An applicant or an applicant's spouse has been convicted of a violation of a provision of this article, other than the offense of operating a sexually oriented business without a license, within two years immediately preceding the application. The fact that a conviction is being appealed shall have no effect;

(5) The license fee required by this article has not been paid;

(6) An applicant has been employed in a sexually oriented business in a managerial capacity within the preceding 12 months and has demonstrated an inability to operate or manage a sexually oriented business premises in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers;

(7) An applicant or the proposed establishment is in violation of or is not in compliance with section 6-142, 6-147, 6-148, 6-150, 6-151, 6-152, 6-153, 6-154, or 6-155;

(8) An applicant or an applicant's spouse has been convicted of a crime:

a. Involving:

1. Any of the following offenses as described in V.T.C.A., Penal Code ch. 43:

(i) Prostitution;

(ii) Promotion of prostitution;

(iii) Aggravated promotion of prostitution;

(iv) Compelling prostitution;

(v) Obscenity;

(vi) Sale, distribution, or display of harmful material to a minor;

(vii) Sexual performance by a child;

(viii) Possession of child pornography.

2. Any of the following offenses as described in V.T.C.A., Penal Code ch. 21:

(i) Public lewdness;

(ii) Indecent exposure;

(iii) Indecency with a child;

(iv) Sexual assault or aggravated sexual assault as described in V.T.C.A., Penal Code ch. 22;

(v) Incest, solicitation of a child, or harboring a runaway child described in V.T.C.A., Penal Code ch. 25; or

(vi) Criminal attempt, conspiracy, or solicitation to commit any of the foregoing offenses;

b. For which:

1. Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is a misdemeanor offense;

2. Less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or

3. Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.

The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or applicant's spouse.

(b) An applicant who has been convicted or whose spouse has been convicted of an offense listed in subsection (a)(8)a of this section may qualify for a sexually oriented business license only when the time period required by subsection (a)(8)b of this section has elapsed.

(c) The license, if granted, shall state on its face the name of the person to whom it is granted, the expiration date, and the address of the sexually oriented business. The license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.
(Code 1996, § 4.05.005)

Sec. 6-141. License fees.

The annual fee for a sexually oriented business license shall be as provided for in the city fee schedule.
(Code 1996, § 4.05.006)

Sec. 6-142. Inspection.

(a) An applicant or licensee shall permit representatives of the police department, health department, fire department, planning department, code services department, and building inspection department to inspect the premises of a sexually oriented business for the purpose of ensuring compliance with the law, at any time it is occupied or open for business.

(b) A person who operates a sexually oriented business or agent or employee commits an offense if the person refuses to permit a lawful inspection of the premises by a representative of the city at any time it is occupied or open for business.

(c) The provisions of this section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.
(Code 1996, § 4.05.007)

Sec. 6-143. Expiration of license.

Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in section 6-139. Application for renewal should be made at least 30 days before the expiration date and, when made less than 30 days before the expiration date, the expiration of the license will not be affected.
(Code 1996, § 4.05.008)

Sec. 6-144. Suspension of license.

The police chief shall suspend a license for a period not to exceed 30 days if the police chief determines that a licensee or an employee of a licensee has:

(1) Violated or is not in compliance with sections 6-142, 6-147, 6-148, 6-150, 6-151, 6-152, 6-153, 6-154, and 6-155;

(2) Engaged in excessive use of alcoholic beverages while on the sexually oriented business premises;

(3) Refused to allow an inspection of the sexually oriented business premises as authorized by this article;

(4) Knowingly permitted gambling by any person on the sexually oriented business premises;

(5) Demonstrated inability to operate or manage a sexually oriented business in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.

(Code 1996, § 4.05.009)

Sec. 6-145. Revocation of license.

(a) The police chief shall revoke a license if a cause of suspension in section 6-144 occurs and the license has been suspended within the preceding 12 months.

(b) The police chief shall revoke a license if the police chief determines that:

(1) A licensee gave false or misleading information in the material submitted to the police chief during the application process;

(2) A licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises;

(3) A licensee or an employee has knowingly allowed prostitution on the premises;

(4) A licensee or an employee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;

(5) A licensee has been convicted of an offense listed in section 6-140(a)(8)a for which the time period required in section 6-140(a)(8)b has not elapsed;

(6) On two or more occasions within a 12-month period, a person committed an offense occurring in or on the licensed premises of a crime listed in section 6-140(a)(8)a, for which a conviction has been obtained, and the person was an employee of the sexually oriented business at the time the offenses were committed;

(7) A licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in or on the licensed premises. The term "sexual contact" shall have the same meaning as it is defined in V.T.C.A., Penal Code § 21.01; or

(8) A licensee is delinquent in payment to the city for taxes related to the sexually oriented business.

(c) The fact that a conviction is being appealed shall have no effect on the revocation of the license.

(d) Subsection (b)(7) of this section does not apply to adult motels as grounds for revoking the license unless the licensee or employee knowingly allowed the act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in a public place or within public view.

(e) When the police chief revokes a license, the revocation shall continue for one year, and the licensee shall not be issued a sexually oriented business license for one year from the date revocation became effective. If, subsequent to revocation, the police chief finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective. If the license was revoked under subsection (b)(5) of this section, an applicant may not be granted another license until the appropriate number of years required under section 6-140(a)(8)b has elapsed.
(Code 1996, § 4.05.010)

Sec. 6-146. Appeal of license denial, suspension or revocation.

(a) If the police chief denies the issuance of a license or suspends or revokes a license, the police chief shall send to the applicant, or licensee, by certified mail, return receipt requested, written notice of the action and the right to an appeal. In the case of suspension or revocation of an existing license, written notice shall also be posted upon the business premises.

(b) Upon receipt of written notice of the denial, suspension, or revocation, the licensee whose application for a license has been denied or whose license has been suspended or revoked shall have the right to appeal to the board of adjustment. The filing of an appeal stays the action of the police chief in suspending, denying or revoking a license until the board of adjustment makes a final decision.

(c) The decision of the board of adjustment shall be final and any appeal shall be made directly to the state district court. An appeal to the state district court must be filed within 30 days after the receipt of notice of the decision of the board of adjustment. The licensee shall bear the burden of proof in court.
(Code 1996, § 4.05.011)

Sec. 6-147. Transfer of license.

A licensee shall not transfer the license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.
(Code 1996, § 4.05.012)

Sec. 6-148. Location of sexually oriented businesses.

(a) A person commits an offense if the person operates or causes to be operated a sexually oriented business within 1,500 feet of:

(1) A church, rectory, or church-related structure;

(2) A public, private or parochial elementary or secondary school, or a school zone in which the speed of traffic is regulated by posted signs during certain school hours;

(3) A boundary of a residential district or historical district;

(4) A public park, playground or recreational facility, library, day care center, nursery school or kindergarten;

(5) The property line of a lot devoted to a residential use;

(6) Any public transportation facility (DART Park & Ride).

The above location restrictions apply whether or not the church, rectory, church-related structure, public school, private school, parochial school, elementary school, secondary school, school zone, residential district boundary, public park, playground, recreational facility, library, day care center, nursery school, kindergarten or property line devoted to residential use is located within or outside the city.

(b) A person commits an offense if the person causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within 1,000 feet of another sexually oriented business.

(c) A person commits an offense if the person causes or permits the operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.

(d) For the purposes of subsection (a) of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a church, rectory, public or private elementary or secondary school, day care center, nursery school, kindergarten, or to the nearest boundary of an affected public park, playground, library, recreational facility, residential district, or residential lot.

(e) For the purposes of subsection (b) of this section, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

(f) Any sexually oriented business lawfully operating on the effective date of the ordinance from which this article is derived (July 18, 1994) that is in violation of subsection (a), (b), or (c) of this section shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed three years, unless sooner terminated for any reason or voluntarily discontinued for a period of 30 days or more. Such nonconforming uses shall not be increased, enlarged, extended or altered, except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within 1,000 feet of one another and otherwise in 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.

(g) A sexually oriented business lawfully operating on July 18, 1994, as a conforming use is not rendered a nonconforming use by the location, subsequent to grant or renewal of the sexually oriented business license, of a church, rectory, or church-related structure; a public, private or parochial elementary or secondary school, or a school zone in which the speed of traffic is regulated by posted signs during certain school hours; a boundary of a residential district or historical district within 1,500 feet of the sexually oriented business; a public park, playground or recreation facility, library, day care center, nursery school or kindergarten; or the property line of a lot devoted to a residential use. This subsection applies only to the renewal of a valid license and does not apply when an application for a license is submitted after a license has expired or has been revoked.
(Code 1996, § 4.05.013)

Sec. 6-149. Appeal from locational restrictions.

(a) If the police chief denies the issuance of a license to an applicant because the location of the sexually oriented business establishment is in violation of section 6-148, then the applicant may, not later than ten calendar days after receiving notice of the denial, file with the police chief a written request for an exemption from the locational restrictions of section 6-148.

(b) If the written request is filed with the police chief within the ten-day limit, the board of adjustment shall consider the request. The board shall set a date for the hearing within 60 days from the date the written request is received.

(c) A hearing by the board may only proceed if all the board members are present. The board shall hear and consider evidence offered by any interested person. The formal rules of evidence do not apply.

(d) The board may, in its discretion, grant an exemption from the locational restrictions of section 6-148 if it makes the following findings:

(1) That the location of the proposed sexually oriented business will not have a detrimental effect on nearby properties or be contrary to the public safety or welfare;

(2) That the granting of the exemption will not violate the spirit and intent of this article;

(3) That the location of the proposed sexually oriented business will not downgrade the property values or quality of life in the adjacent areas or encourage the development of urban blight;

(4) That the location of an additional sexually oriented business in the area will not be contrary to any program of neighborhood conservation nor will it interfere with any efforts of urban renewal or restoration; and

(5) That all other applicable provisions of this article will be observed.

(e) The board shall grant or deny the exemption by a majority vote. A majority of the members shall be necessary to affirm, modify or reverse any decision. Disputes of fact shall be decided on the basis of a preponderance of the evidence. The decision of the board is final.

(f) If the board grants the exemption, the exemption is valid for one year from the date of the board's action. Upon the expiration of an exemption, the sexually oriented business is in violation of the locational restrictions of section 6-148 until the applicant applies for and receives another exemption.

(g) If the board denies the exemption, the applicant may not reapply for an exemption until at least 12 months have elapsed since the date of the board's action.

(h) The grant of an exemption does not exempt the applicant from any other provisions of this article other than the locational restrictions of section 6-148.
(Code 1996, § 4.05.014)

Sec. 6-150. Additional regulations for escort agencies.

(a) An escort agency shall not employ any person under the age of 18 years.

(b) A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of 18 years.
(Code 1996, § 4.05.015)

Sec. 6-151. Additional regulations for nude model studios.

(a) A nude model studio shall not employ any person under the age of 18 years.

(b) A person under the age of 18 years commits an offense if the person appears in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under 18 years of age was in a restroom not open to public view or persons of the opposite sex.

(c) A person commits an offense if the person appears in a state of nudity or knowingly allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right-of-way.

(d) A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises which can be viewed from the public right-of-way.
(Code 1996, § 4.05.016)

Sec. 6-152. Additional regulations for adult theaters and adult motion picture theaters.

(a) The requirements and provisions of this article remain applicable to adult theaters and adult motion picture theaters.

(b) A person commits an offense if the person knowingly allows a person under the age of 18 years to appear in a state of nudity in or on the premises of an adult theater or adult motion picture theater.

(c) A person under the age of 18 years commits an offense if the person knowingly appears in a state of nudity in or on the premises of an adult theater or adult motion picture theater.

(d) It is a defense to prosecution under subsections (b) and (c) of this section if the person under 18 years of age was in a restroom not open to public view or persons of the opposite sex.
(Code 1996, § 4.05.017)

Sec. 6-153. Additional regulations for adult motels.

(a) Evidence that a sleeping room in a hotel, motel, or similar commercial establishment has been rented and vacated two or more times in a period of time that is less than ten hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this article.

(b) A person commits an offense if, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented business license, the person rents or subrents a sleeping room to a person and within ten hours from the time the room is rented, the person rents or subrents the same sleeping room again.

(c) For purposes of subsection (b) of this section, the term "rent" or "subrent" means the act of permitting a room to be occupied for any form of consideration.
(Code 1996, § 4.05.018)

Sec. 6-154. Exhibition of sexually explicit films or videos.

(a) A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than 150 square feet of floor space, a film, videocassette, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

(1) Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed 32 square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The police chief may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared;

(2) The application shall be sworn to be true and correct by the applicant;

(3) No alteration in the configuration or location of a manager's station may be made without the prior approval of the police chief or designee;

(4) It is the duty of the owner 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;

(5) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station;

(6) It shall be the duty of the owner and 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 subsection (a)(5) of this section remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times that any patron is present in the premises and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (a)(1) of this section;

(7) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one footcandle as measured at the floor level;

(8) It shall be the duty of the owner 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.

(b) A person having a duty under subsections (a)(1) through (8) of this section commits an offense if the person knowingly fails to fulfill that duty.
(Code 1996, § 4.05.019)

Sec. 6-155. Display of sexually explicit material to minors.

(a) A person commits an offense if, in a business establishment open to persons under the age of 17 years, the person displays a book, pamphlet, newspaper, magazine, film, or videocassette, the cover of which depicts, in a manner calculated to arouse sexual lust or perversion for commercial gain, any of the following:

(1) Human sexual intercourse, masturbation, or sodomy;

(2) Fondling or other erotic touching of human genitals, pubic region, buttocks, or female breasts;

(3) Less than completely and opaquely covered human genitals, buttocks, or that portion of the female breast below the top of the areola; or

(4) Human male genitals in a discernibly turgid state, whether covered or uncovered.

(b) In this section, the term "display" means to locate an item in such a manner that, without obtaining assistance from an employee of the business establishment:

(1) It is available to the general public for handling and inspection; or

(2) The cover or outside packaging on the item is visible to members of the general public.
(Code 1996, § 4.05.020)

Sec. 6-156. Enforcement.

(a) Except as provided by subsection (b) of this section, any person violating section 6-148, upon conviction, is punishable by a fine in accordance with the general penalty provision found in section 1-9.

(b) If the sexually oriented business involved is a nude model studio or sexual encounter center, then violation of section 6-148 is punishable as a Class A misdemeanor.

(c) Except as provided by subsection (b) of this section, any person violating a provision of this article other than section 6-148, upon conviction, is punishable by a fine as provided for in the general penalty provision found in section 1-9.

(d) It is a defense to prosecution under sections 6-139(a), 6-148, and 6-151(d) that a person appearing in a state of nudity did so in a modeling class operated:

(1) By a proprietary school licensed by the state, a college, junior college, or university supported entirely or 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 days in advance of the class; and

c. Where no more than one nude model is on the premises at any one time.

(e) It is a defense to prosecution under section 6-139(a) or 6-148 that each item of descriptive, printed, film, or video material offered for sale or rental, taken as a whole, contains serious literary, artistic, political, or scientific value.
(Code 1996, § 4.05.021)

Sec. 6-157. Injunction.

A person who operates or causes to be operated a sexually oriented business without a valid license or in violation of section 6-148 is subject to a suit for injunction as well as prosecution for criminal violations.
(Code 1996, § 4.05.022)

Secs. 6-158—6-182. Reserved.

ARTICLE VI. DANCE HALLS

Sec. 6-183. 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:

Board of adjustment means the board of adjustment of the city, which shall act as the appeals board for all purposes of this article.

Dance hall means a place where dancing by patrons or customers is permitted or dance, drama, opera, music or any similar live performance is presented to the public, classified as follows:

Class A dance hall means any place where dancing is permitted three days or more a week.

Class B dance hall means any place where dancing is permitted less than three days a week.

Class C dance hall means any place where dancing is scheduled one day at a time.

Class D dance hall means any place where dancing is permitted one day a week or more by a person in a state of semi-nudity or simulated nudity or that is advertised either on or off the premises:

(1) As topless;

(2) As a gentleman's club, bar or saloon;

(3) As adult entertainment;

(4) As X-rated; or

(5) By any other term calculated to attract patrons with nudity, semi-nudity or simulated nudity.

Class E dance hall means any place where dancing is permitted seven days a week for persons from the age of 14 years through the age of 18 years only.

In session means the status of a school during the fall or spring term when students are required to attend the school.

Late hours permit means a permit authorizing a licensee to operate a Class A, B, C or D dance hall until 4:00 a.m.

License means a permit to operate a dance hall.

Licensee means a person in whose name a license to operate a dance hall has been issued, as well as the individual listed as an applicant on the application for a dance hall license.

Private club means an association of persons for the promotion of some common object, which operates not for a profit a place for the accommodation of its members and guests only.

School means a public or private elementary or secondary school.

Semi-nudity means a state of dress in which clothing covers no more than the genitals, pubic region, buttocks, and areolae of the female breast, as well as parts of the body covered by supporting straps or devices.

Simulated nudity means a state of dress in which any device or covering, exposed to view is worn that simulates any part of the genitals, buttocks, pubic region, or areolae of the female breast.
(Code 1996, § 4.06.001)

Sec. 6-184. License required; application; exceptions; defenses.

(a) A person commits an offense if the person operates a dance hall without a license.

(b) An application for a license must be made on a form provided by the police chief. The applicant must be qualified according to the provisions of this article.

(c) A person who wishes to operate a dance hall must sign the application for a license as applicant. If a person who wishes to operate a dance hall is other than an individual, each individual who has a 20 percent or greater interest in the business must sign the application for a license as an applicant. Each applicant must meet the requirements of section 6-188, and each applicant shall be considered a licensee if a license is granted.

(d) It is a defense to prosecution under this article that the actor is conducting a dance at:

(1) A private residence from which the general public is excluded;

(2) A place owned by the federal, state or local government;

(3) A public or private elementary school, secondary school, college or university;

(4) A place owned by a religious organization; or

(5) A private club.

(e) A person who obtains a valid sexually oriented business license is not required to obtain a dance hall license. A person who operates a dance hall that is also a sexually oriented business shall comply with the requirements and provisions of article V of this chapter, as well as the requirements and provisions of this chapter.
(Code 1996, § 4.06.002)

Sec. 6-185. Location of Class E dance halls restricted.

(a) In this section, the term "business that serves or sells alcoholic beverages" means a bar, lounge, tavern, liquor store use, or similar establishment.

(b) No license may be issued for a Class E dance hall under this section if the dance hall will be located within 1,000 feet of a lawfully existing business that serves or sells alcoholic beverages.

(c) For purposes of this section, measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest entry door in the part of a building used as a Class E dance hall to the nearest entry door in the part of a building used as a business that serves or sells alcoholic beverages.

(d) If, on July 18, 1994, a business operating as a Class E dance hall is located within 1,000 feet of a business that serves or sells alcoholic beverages, then the business that was first lawfully established and continually operating at that particular location is deemed a conforming use and the later established business is deemed a nonconforming use. A nonconforming use is exempted from the location requirement of subsection (b) of this section for the first three license renewals after the effective date of the ordinance from

which this article is derived, unless the use is sooner terminated for any reason or voluntarily discontinued for a period of 30 days or more. A nonconforming use may not be increased, enlarged, extended, or altered, except that the use may be changed to a conforming use.
(Code 1996, § 4.06.003)

Sec. 6-186. Location of Class D dance halls restricted.

(a) A person commits an offense if the person operates or causes to be operated a Class D dance hall within 1,500 feet of:

(1) A church, rectory, or church-related structure;

(2) A public, private or parochial elementary or secondary school, or a school zone in which the speed of traffic is regulated by posted signs during certain school hours;

(3) A boundary of a residential district or historical district as defined in article V of this chapter;

(4) A public park, playground or recreation facility, library, day care center, nursery school, or kindergarten;

(5) The property line of a lot devoted to a residential use as defined in article V of this chapter, whether such use is within the city limits or not;

(6) Any public transportation facility (DART).

(b) A person commits an offense if the person causes or permits:

(1) The operation, establishment, substantial enlargement, or transfer of ownership or control of a Class D dance hall within 1,000 feet of another Class D dance hall;

(2) The operation, establishment, or maintenance of a Class D dance hall in a building, structure, or part of a building or structure containing another Class D dance hall; or

(3) The increase of floor area of any Class D dance hall in any building, structure, or part of a building or structure containing another Class D dance hall.

(c) For purposes of subsection (a) of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest part of the building or structure used as a part of the premises where a Class D dance hall is conducted, to the nearest property line of the premises of a church, rectory, or church-related structure; a public, private or parochial elementary of secondary school, or a school zone in which the speed of traffic is regulated by posted signs during certain school hours; a boundary of a residential district or historical district within 1,500 feet of the sexually oriented business; a public park, playground or recreation facility, library, day care center, nursery school or kindergarten; or the property line of a lot devoted to a residential use.

(d) For purposes of subsection (b) of this section, the distance between any two Class D dance halls 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 Class D dance hall is located.

(e) Any Class D dance hall lawfully operating on July 18, 1994, that is in violation of subsection (a) or (b) of this section shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed 18 months, unless sooner terminated for any reason or voluntarily discontinued for a period of 30 days or more. The nonconforming use shall not be increased, enlarged, extended, or altered, except that the use may be changed to a conforming use. If a Class D dance hall is within 1,000 feet of another Class D dance hall and otherwise in a permissible location, the Class D dance hall that was first established and continually operating at a particular location is the conforming use and the later established Class D dance hall is the nonconforming use.

(f) A Class D dance hall lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the Class D dance hall license, of a church, rectory, or church-related structure; a public, private or parochial elementary or secondary school, or a school zone in which the speed of traffic is regulated by posted signs during certain school hours; a boundary of a residential district or historical district within 1,500 feet of the sexually oriented business; a public park, playground or recreation facility, library, day care center, nursery school or kindergarten; or the property line of a lot devoted to a residential use, within 1,500 feet of the Class D dance hall. This provision applies only to the renewal of a valid license and does not apply when an application for a license is submitted after a license has expired or been revoked.
(Code 1996, § 4.06.004)

Sec. 6-187. Exemption from locational restrictions for Class D dance halls.

(a) If the police chief denies the issuance of a Class D dance hall license to an applicant because the location of the Class D dance hall is in violation of section 6-186, then the applicant may, not later than ten calendar days after receiving notice of the denial, file with the police chief a written request for an exemption from the locational restrictions of section 6-186.

(b) If the written request is filed with the police chief within the ten-day limit, the board of adjustment shall consider the request. The board of adjustment shall set a date for the hearing within 60 days from the date the written request is received.

(c) A hearing by the board may proceed only if all the board members are present. The board shall hear and consider evidence offered by any interested person. The formal rules of evidence do not apply.

(d) The board may, in its discretion, grant an exemption from the locational restrictions of section 6-186 if it finds that:

(1) The location of the proposed Class D dance hall will not have a detrimental effect on nearby property or be contrary to the public safety or welfare;

(2) The granting of the exemption will not violate the spirit and intent of this article;

(3) The location of the proposed Class D dance hall will not downgrade the property value or quality of life in any adjacent area or encourage the development of urban blight;

(4) The location of an additional Class D dance hall in the area will not be contrary to any program of neighborhood conservation or interfere with any efforts of urban renewal or restoration; and

(5) All other applicable provisions of this article will be observed.

(e) The board shall grant or deny the exemption by majority vote. Failure to reach a majority vote shall result in denial of the exemption. Any dispute of fact must be decided on the basis of a preponderance of the evidence. The decision of the board is final.

(f) If the board grants the exemption, the exemption is valid for one year from the date of the board's action. Upon the expiration of an exemption, the Class D dance hall is in violation of the locational restrictions of section 6-186 until the applicant applies for and receives another exemption.

(g) If the board denies the exemption, the applicant may not reapply for an exemption until at least 12 months have elapsed since the date of the board's action.

(h) The grant of an exemption does not exempt the applicant from any provision of this article other than the locational restrictions of section 6-186.
(Code 1996, § 4.06.005)

Sec. 6-188. Issuance of license; posting.

(a) The police chief shall issue a license to an applicant within 30 days after receipt of an application unless the police chief finds one or more of the following to be true:

(1) An applicant is under 18 years of age;

(2) An applicant or an applicant's spouse is not of good moral character and does not have a good reputation for being peaceable and law-abiding in the community where the applicant or the applicant's spouse resides or does business;

(3) An applicant or applicant's spouse is overdue in payment to the city of taxes, fees, fines, or penalties assessed against or imposed upon the applicant or the applicant's spouse;

(4) An applicant uses alcoholic beverages to excess;

(5) An applicant is physically or mentally incapacitated to an extent that the applicant cannot operate a dance hall;

(6) An applicant has failed to answer or falsely answers a question or request for information on the application form provided;

(7) An applicant or an applicant's spouse has been convicted of a violation of a provision of this article, other than the offense of operating a dance hall without a license, within two years immediately preceding the application. The fact that a conviction is being appealed shall have no effect;

(8) An applicant is residing with a person who has been denied a license by the city to operate a dance hall within the preceding 12 months, or residing with a person whose license to operate a dance hall has been revoked within the preceding 12 months;

(9) The license fee required by this article has not been paid;

(10) An applicant or an applicant's spouse has been convicted of a crime:

a. Involving:

1. Any of the following offenses as described in V.T.C.A., Penal Code ch. 43:
   (i) Prostitution;
   (ii) Promotion of prostitution;
   (iii) Aggravated promotion of prostitution;
   (iv) Compelling prostitution;
   (v) Obscenity;
   (vi) Sale, distribution, or display of harmful material to minor;
   (vii) Sexual performance by a child; or
   (viii) Possession of child pornography;
2. Any of the following offenses as described in V.T.C.A., Penal Code ch. 21:
   (i) Public lewdness;
   (ii) Indecent exposure; or
   (iii) Indecency with a child;
3. Sexual assault or aggravated sexual assault as described in V.T.C.A., Penal Code ch. 22;
4. Incest, solicitation of a child, or harboring a runaway child as described in V.T.C.A., Penal Code ch. 25; or
5. Criminal attempt, conspiracy, or solicitation to commit any of the offenses listed in subsections (a)(10)a.1 through 4 of this section;

b. For which:

1. Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;
2. Less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or
3. Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is

the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period;

(11) An applicant has been employed in a dance hall within the preceding 12 months and has demonstrated an inability to operate or manage a dance hall premises in a peaceful and law-abiding manner;

(12) Alcoholic beverages are possessed, consumed, or sold on premises used or to be used by the applicant for a Class E dance hall;

(13) An applicant for a Class E dance hall license is in violation of the locational requirements of section 6-185;

(14) An applicant for a Class D dance hall license is in violation of the locational requirements of section 6-186.

(b) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or the applicant's spouse.

(c) An applicant who has been convicted or whose spouse has been convicted of an offense listed in subsection (a)(10)a of this section may qualify for a dance hall license only when the time period required by subsection (a)(10)b of this section has elapsed.

(d) The license shall state on its face the name of the person to whom it is granted, the expiration date, the address of the dance hall, and whether it is issued for a Class A, B, C, D, or E dance hall.

(e) The license, along with any late hours permit, shall be posted in a conspicuous place at or near the entrance to the dance hall so that it may be easily read at any time.
(Code 1996, § 4.06.006)

Sec. 6-189. Late hours permit.

(a) A person who is issued a Class A, B, C, or D dance hall license may apply, on a form provided by the police chief, for a late hours permit. Upon receipt of the application and payment of the late hours permit fee, the police chief shall issue a late hours permit to the applicant.

(b) Once issued, a late hours permit is considered a part of the license for a Class A, B, C, or D dance hall and is valid only when the dance hall license it accompanies is valid.
(Code 1996, § 4.06.007)

Sec. 6-190. Fees.

License and permit fees are as provided for in the city fee schedule.
(Code 1996, § 4.06.008)

Sec. 6-191. Hours of operation.

(a) A person without a late hours permit commits an offense if the person operates a Class A, B, C, or D dance hall between the hours of 2:00 a.m. and 7:00 a.m. Monday through Saturday, or between 2:00 a.m. and 12:00 noon on Sunday.

(b) A person with a late hours permit commits an offense if the person operates a Class A, B, C, or D dance hall between the hours of 4:00 a.m. and 7:00 a.m., Monday through Saturday, or between 4:00 a.m. and 12:00 noon on Sunday.

(c) A person commits an offense if the person operates a Class E dance hall during any hours other than the following:

(1) When school is in session in the school district in which the dance hall is located, between the hours of:

a. 4:00 p.m. and 10:00 p.m., Monday through Thursday;

b. 4:00 p.m. and 12:00 midnight, Friday;

c. 1:00 p.m. and 12:00 midnight, Saturday; and

d. 1:00 p.m. and 10:00 p.m. Sunday; or

(2) When school is not in session in the school district in which the dance hall is located, between the hours of 1:00 p.m. and 12:00 midnight, Monday through Sunday.

(Code 1996, § 4.06.009)

Sec. 6-192. Inspection.

(a) Representatives of the police, planning, fire, building and code services departments may inspect the premises of a dance hall, for the purpose of insuring compliance with the law, at any time it is open for business or occupied.

(b) A person who operates a dance hall or a person designated as the dance hall supervisor commits an offense if the person refuses to permit a lawful inspection of the premises of a dance hall by a representative of the police department at any time it is open for business or occupied.

(Code 1996, § 4.06.010)

Sec. 6-193. Dance hall supervisor.

(a) A person who operates a dance hall must designate a person as dance hall supervisor and register that person's name with the police chief.

(b) A person designated as dance hall supervisor must remain on the premises of the dance hall during the time dancing is permitted and until 30 minutes after the end of the dance to ensure that the dance is conducted in an orderly manner.

(Code 1996, § 4.06.011)

Sec. 6-194. Persons under 17 years of age prohibited.

(a) No person under the age of 17 years may enter a Class A, B, or C dance hall unless accompanied by a parent or guardian.

(b) A person commits an offense if the person falsely self-represents to be either a parent or guardian of a person under the age of 17 years for the purpose of gaining the person's admittance into a Class A, B, or C dance hall.

(c) A licensee or employee of a Class A, B, or C dance hall commits an offense if the licensee knowingly allows a person under the age of 17 years to enter or remain on the premises of the dance hall unless the person is accompanied by a parent or guardian.

(d) A licensee of a Class A, B, or C dance hall commits an offense if the licensee maintains the premises without posting a sign at each entrance to the business that reads: "It is unlawful for any person under 17 years of age to enter this location without a parent or guardian."
(Code 1996, § 4.06.012)

Sec. 6-195. Persons under 14 years of age and over 18 years of age prohibited in Class E dance halls.

(a) No person under the age of 14 years or over the age of 18 years may enter a Class E dance hall.

(b) A person commits an offense if:

(1) The person is over the age of 18 years, and enters a Class E dance hall; or

(2) For the purpose of gaining admittance into a Class E dance hall, the person falsely self-represents to be:

a. Of an age from 14 years through 18 years;

b. A licensee or an employee of the dance hall;

c. A parent or guardian of a person inside the dance hall; or

d. A governmental employee in the performance of official duties.

(c) A licensee or an employee of a Class E dance hall commits an offense if the licensee knowingly allows a person to enter or remain on the premises of the dance hall who is:

(1) Under the age of 14 years; or

(2) Over the age of 18 years.

(d) It is a defense to prosecution under subsections (b)(1) and (c)(2) of this section that the person is:

(1) A licensee or employee of the dance hall;

(2) A parent or guardian of a person inside the dance hall; or

(3) A governmental employee in the performance of official duties.

(e) A licensee of a Class E dance hall commits an offense if the licensee maintains the premises without posting a sign at each entrance to the dance hall that reads: "It is unlawful for any person under 14 years of age to enter this location without a parent or guardian. It is unlawful for any person over 18 years of age to enter this location."
(Code 1996, § 4.06.013)

Sec. 6-196. Persons under 18 years of age prohibited in Class D dance halls.

(a) No person under the age of 18 years may enter a Class D dance hall.

(b) A person commits an offense if the person falsely self-represents to be a person 18 years of age or older for the purpose of gaining admittance into a Class D dance hall.

(c) A licensee or employee of a Class D dance hall commits an offense if the person knowingly allows a person under the age of 18 years to enter or remain on the premises of the dance hall.

(d) A licensee of a Class D dance hall commits an offense if the licensee maintains the premises without posting a sign at each entrance to the dance hall that reads: "It is unlawful for any person under 18 years of age to enter this location."
(Code 1996, § 4.06.014)

Sec. 6-197. Expiration of license or permit.

(a) A license for a Class A, B, C, D, or E dance hall expires one year from the date of issuance and may be renewed only by making application as provided in section 6-184. Application for renewal should be made at least 30 days before the expiration date, and when made less than 30 days before the expiration date, the expiration of the license will not be affected.

(b) A late hours permit for a Class A, B, C, or D dance hall expires in conjunction with the accompanying dance hall license and may be renewed only by making application as provided in section 6-189.

(c) A license for a Class C dance hall expires at 2:00 a.m., or 4:00 a.m., if a late hours permit has been issued, on the day following the day of the dance.

(d) When the police chief denies renewal of a license, the applicant shall not be issued a license for one year from the date denial becomes final. If, subsequent to denial, the police chief finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date denial became final. If a renewal of a license is denied under section 6-188(a)(13) only, the applicant may be granted a license immediately upon compliance with section 6-185. If a renewal of a license is denied under section 6-188(a)(14) only, the applicant may be granted a license immediately upon compliance with section 6-186.
(Code 1996, § 4.06.015)

Sec. 6-198. Suspension of license.

The police chief shall suspend a dance hall license for a period of time not exceeding 30 days if the police chief determines that a licensee or an employee of a licensee has:

(1) Violated section 6-188(d), 6-191, 6-194, 6-195, 6-196, or 6-201;

(2) Engaged in excessive use of alcoholic beverages while on the dance hall premises;

(3) Refused to allow an inspection of the dance hall premises as authorized in this article;

(4) Knowingly permitted an intoxicated person to remain on the premises;

(5) Knowingly permitted gambling by any person on the dance hall premises;

(6) Demonstrated inability to operate or manage a dance hall premises in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers; or

(7) Knowingly permitted the possession, consumption, or sale of an alcoholic beverage on the premises of a Class E dance hall.

(Code 1996, § 4.06.016)

Sec. 6-199. Revocation of license.

(a) The police chief shall revoke a license if a cause of suspension in section 6-198 occurs and the license has been suspended within the preceding 12 months.

(b) The police chief shall revoke a license if the police chief determines that one or more of the following is true:

(1) A licensee has given false or misleading information in the material submitted to the police chief during the application process;

(2) A licensee or an employee is unable to lawfully operate the dance hall because of physical or mental impairment;

(3) A licensee or an employee has knowingly allowed possession, use or sale of controlled substances on the premises;

(4) A licensee or an employee has knowingly allowed prostitution on the premises;

(5) A licensee or an employee knowingly permitted dancing or a live performance during a period of time when the dance hall license was suspended;

(6) A licensee has been:

a. Convicted of an offense listed in section 6-188(a)(10)a for which the time period required in section 6-188(a)(10)b has not elapsed; or

b. Convicted of or is under indictment for any felony offense while holding a dance hall license;

(7) While an employee of the dance hall and while on the licensed premises, a person has committed an offense listed in section 6-188(a)(10)a, for which a conviction has been obtained, two or more times within a 12-month period;

(8) A licensee of a Class E dance hall is in violation of the locational requirements of section 6-185;

(9) A licensee of a Class D dance hall is in violation of the locational requirements of section 6-186.

(c) The fact that a conviction is being appealed shall have no effect on the revocation of the license.

(d) When the police chief revokes a license, the revocation shall continue for one year, and the licensee shall not be issued a dance hall license for one year from the date revocation became final. If, subsequent to revocation, the police chief finds that the basis for the revocation action has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became final. If the license was revoked under subsection (b)(8) of this section only, the applicant may be granted a license immediately upon compliance with section 6-185. If the license was revoked under subsection (b)(9) of this section only, the applicant may be granted a license immediately upon compliance with section 6-186. If the license was revoked under subsection (b)(7) of this section, an applicant may not be granted another license until the appropriate number of years required under section 6-188(a)(10)b has elapsed.
(Code 1996, § 4.06.017)

Sec. 6-200. Appeal of license denial, suspension or revocation.

(a) If the police chief denies the issuance of a license or suspends or revokes a license, the police chief shall send to the applicant, or licensee, by certified mail, return receipt requested, written notice of the action and the right to an appeal. The aggrieved party may appeal the decision of the police chief to the board of adjustment. The filing of an appeal stays the action of the police chief in suspending or revoking a license until the board makes a final decision. If within a ten-day period the police chief suspends, revokes, or denies issuance of a sexually oriented business license for the same location involved in the city police chief's actions on the dance hall license, then the city police chief may consolidate the request for appeals of those actions into one appeal.

(b) If the police chief denies the issuance of a Class D dance hall license or suspends or revokes a Class D dance hall license, the police chief shall send to the applicant, or licensee, by certified mail, return receipt requested, written notice of the action and the right to an appeal. Upon receipt of written notice of the denial, suspension, or revocation, the licensee whose application for a license has been denied or whose license has been suspended or revoked shall have the right to appeal to the state district court. An appeal to the state district court must be filed within 30 days after the receipt of notice of the decision of the police chief. The licensee shall bear the burden of proof in court.
(Code 1996, § 4.06.018)

Sec. 6-201. Transfer of license or late hours permit.

A licensee shall not transfer a license or late hours permit to another, nor shall a licensee operate a dance hall under the authority of a license, or a late hours permit, at any place other than the address designated in the application.
(Code 1996, § 4.06.019)

Sec. 6-202. Penalty.

Any person who violates any provision of this article, except sections 6-185 and 6-186, upon conviction, is punishable by a fine as provided for in the general penalty provision found in section 1-9. Any person who violates section 6-185 or 6-186 pertaining to zoning, upon conviction, is punishable by a fine in accordance with the general penalty provision found in section 1-9.
(Code 1996, § 4.06.020)

Sec. 6-203. Injunction.

A person who operates or causes to be operated a dance hall without a valid license or in violation of section 6-185 or 6-186 is subject to a suit for injunction as well as prosecution for criminal violations.
(Code 1996, § 4.06.021)

Secs. 6-204—6-229. Reserved.

ARTICLE VII. SECONDARY METALS RECYCLERS

Sec. 6-230. Purpose; authority.

This article is an exercise of the city's police power to promote, through regulation of secondary metal recyclers, the recovery of stolen property. This article provides licensing and recordkeeping requirements and enforcement procedures that will enable the police department to identify and recover public and private property composed of certain metals that may have been illegally appropriated.
(Code 1996, § 4.10.001; Ord. No. O-19-08, 6-16-2008)

Sec. 6-231. 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:

Ferrous metal means a metal that contains significant quantities of iron or steel.

Hold notice means written notification by the city police chief to a secondary metals recycler stating that the secondary metals recycler may not sell, redeem or dispose of certain regulated metal property that the city police chief has reasonable cause to believe has been stolen.

Licensee means a person in whose name a license has been issued under this article or a person listed as an applicant on the application for a license.

Nonferrous metal means a metal that does not contain significant quantities of iron or steel, including, yet not limited to, copper, brass, aluminum, bronze, lead, zinc, nickel, and their alloys.

Passport means a passport issued by the United States government or issued by another country and recognized by the United States government.

Personal identification certificate means a personal identification card issued by the state department of public safely under V.T.C.A., Transportation Code ch. 521, subch. E, or a similar card or certificate issued by another state.

Purchase transaction means a transaction in which a secondary metals recycler gives consideration in exchange for regulated metal property.

Regulated metal property means any item composed in whole or in part of any ferrous or nonferrous metal other than an item composed in whole of tin.

Secondary metals recycler means any person who engages in the business of purchasing, collecting or soliciting regulated metal property or operates or maintains a facility where regulated metal property is purchased or kept for shipment, sale, transfer or salvage.

Seller means any person who, in a purchase transaction, receives consideration from a secondary metals recycler in exchange for regulated metal property.
(Code 1996, § 4.10.002; Ord. No. O-19-08, 6-16-2008)

Sec. 6-232. Records required.

(a) A secondary metals recycler shall maintain an accurate and legible record of each purchase transaction. Each transaction must be recorded separately.

(b) The record of each purchase transaction must be in English and contain the following information:

(1) The name and address of the secondary metals recycler;

(2) The name or initials of the individual recoding the information required by this section for this secondary metals recycler;

(3) The seller's name, address, sex and birthdate, as well as the identifying number from the seller's driver's license, military identification card, passport or personal identification certificate;

(4) The license number of any motor vehicle in which the regulated metal property is delivered in a purchase transaction;

(5) The place, date and time of the purchase transaction;

(6) The weight, quantity or volume and a description made in accordance with the custom of the trade of the regulated metal property purchased;

(7) A general description of the predominant types of regulated metal property purchased in the purchase transaction;

(8) The amount of consideration given in a purchase transaction for the regulated metal property;

(9) A signed statement from the seller in a purchase transaction affirming a legal right of ownership and the right to sign over title to the regulated metal property offered for sale;

(10) A digital photograph, videotape or similar likeness of the seller that clearly depicts the seller's facial features; and

(11) A clear thumbprint of the seller.

(c) A person selling or attempting to sell regulated metal property to a secondary metals recycler shall:

(1) Display to the secondary metals recycler the person's driver's license, military identification card, passport or personal identification certificate; and

(2) Sign a written statement provided by the secondary metals recycler affirming that the person is a legal owner or is lawfully entitled to sell the regulated material offered for sale.

(d) The secondary metals recycler or the recycler's agent shall visually verify the accuracy of the identification presented by the seller at the time of each purchase of regulated metal property.

(e) A secondary metals recycler shall maintain on file the information required by this section for not less than one year from the date of the purchase transaction. A secondary metals recycler shall make these records available for inspection by any police officer, upon request, at the secondary metals recycler's place of business during the usual and customary business hours of the secondary metals recycler.

(f) The recordkeeping requirements of this section, other than subsections (b)(7) and (10) of this section, do not apply to purchase transactions involving regulated metal property composed solely of the following nonferrous metal materials for which definitions and recordkeeping requirements are provided by V.T.C.A., Occupations Code ch. 1956, subch. A:

(1) Copper or brass material in excess of 50 pounds;

(2) Bronze material;

(3) Aluminum material in excess of 40 pounds.

(g) It is a defense to prosecution under subsection (b)(10) of this section that:

(1) A photograph of the seller, taken within the preceding six months, was currently on file with the secondary metals recycler; and

(2) At the time of the purchase transaction, the secondary metals recycler or an employee of the secondary metals recycler visually verified that the seller was actually the person depicted in the file photograph.

(Code 1996, § 4.10.003; Ord. No. O-19-08, 6-16-2008)

Sec. 6-233. Notice to sellers.

(a) A secondary metals recycler shall at all times maintain in a prominent place in the secondary metals recycler's place of business, in open view to a seller of regulated metal property, a notice in two-inch lettering that contains the following or similar language approved by the city police chief: "A person attempting to sell any regulated metal property must present sufficient identification required by City of Glenn Heights ordinance."

(b) The notice required by this section may be contained on a sign that contains another notice required by law to be displayed by the secondary metals recycler.

(Code 1996, § 4.10.004; Ord. No. O-19-08, 6-16-2008)

Sec. 6-234. Facsimile, telecopier or similar equipment required.

A secondary metals recycler shall maintain at its place of business or otherwise have immediate access to a facsimile, telecopier or other equipment of similar function on which notifications of stolen property or other notifications relating to regulated metal property may be expeditiously received from the police department. The equipment must be operable at all times during the usual and customary business hours of the secondary metals recycler. The secondary metals recycler shall maintain the facsimile number or other access number of the equipment on file with the city police chief and shall notify the city police chief within 24 hours after any change in the number.

(Code 1996, § 4.10.005; Ord. No. O-19-08, 6-16-2008)

Sec. 6-235. Restrictions on purchase of regulated metal property.

(a) A secondary metals recycler shall conduct all purchase transactions only between the hours of 7:00 a.m. and 7:00 p.m.

(b) A secondary metals recycler shall not purchase any item of regulated metal property from an intoxicated person.

(c) A secondary metals recycler shall not purchase any item of regulated metal property from an individual who does not arrive at the secondary metals recycler in a motor vehicle.

(d) A secondary metals recycler shall not purchase any item of regulated metal property using cash payments.

(e) A secondary metals recycler shall not purchase any of the following items of regulated metal property without obtaining proof that the seller owns the property (such as by receipt or bill of sale) or proof that the seller is an employee, agent or contractor of a governmental entity, utility company, cemetery, railroad, manufacturer or other person, business or entity owning the property and the seller is authorized to sell the item of regulated metal property on behalf of the person, business or entity owning the property:

(1) A utility hole cover;

(2) An electric light pole and its fixtures and hardware;

(3) A guard rail;

(4) A street sign, traffic sign or traffic signal and its fixtures and hardware;

(5) Communication, transmission and service wire;

(6) A funeral marker or funeral vase;

(7) An historical marker;

(8) Railroad equipment, including, yet not limited to, a tie plate, switch plate, E-clip or rail tie junction;

(9) Any metal item that is marked with any form of the name, initials or logo of a governmental entity, utility company, cemetery or railroad;

(10) A copper or aluminum condensing or evaporator coil from a heating or air conditioning unit;

(11) An aluminum or stainless steel container or bottle designed to hold propane for fueling forklifts.

(f) A secondary metals recycler shall maintain on file the information required by subsection (e) of this section for not less than one year from the date of the purchase of the item of regulated metal property. A secondary metals recycler shall make these records available for inspection by any police officer, upon request, at the secondary metal recycler's place of business during the usual and customary business hours of the secondary metals recycler.

(g) The requirements of subsections (e) and (f) of this section do not apply to purchase transactions involving regulated metal property composed solely of the following nonferrous metal materials for which definitions, recordkeeping requirements and other regulations are provided by V.T.C.A., Occupations Code ch. 1956: copper or brass material in excess of 50 pounds, bronze material, or aluminum material in excess of 40 pounds.
(Code 1996, § 4.10.006; Ord. No. O-19-08, 6-16-2008)

Sec. 6-236. Hold on regulated metal property; segregation, labeling and inspection; exceptions.

(a) Except as provided in subsection (c) of this section, a secondary metals recycler shall retain possession of purchased regulated metal property at the secondary metals recycler's local place of business and withhold the property from alteration, processing, resale or salvage use for 72 hours after purchase unless the property is released sooner by written order of the city police chief or by order of a court of competent jurisdiction.

(b) Except as provided in subsection (c) of this section, a secondary metals recycler shall segregate all regulated metal property purchased from a seller from regulated metal property purchased from other sellers and attach to the property, or to the container in which the property is held, a label indicating the name of the seller, the date on which the property was purchased and the number of the receipt on which the purchase information is recorded. If in any single purchase transaction there are multiple items of regulated metal property of the same general type, only one representative item from each type of regulated property must be segregated and labeled in accordance with this subsection.

(c) The holding, segregation and labeling requirements of subsections (a) and (b) of this section do not apply to any item of regulated metal property composed solely of ferrous metal material unless the secondary metals recycler has received notice that the city police chief has, in accordance with this subsection, designated the item or type of item as being subject to those requirements. The city police chief shall periodically review theft statistics on ferrous regulated metal property and establish a list of items or types of items that the city police chief determines are subject to the requirements of subsections (a) and (b). A current list must be maintained on file in the city police chief's office or in another designated office of the police department so that it may be inspected by the public during the city's normal business hours. Notice of the list must be given to secondary metals recyclers in accordance with schedules and procedures established by the city police chief. A secondary metals recycler is presumed to have received notice of the list if the police department transmits the list to the facsimile number or access number provided by the secondary metals recycler under section 6-234.

(d) While in possession of purchased regulated metal property, a secondary metals recycler shall make the property available for inspection by any police officer at the secondary metals recycler's place of business during the usual and customary business hours of this secondary metals recycler.
(Code 1996, § 4.10.007; Ord. No. O-19-08, 6-16-2008)

Sec. 6-237. Hold on stolen regulated metal property; hold notice.

(a) When a police officer has reasonable cause to believe that certain items of regulated metal property in the possession of a secondary metals recycler are stolen, the city police chief may issue a hold notice. The hold notice must:

(1) Identify those items of regulated metal property alleged to be stolen and subject to hold; and

(2) Inform the secondary metals recycler of the restrictions imposed on the regulated metal property under subsection (b) of this section.

(b) A secondary metals recycler may not, for 60 days from the date of receiving a hold notice under this section, process or remove from the secondary metals recycler's place of business any regulated metal property identified in the hold notice unless the property is released sooner by the city police chief or by order of a court of competent jurisdiction. At the expiration of the hold period, the hold is automatically released and the secondary metals recycler may dispose of the regulated material unless otherwise directed by a court of competent jurisdiction.

(c) This section does not apply to items of regulated metal property composed solely of the following nonferrous metal materials for which definitions and hold notice requirements are provided by V.T.C.A., Occupations Code ch. 1956: copper or brass material in excess of 50 pounds, bronze material, or aluminum material in excess of 40 pounds.
(Ord. No. O-19-08, 6-16-2008)

Sec. 6-238. Offenses; defenses; penalty.

(a) A person who knowingly violates any provision of this article or who knowingly fails to perform a duty required of the person under this article commits an offense. A person is guilty of a separate offense for each item of regulated metal property involved in a violation of this article. An offense under this article is punishable by a fine not to exceed $500.00.

(b) It is a defense to prosecution under this article that the regulated metal property involved:

(1) Was purchased from a charitable, philanthropic, religious, fraternal, civic, patriotic, social or school-sponsored organization or association, or from any organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code;

(2) Was purchased from any public officer acting in an official capacity as a trustee in bankruptcy, executor, administrator, or receiver, from any public official acting under judicial process or authority, or from a sale on the execution or by virtue of any process issued by a court;

(3) Consists of aluminum food or beverage containers, used food or beverage containers, or similar food or beverage containers for the purpose of recycling other than beer or beverage kegs; or

(4) Was purchased from a manufacturing, industrial or other commercial vendor that generates or sells regulated metal property in the ordinary course of its business.
(Code 1996, § 4.10.008; Ord. No. O-19-08, 6-16-2008)

Secs. 6-239—6-269. Reserved.

ARTICLE VIII. VEHICLES FOR HIRE

Sec. 6-270. 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:

Limousine means any chauffeured motor vehicle for general passenger use with a rated passenger capacity of not more than 15 passengers and which operates on a prearranged appointment basis only whereby such prearrangement is made not less than one hour in advance of the time transportation is to begin. At no time shall such vehicle operate on a call-and-demand basis as a taxicab.

Taxicab means a chauffeured motor vehicle having a rated passenger capacity of eight or less which typically operates on irregular routes and schedules and on a call-and-demand basis. The term "taxicab" shall not apply to motor vehicles operating under a license or certificate of the railroad commission of the state or the Interstate Commerce Commission nor to a limousine.

Vehicle service for hire means any motor or other vehicle operated within the city for the purpose of carrying passengers for hire from within the city, except motor buses operating on fixed routes as specified in this article, specially chartered buses and driverless vehicles (rental cars). The term "vehicle service for hire" includes limousine and taxicab, as defined. The term "vehicle service for hire" specifically excludes demand services by public entities relative to providing transportation for senior citizens and disabled persons.
(Code 1996, § 4.11.001; Ord. No. O-24-08, 9-2-2008)

Sec. 6-271. Applicability of article; exclusions.

(a) The operation of vehicles for hire shall be subject to this article, except that this article does not apply to a vehicle that is:

(1) Used to transport a person from a point of origination outside the city to a destination inside the city (including a round-trip transport), so long as the vehicle leaves the city without receiving a different passenger from inside the city;

(2) Owned and operated by the federal or state government, or by a political subdivision of the state; or

(3) Used in a carpool to transport the person and others on a prearranged basis between their homes and places of employment or places of common destination, if only a fee calculated to reasonably cover expenses is charged.

(b) It is unlawful to operate or cause to be operated from within the city any vehicle for hire unless a license therefor shall have been issued to the owner or operator thereof in accordance with this article.
(Code 1996, § 4.11.002; Ord. No. O-24-08, 9-2-2008)

Sec. 6-272. License application, contents, amendment and revocation.

(a) Every person, entity or business desiring to own or operate a vehicle for hire, or operate a business for vehicles for hire, shall file with the city secretary a written application signed by such applicant and stating:

(1) The name of the owner of the business or owner of the vehicle for hire if different than the business owner:

a. If the owner is a person, the mailing address, physical address, work telephone number, home telephone number, driver's license number, and state of issuance of such driver's license;

b. If the owner is a partnership, the name of all partners, the principal business address and telephone number of each partner;

c. If the owner is a corporation, the state of incorporation, the name and address of the registered agent, the names of all officers, and the contact information of any local office of such corporation;

(2) The name, place of residence, sex, age, customary occupation; the name of any other person, firm or corporation who owns any interest in the business; and the name of the person, firm or corporation that owns any title or interest in any vehicle used in the business;

(3) The year, make and model of each vehicle proposed to be used;

(4) If applicable, the address and description of the stand at which taxicabs will remain while not in actual service;

(5) A binder or policy for commercial liability insurance in the single limit amount of $300,000.00 bodily injury and property damage;

(6) The experience of the applicant in the business and a statement of proposed rates;

(7) A statement, which it shall be the responsibility of the applicant to prove to the council in writing, that public convenience and necessity for an additional taxicab service or vehicle service for hire exists;

(8) A copy of a current, valid Texas driver's license of every operator of every taxicab or vehicle service for hire that operates within the city limits to which the application will apply;

(9) The signature of the applicant verifying information submitted for government approval and shall be considered a government document.

(b) A new application or amendment shall be filed promptly if and when any changes have occurred in the information then on file with the city and set forth on the license application.

(c) As to taxicabs only, before the city secretary shall issue a license, a certificate declaring that public convenience and necessity require the issuance of such license shall first be obtained from the city manager. The number of taxicabs authorized to operate in the

city and for which certificate of public convenience and necessity may be issued under this article shall be based upon the public convenience and necessity as found and determined by the city manager.

(d) A license issued under this article shall be non-reassignable. A license issued under this article may be revoked by the city council at any time it shall appear to council that the licensee has violated any provision of this article, or for other good cause.

(e) No license shall be issued under this article unless and until the applicant has furnished copies of such insurance policies. Such policy shall contain a provision that the city shall be given at least 30 days' prior written notice of cancellation, nonrenewal or material change of the required insurance coverage. This action shall be evidenced by registered or certified mail.

(f) The owner or operator of each taxicab or vehicle service for hire shall post in a conspicuous place on the inside of each vehicle a card showing the rates charged and the owner or operator may not charge an amount in excess of the rates so displayed. Such rates shall correspond with the rates furnished to the city secretary annually.
(Code 1996, § 4.11.003; Ord. No. O-24-08, 9-2-2008)

Sec. 6-273. License fees; renewal.

(a) At the time of original issuance of a license, the licensee shall pay to the city secretary the sum as provided in the city fee schedule, regardless of the number of vehicles covered by the license, provided that no license fee or license renewal fee is required for a license covering only a vehicle service for hire that has been licensed by the state railroad commission or the Federal Department of Transportation.

(b) A license shall be valid for one year. Thereafter, the licensee shall renew such license each year by:

(1) Paying a sum as provided in the city fee schedule for the renewal, subject to the exemption from fees referenced in subsection (a) of this section;

(2) Furnishing the city copies of the insurance policies required under this article with a 30-day prior written cancellation/change notice;

(3) As to taxicabs only, furnishing the city a statement of rates, unless the city council has adopted a rate schedule by ordinance applicable to all taxicabs in the city;

(4) Providing proof of a valid Texas driver's license of all operators of any vehicle service for hire to which this license will apply.

(c) Fees for city permits, open stands and other fees shall be as provided in the city fee schedule.
(Code 1996, § 4.11.004; Ord. No. O-24-08, 9-2-2008)

Sec. 6-274. Required vehicle for hire identification.

(a) The owner or driver of a vehicle for hire shall obtain a decal, indicating the vehicle's authority to operate, from the city. Such decal shall indicate a period of time in which the taxicab is authorized to operate within the city. A decal must be attached to the lower right corner of the front windshield of the vehicle. A decal assigned to one person is not transferable to another without prior written consent of the city.

(b) Each operator shall obtain a city identification card prior to operation of a vehicle for hire.
(Code 1996, § 4.11.005; Ord. No. O-24-08, 9-2-2008)

Sec. 6-275. Vehicle maintenance requirements.

(a) Each vehicle for hire shall comply with all equipment and safety standards contained in applicable state or local law. No vehicle for hire shall be operated with more passengers than the manufacturer's recommendations for the maximum number of occupants.

(b) Each vehicle for hire shall be regularly maintained in good operating condition and such maintenance records shall be business records subject to inspection by the city.

(c) Each vehicle for hire shall be inspected and registered and display current inspection and registration certificates as required by applicable state law.
(Code 1996, § 4.11.006; Ord. No. O-24-08, 9-2-2008)

Sec. 6-276. City not liable; indemnity.

(a) The city shall not be liable to any person whatsoever for damages arising out of the operation or ownership of any vehicle for hire, or arising out of the enforcement, or lack of enforcement, of this article.

(b) The regulation of vehicles for hire is a governmental function.

(c) The owner and operator of every vehicle for hire business operated on the streets of the city, whether licensed under this article or not, shall indemnify and save the city harmless from all liabilities arising out of the ownership or operation of any such vehicles, even though it be alleged, or even proved, that city negligence caused (in whole or in part) such liability. This subsection is a part of every license whether stated therein or not.
(Code 1996, § 4.11.007; Ord. No. O-24-08, 9-2-2008)

Sec. 6-277. Refusal to grant license.

(a) If any of the representations in any application filed under this article are found to be false or fraudulent, such application may be refused.

(b) The city council shall have and hereby reserves the right to determine whether additional vehicle for hire service is required for efficiently and properly meeting and serving public interests and necessity in the city, and without other cause existing, to refuse any application filed unless the council decides that the granting of same will serve public convenience and necessity.

(c) The city council may revoke or refuse to grant a license where the license holder has committed numerous offenses under this article such that the continued operation of the business is not in the best interest of the safety and welfare of the citizens of the city. In such event, the city council shall provide a written statement of the reasons for the revocation or refusal to grant or renew a license.
(Code 1996, § 4.11.008; Ord. No. O-24-08, 9-2-2008)

Sec. 6-278. Transfer of license prohibited; operation of taxi limited.

(a) No license issued under the terms of this article shall be transferred to any other person, nor shall such license be used for the operation of any vehicle for hire except the vehicles for hire for which the license is issued; provided, however, that in the event a vehicle for hire becomes disabled or is withdrawn from service for repairs, another vehicle may be substituted for such disabled vehicle only until same is repaired.

(b) No vehicle for hire for which a license has been issued under this article shall be operated by anyone except the licensee thereof or an employee of the licensee.
(Code 1996, § 4.11.009; Ord. No. O-24-08, 9-2-2008)

Sec. 6-279. Insurance.

Before the city shall issue any license under this article, or before any renewal of such license shall be granted, an applicant shall file with the city secretary and, thereafter, maintain in full force and effect a policy of commercial liability and property damage insurance executed by an insurance company duly authorized to do business in the state and performable in the county, insuring the public against any loss or damage that may result to any person or property from the operation of such vehicles in the minimum single limit amount of $300,000.00.
(Code 1996, § 4.11.010; Ord. No. O-24-08, 9-2-2008)

Sec. 6-280. Violations.

It is unlawful for any person in the city to:

(1) Falsify or omit any material information on the license application. The license application is a government record and, as such, falsification, tampering, and other offenses may be prosecuted as provided by state law;

(2) Operate a vehicle service for hire or taxicab without a current and valid decal for such vehicle;

(3) Fail to update any material information on the license application upon renewal;

(4) Fail or refuse to provide business records during regular business hours upon reasonable request;

(5) Assign or transfer the license;

(6) Fail to comply with applicable federal, state and local laws, regulations or ordinances that apply to the use and operation of vehicle service for hire or taxicabs;

(7) Own or operate a vehicle for hire on any of the streets of the city, advertising transportation services, unless a license for such vehicle has been issued by the city for the current calendar year;

(8) Hold a license under this article and license or allow an unlicensed driver to operate a vehicle service for hire or taxicab;

(9) Operate a vehicle for hire with an expired decal or with no decal affixed to it;

(10) Attach a decal to a vehicle not authorized to operate as a vehicle for hire;

(11) Forge, alter, or counterfeit a vehicle for hire decal required by this article;

(12) Possess a forged, altered, or counterfeited vehicle for hire decal required by this article;

(13) Display more than one vehicle for hire decal issued by the city on a vehicle at the same time; or

(14) Fail to display upon demand the city-issued identification card for operators of vehicles for hire.

(Code 1996, § 4.11.011; Ord. No. O-24-08, 9-2-2008)

Sec. 6-281. Penalty for violation.

(a) A person who violates a provision of this article, or who fails to perform an act required by this article, commits a misdemeanor offense. A person commits a separate offense each day or portion of a day during which a violation is committed, permitted, or continued.

(b) Every charge made, every trip made upon the street of this city, and answering a call or carrying a person not authorized by a vehicle for hire license shall constitute a separate offense.

(c) An offense under this article is punishable by a fine not to exceed $500.00.

(d) Allegation and evidence of a culpable mental state is not required for proof of an offense defined by this article.

(Code 1996, § 4.11.012; Ord. No. O-24-08, 9-2-2008)

Secs. 6-282—6-310. Reserved.

ARTICLE IX. GARAGE SALES

Sec. 6-311. 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 or home sale means the sale of personal property on the same lot as a residential dwelling within a residential zoning district and includes yard sales, estate sales, and moving sales. The term "garage or home sale" does not include the sale of retail merchandise sold for the benefit of a commercial retail establishment.

Nonprofit organization means a charitable, religious, educational, fraternal, governmental, or civic organization that is located in the city.
(Code 1996, § 4.12.001; Ord. No. O-12-13, 10-22-2013)

Sec. 6-312. Unlawful for commercial retailers to offer or sell merchandise at garage sale.

It is unlawful under this article for a commercial retail establishment (e.g., department stores, warehouses, etc.) to sell or offer for sale merchandise at a garage sale.
(Code 1996, § 4.12.002; Ord. No. O-12-13, 10-22-2013)

Sec. 6-313. Permit.

Prior to the commencement date of any garage or home sale, the person desiring to engage in the sale shall obtain from the city building inspector a permit for such sale. Any person desiring a permit under this article shall make application for such permit to the building inspector or code enforcement officer, setting forth the location, time and date of said sale, the name and address of the person holding said sale and the type of goods, wares and merchandise to be sold.
(Code 1996, § 4.12.003; Ord. No. O-12-13, 10-22-2013)

Sec. 6-314. Permit fee.

A nonrefundable permit fee in the amount provided in the city fee schedule shall accompany the permit application to cover the cost of administration of this article. For permits issued after sale has commenced, the permit fee shall be double.
(Code 1996, § 4.12.004; Ord. No. O-12-13, 10-22-2013)

Sec. 6-315. Number, duration of sales.

Two garage or home sales may be held per year per household covered by the permit application. No other such sales shall be held at that location during that year, which year consists of 365 days, between January 1 and December 31. Each sale may be held from

Thursday through Sunday, dawn to dusk, and no more than four consecutive days in duration. If the sale continues for more than one day, the days must be consecutive. No more than two permits shall be issued for any one premises during said year.
(Code 1996, § 4.12.005; Ord. No. O-12-13, 10-22-2013)

Sec. 6-316. Signs.

(a) The permittee shall be entitled to one on-premises sign placed one day prior to the garage sale. The permittee shall be entitled to post four additional signs off-premises for the purpose of notifying the public of the date, time and location of the sale; provided, however, no sign shall be placed in a public right-of-way, in any sight visibility triangle, on any utility pole, official sign, or tree, nor be in excess of three feet above ground level or exceed six square feet in area.

(b) All off-premises signs shall have the address and dates of the sale on the sign. The off-premises signs may be placed one day prior to the sale.

(c) All signs or notices posted in regard to any garage or home sale for which a permit is issued under the provisions of this article shall be located so as not to constitute an impairment to or obstruction of traffic. All signs must be removed within 24 hours after the sale has concluded.

(d) All signs shall be constructed from a weatherproof material. Cardboard and paper signs are prohibited.
(Code 1996, § 4.12.006; Ord. No. O-12-13, 10-22-2013)

Sec. 6-317. Sales by nonprofit organizations.

A nonprofit organization may obtain a permit to engage in a garage, yard, sidewalk or similar sale open to the public, conducted from or on any property located in any residential zone or at the premises of the organization. In the event that such sale is to be held at a site that is not owned by the nonprofit organization, the applicant shall furnish the city with satisfactory proof of its authority to conduct the sale at that site. The city may require proof of the nonprofit or similar status of the organization. The city may waive the permit fee for such sale.
(Code 1996, § 4.12.007; Ord. No. O-12-13, 10-22-2013)

Sec. 6-318. Penalties for violation.

Any person violating any of the provisions or terms of this article shall, upon conviction in the municipal court, be punished by a fine not to exceed $200.00 for each offense, and every day such violation shall continue shall be deemed to constitute a separate offense.
(Code 1996, § 4.12.008; Ord. No. O-12-13, 10-22-2013)

Chapter 7

RESERVED

Chapter 8

EMERGENCY MANAGEMENT AND SERVICES

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ARTICLE I. IN GENERAL

Sec. 8-1. Basic emergency operations plan adopted and incorporated by reference.

A basic emergency operations plan for the city has been approved and adopted for use by all city departments, agencies, and employees. A copy of the plan is on file in the office of the city secretary and is incorporated herein by reference.
(Code 1996, art. 9.08)

Sec. 8-2. Declaration of local state of disaster by mayor.

Pursuant to V.T.C.A., Government Code § 418.108, the mayor is hereby authorized to declare a local state of disaster when necessary to protect lives and property of the inhabitants of the city.
(Code 1996, § 1.14.009)

Secs. 8-3—8-22. Reserved.

ARTICLE II. EMS ORGANIZATION

Sec. 8-23. Composition; functions.

The operational emergency management organization of the city shall consist of the officers and employees of the city so designated by the director in the emergency management plan, as well as organized volunteer groups. The functions and duties of this organization shall be distributed among such officers and employees in accordance with the terms of the emergency management plan.
(Code 1996, § 1.14.001)

Sec. 8-24. Emergency management director; designation, powers, and duties.

(a) The city has established the office of emergency management director, which position shall be held by the mayor in accordance with state law. An emergency management coordinator may be appointed by and serve at the pleasure of the director.

(b) The director shall be responsible for a program of comprehensive emergency management within the city for carrying out the duties and responsibilities set forth in this article. The director may delegate authority for execution of these duties to the coordinator, but ultimate responsibility for such execution shall remain with the director.

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

(1) Conduct of an ongoing survey of actual or potential hazards which threaten life and property within the city and an ongoing program of identifying and requiring or recommending the implementation of measures which would tend to prevent the occurrence or reduce the impact of such hazards if disaster did occur;

(2) Supervision of the development and approval of an emergency management plan for the city and recommendation for adoption by the city council all mutual aid arrangements deemed necessary for the implementation of such plan;

(3) Authority to declare a local state of disaster which may not be continued or renewed for a period in excess of seven days except by or with the consent of the city council;

(4) Issuance of necessary proclamations, regulations or directives which are necessary for carrying out the purposes of this article;

(5) Direction and control of the operations of the emergency management organization, as well as the training of the emergency management personnel;

(6) Determination of all questions of authority and responsibility that may arise within the emergency management organization of the city;

(7) Maintenance of liaisons with other municipal, county, district, state, regional and federal emergency management organizations;

(8) Marshaling of all necessary personnel, equipment or supplies from any department of the city to aid in the carrying out of the provisions of the emergency management plan;

(9) Supervision of the drafting and execution of mutual aid agreements, in cooperation with the representatives of the state and of other local political subdivisions of the state, and the drafting and execution, if deemed desirable, of an agreement with the county in which the city is located and with other municipalities within the county, for the countywide coordination of emergency management efforts;

(10) Supervision of and final authorization for the procurement of all necessary supplies and equipment, including acceptance of private contributions, which may be offered for the purpose of improving emergency management within the city;

(11) Authorizing of agreements, after approval by the city attorney, for use of private property for public shelter and other purposes;

(12) Survey of the availability of existing personnel, equipment, supplies and services which could be used during a disaster, as provided for herein;

(13) Other requirements as specified in the Texas Disaster Act of 1975, V.T.C.A., Government Code ch. 418.

(d) Any order or proclamation declaring, continuing, or terminating a local state of disaster shall be given prompt and general publicity and shall be filed promptly with the city secretary. Also, all proclamations, regulations, or directives shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and, unless circumstances attendant on the disaster prevent or impede, promptly filed with the city secretary.
(Code 1996, § 1.14.002)

Sec. 8-25. Emergency management plan.

(a) A comprehensive emergency management plan shall be developed and maintained in a current state. The plan shall set forth the form of the organization, establish and designate divisions and functions, assign responsibilities, tasks, duties, and powers, and designate officers and employees to carry out the provisions of this article. As provided by state law, the plan shall follow the standards and criteria established by the state division of emergency management.

(b) When approved, it shall be the duty of all departments and agencies to perform the functions assigned by the plan and to maintain their portion of the plan in a current state of readiness at all times.

(c) The emergency management plan shall be considered supplementary to this article and have the effect of law during the time of a disaster.
(Code 1996, § 1.14.003)

Sec. 8-26. Interjurisdictional program.

The mayor is authorized to join with the county judges of Dallas County and Ellis County in the formation of an emergency management council for Dallas County and Ellis County and shall have the authority to cooperate in the preparation of a joint emergency management coordinator, as well as all powers necessary to participate in a countywide program of emergency management insofar as the program may affect the city.
(Code 1996, § 1.14.004)

Sec. 8-27. Override.

At all times when the orders, rules, and regulations made and promulgated pursuant to this article shall be in effect, they shall supersede and override all existing ordinances, orders, rules, and regulations insofar as the latter may be inconsistent therewith.
(Code 1996, § 1.14.005)

Sec. 8-28. Liability.

(a) This article is an exercise by the city of its governmental functions for the protection of the public peace, health, and safety and neither the city, the agents and representatives of the city, nor any individual, receiver, firm, partnership, corporation, association, or trustee,

nor any of the agents thereof, in good faith carrying out, complying with or attempting to comply with any order, rule, or regulation promulgated pursuant to the provisions of this article shall be liable for any damage sustained to persons as the result of the activity.

(b) Any person owning or controlling real estate or other premises who voluntarily and without compensation grants to the city a license or privilege, or otherwise permits the city to inspect, designate and use the whole or any part of such real estate or premises for the purpose of sheltering persons during an actual, impending or practice enemy attack or natural or human-made disaster shall, together with the person's successors in interest, if any, not be civilly liable for the death of, or injury to, any person on or about such real estate or premises under such license, privilege or other permission or for loss of, or damage to, the property of such person.
(Code 1996, § 1.14.006)

Sec. 8-29. Commitment of funds.

No person shall have the right to expend any public funds of the city in carrying out any emergency management activity authorized by this article without prior approval by the city council, nor shall any person have any right to bind the city by contract, agreement or otherwise without prior and specific approval of the city council unless during a declared disaster. During a declared disaster, the mayor may expend or commit public funds of the city when deemed prudent and necessary for the protection of health, life, or property.
(Code 1996, § 1.14.007)

Sec. 8-30. Offenses; penalties.

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

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

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

(d) Convictions for violations of the provisions of this article shall be punishable by a fine as provided for in the general penalty provision found in section 1-9.
(Code 1996, § 1.14.008)

Secs. 8-31—8-48. Reserved.

ARTICLE III. CITY AMBULANCE SERVICE

Sec. 8-49. Under supervision of fire chief.

The ambulance service equipment held by the city shall be utilized as an ambulance service for persons requesting or utilizing such service, which shall be subject to the further provision of this article, and such ambulance service is under the immediate supervision of the fire chief, and under the overall supervision of the city manager, and such equipment shall be maintained at locations under the direction of such fire chief, subject to the approval of the city manager.
(Code 1996, § 1.15.001)

Sec. 8-50. Charges for service.

Any person who utilizes the ambulance service of the city, whether such person requested the same or not, by reason of emergencies then existing, shall pay for the service the amounts as provided for in the city fee schedule.
(Code 1996, § 1.15.002)

Sec. 8-51. Failure to pay service.

Any person who utilizes the ambulance service of the city and who fails to pay for the service within 30 days after a statement of costs for such service has been mailed to the address of the user or parent, in the event a minor is the user, which address shall be sufficient for the purpose of this section, in accordance with the address which is supplied to the operator of the ambulance or which is obtained from the hospital where such person is delivered, shall be prima facie evidence by the copy of notice of statement as forwarded by the city for the purposes of this section.
(Code 1996, § 1.15.003)

Sec. 8-52. Notice of indebtedness.

It shall be prima facie evidence that the person utilizing such service did so with the intent to defraud upon a showing that such person was notified in writing of the indebtedness for such service, which notice in writing shall be by certified or registered mail to the address as is set forth in section 8-51 or by personal service of a peace officer of the city, and upon failure of such person to pay such indebtedness within ten days after receipt of notice. A copy of the caption of the ordinance from which this section is derived shall accompany the notice forwarded to the user of such services by certified or registered mail.
(Code 1996, § 1.15.004)

Sec. 8-53. Restrictions on use.

Ambulances owned and operated by the city shall be restricted to responding to emergency calls in its incorporated areas of Dallas and Ellis Counties. Ambulances owned and operated by the city shall not be used for the transport of nonemergency patients.
(Code 1996, § 1.15.005)

Secs. 8-54—8-79. Reserved.

ARTICLE IV. E-911 EMERGENCY SERVICE FEE

Sec. 8-80. Imposed; restrictions; collection records.

(a) The city has imposed on each telephone subscriber's local exchange access line, or its equivalent, in the city an E-911 emergency service fee, as provided in the city fee schedule. The fee is based upon the base rate for residential, business and business trunk lines as established by Southwestern Bell and approved by the public utility commission of the state. Such fees shall be used to provide for the purchase, installation, operating and maintenance expenses of E-911 service to be furnished pursuant to an application for service dated between the city and Southwestern Bell Telephone Company for E-911 services. (A copy of the application for service is on file in the office of the city manager.)

(b) The city manager is authorized to execute a contract on behalf of the city with Southwestern Bell Telephone Company pursuant to the provisions of this section, to provide for the implementation and maintenance of E-911 emergency service for all telephone subscribers located within the municipal boundaries of the city. Such contract shall contain no provision or term inconsistent with V.T.C.A., Health and Safety Code ch. 772, or approved by the public utility commission of the state.

(c) The E-911 emergency service fee imposed by this section shall be subject to the following restrictions and limitations: A fee may not be imposed upon more than 100 local exchange access lines per telephone subscriber per location; nor may a fee be imposed upon any coin operated or coin/card reader operated telephone equipment. The fee shall be separately stated on each subscriber's bill; and the fee may not exceed six percent of Southwestern Bell's base rate (recurring) charge, exclusive of all taxes, fees, license costs or similar charges, for local exchange access lines or trunks or their equivalent. Furthermore, the fee is uniformly applied to all local exchange access lines within the city limits.

(d) The fees imposed by this section may not be imposed until the E-911 service is fully operational within the city. Southwestern Bell shall be advised with a certified copy of this section at least 120 days prior to the desired first billing date of the fees imposed by this section. One or more public hearings shall be conducted prior to the amendment of the emergency service fees imposed by this section. In the event the city council desires to amend such fees, it will provide Southwestern Bell Telephone Company at least 90 days written notice prior to the desired implementation date of such amended fees.

(e) Southwestern Bell will provide the city with a list of subscribers who have specifically refused a pay the E-911 emergency service fee. Such list shall be provided not more than once per calendar year. Southwestern Bell will not be obligated to take any legal action to enforce the collection of any billed emergency service fees, nor will it be obligated to disconnect any subscriber's telephone service for failure to pay the emergency service fees.

(f) Southwestern Bell will retain records of the fees collected pursuant to this section. Such records will be retained for a period not to exceed two years from the date of collection. The city may, at its sole cost and expense, audit Southwestern Bell's records of the collected fees not more often than once annually.

(g) Southwestern Bell will remit the collected E-911 emergency service fees to the city on a periodic basis, not more frequently than monthly, on/or before the 60th day after the close of the month in which such fees have been collected. Southwestern Bell will retain, from its remittance to the city, two percent of the collected E-911 emergency service fees as its compensation for providing such collection.
(Code 1996, § 1.16.001)

Secs. 8-81—8-103. Reserved.

ARTICLE V. ALARM SYSTEMS

Sec. 8-104. Definitions.

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

Alarm site means a premises served by an alarm system or CATV alarm system.

Alarm system means a device or system which transmits a signal which is intended to summon an emergency service of the city. For the purposes of this definition, the categories of alarm systems are robbery, burglary and emergency assistance. The term "alarm system" includes an alarm that emits an audible signal on the exterior of the structure. The term "alarm system" does not mean an alarm installed on a vehicle, unless used for a habitation at a permanent site, or an alarm designed to alert only the inhabitants within the premises but does include a local alarm as defined in this section.

Alarm system company or *alarm system monitor* means any person or company that sells, installs, services, monitors or responds to burglar alarm signal devices, burglar alarms, television cameras, still cameras or any other electronic device used:

(1) To prevent or detect burglary, theft, shoplifting, pilferage or other losses of that type;

(2) To detect or prevent intrusion; or

(3) Primarily to detect and summon aid for other emergencies and includes persons relaying alarm notifications.

Appeal hearing official means the city manager or designee.

Burglar alarm notification means a notification that summons the police, which was initiated or triggered by an alarm system designed to respond to a stimulus characteristic of unauthorized intrusion.

CATV alarm system means a device or system that transmits or relays a signal by community antenna television cable, or indirectly, intended to summon emergency police services of the city.

Commercial unit means any business establishment.

Director means the police chief or authorized representative.

False burglar alarm notification means a notification of criminal activity reported to law enforcement:

(1) That is based solely on electronic information remotely received by an alarm system monitor;

(2) That is uncorroborated by eyewitness, video, or photographic evidence that an emergency exists; and

(3) Concerning which an agency of the city has verified that no emergency exists after an on-site inspection of the location from which the notification originated.

False robbery alarm notification means a robbery alarm notification to the police, when the responding police officer reasonably finds there is no evidence of a robbery or an attempted robber.

Financial institution means an institution required to have an alarm system by the provisions of the Bank Protection Act of 1968, 12 USC 1882.

Governmental unit means any agency of the federal or state government or a political subdivision of the state.

Local alarm means any alarm system, other than an alarm system monitored by an alarm system company, that results in notification to and response by members of the police department due to activation of audio or visual signaling devices.

Panel alarm means an alarm that is directly monitored by the public safety communications section of the police department.

Permit means a certificate, license, permit or other form of permission that authorizes a person to engage in an action.

Permit holder means the person who has received an alarm permit and is directly responsible for management and control of the alarm site. In any multiple-family dwelling unit (more than four dwelling units per building), the permit holder shall be the owner of the premises or representative.
(Code 1996, § 4.08.001; Ord. No. O-01-16, 1-11-2016)

Sec. 8-105. Permit required.

A person commits an offense if the person operates or causes to be operated an alarm system or a CATV alarm system without first obtaining an alarm permit from the director.

An alarm permit must be obtained by the person directly responsible for management and control of the alarm site. A separate permit is required for each alarm site. For purposes of this section, governmental units are exempt from all permit requirements.
(Code 1996, § 4.08.002; Ord. No. O-01-16, 1-11-2016)

Sec. 8-106. Permit application.

(a) Each application for a permit required under this article must contain the following information:

(1) The name, address and telephone number of the person who will be the permit holder and be responsible for the proper maintenance and operation of the general alarm system or CATV system and payment of the fees assessed under this article;

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

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

(4) Any business name or title used for the premises on which the alarm system is to be installed or operated;

(5) The name of two other persons who have agreed to respond to an alarm in the event the permit holder is not available;

(6) Any other information required by the director which is necessary for the director's enforcement of this article.

(b) Application for a permit under the provisions of this article constitutes a grant of approval for members of the police department to conduct a search for intruders or the fire department to conduct a search for injured or ill persons on the interior of any building on the alarm site found to be unsecured when responding to the alarm site as a result of an alarm notification.

(c) Any false statement or misrepresentation of a material fact made by an applicant for the purpose of obtaining an alarm permit or renewal, or while making a change thereto, shall be sufficient cause of refusal to grant, or revocation of, a permit under this article.

(d) Upon receipt of a completed application form for a permit, the director shall issue a permit unless there is cause to believe the equipment responsible for initiating an alarm will not be maintained or operated in accordance with this article or the applicant will not comply with each provision of this article. Burglary/robbery panel alarms will be limited to financial institutions.

(e) An alarm permit cannot be transferred to another person. However, the individual designated to respond to an alarm or relay an alarm may be changed. A permit holder must inform the director of any change that alters information listed on the permit application. No fee will be assessed for such changes.

(f) The director may refuse to permit particular systems which, in the director's discretion, have a history of unreliability.

(g) For purposes of this article, information contained in the permit application will be used for law enforcement purposes. All information contained in any permit application shall be deemed confidential, pursuant to V.T.C.A., Government Code ch. 552 and V.T.C.A., Occupations Code § 1702.284. To the extent allowed by law, the information contained in the permit application shall not be subject to public disclosure.
(Code 1996, § 4.08.003; Ord. No. O-01-16, 1-11-2016)

Sec. 8-107. Biennial permit fee.

Applicants shall pay a nonrefundable permit fee at the time application for a permit is made and then on the biennial anniversary thereafter in an amount provided in the city fee schedule. Permits are nontransferable.
(Code 1996, § 4.08.004; Ord. No. O-01-16, 1-11-2016)

Sec. 8-108. Denial or revocation of permit; appeal.

(a) If the director denies the issuance of a permit or revokes a permit, the director shall send to the applicant or permit holder by certified mail, return receipt requested, written notice of the director's action setting forth the reason for such action and advising the applicant or permit holder of the right of an appeal.

(b) The applicant, or permit holder, may appeal the decision of the director to the appeal hearing official by filing a written request for a hearing, setting forth the applicant's objections to the action of the director, within ten days after receipt of the notice from the director.

(c) The filing of a request for an appeal hearing with the appeal hearing official shall stay the action of the director in denying the issuance of or revocation of a permit until a final decision on the appeal is made by the appeal hearing official.
(Code 1996, § 4.08.005; Ord. No. O-01-16, 1-11-2016)

Sec. 8-109. Penalty for operation without a permit.

A person commits an offense if the person operates any alarm system as defined in this article without having a valid permit in accordance with the provisions of this article and, upon conviction in the municipal court of the city, shall be punished by a fine in accordance with the general penalty provision found in section 1-9. It shall be an affirmative defense to prosecution that, prior to any resultant court date for the violation, the violator obtains an alarm permit from the city.
(Code 1996, § 4.08.006; Ord. No. O-01-16, 1-11-2016)

Sec. 8-110. Responsibilities of permit holder.

A permit holder must:

(1) Adjust or modify the sensory mechanism of the alarm system to suppress false indications of force so that the alarm system will not be activated by impulses due to:

a. Transient pressure changes in water pipes;

b. Flashes of light;

c. Wind noise caused by the vibrating or rattling of doors or windows;

d. Vehicular noise adjacent to the installation; and

e. Other forces unrelated to actual emergencies;

(2) Maintain the premises containing an alarm system in a manner that ensures proper operation of the alarm system. It is the responsibility of the permit holder to properly maintain the alarm system to prevent false activations;

(3) Ensure that an alarm system that includes a local alarm, with an audible signaling device mounted on the exterior of a structure, is installed in such a manner whereby the audible signaling device may not be falsely activated or continuously reactivated for a period longer than a total of 30 minutes after initial activation. The occurrence of more than three such false activations in any 12-month period will result in revocation of the alarm permit until such time as the director has determined that the audible signaling device has either been rendered inoperable or repaired so as to comply with the provisions of this article. In the event the director suspends a permit under these circumstances, the permit holder may appeal the suspension as provided in section 8-108.

(Code 1996, § 4.08.007; Ord. No. O-01-16, 1-11-2016)

Sec. 8-111. Responsibilities of alarm system companies.

(a) A person who is engaged in the business of relaying alarm notifications to the city shall:

(1) Send notification of an alarm to the city by an individual. The reporting of alarms by means of a recorded message is prohibited;

(2) Keep the business premises locked and secured at all times when not open for business;

(3) Allow an inspection of the business premises by authorized agents of the director;

(4) Notify the city when:

a. A permit holder has initiated, disconnected or transferred service; and

b. A new person is listed as permit holder;

(5) Report alarms only to a telephone number designated by the city;

(6) Send alarm notifications to the city in a manner and form determined by the city;

(7) Maintain a sufficient staff to ensure that valid alarms are relayed immediately to the city;

(8) Inform customers of permit requirements; and

(9) Relay current permit numbers with all alarms.

(b) An alarm system company may be assessed a service fee in an amount set forth in the city fee schedule for each incorrect permit number relayed to the city with an alarm notification. Any service fee assessed under the provisions of this subsection must be paid within 30 days of receipt of notice that it has been assessed by the director. If the assessed fee becomes 90 days delinquent, a ten percent late charge will be added.
(Code 1996, § 4.08.008; Ord. No. O-01-16, 1-11-2016)

Sec. 8-112. Service fees for excessive false alarm notifications.

(a) *False burglar alarm notifications.* If the permit holder has had five false burglar alarm notifications in the 12-month period immediately preceding any false burglar alarm, the permit holder shall be assessed a service fee in an amount set forth in the city fee schedule for each subsequent false burglar alarm notification.

(b) *False robbery alarm notifications.* If the permit holder has had five false robbery alarm notifications in the 12-month period immediately preceding any false robbery alarm notification, the permit holder shall be assessed a service fee in an amount set forth in the city fee schedule for each subsequent false robbery alarm notification.

(c) *Payment of fees.* A permit holder shall pay assessed fees for any false alarm notification within ten days after notification from the director, by certified mail, that such fees have been assessed. Failure to pay fees may result in revocation of the alarm permit.

(d) *Governmental unit.* No service fee shall be assessed against a governmental unit.
(Code 1996, § 4.08.009; Ord. No. O-01-16, 1-11-2016)

Sec. 8-113. Protection of financial institutions.

(a) A financial institution may install, with the permission of the director, a panel alarm in the police department for the purpose of reporting burglaries and robberies. If such installation is made, all other provisions of this article must be met. The financial institution shall execute a letter of agreement with the city permitting the installation of all necessary equipment on an indicator panel located in the communications section of the police department. The installation must be accomplished at the financial institution's expense.

(b) The letter of agreement shall contain provisions granting a right of inspection to the director, requiring payment of an annual nonrefundable fee as provided for in the city fee schedule for each indicator installed. The rights of a financial institution under such a letter of agreement with the city are not transferable. In addition to the matters set forth in this section, the letter of agreement shall include, but not be limited to, the following:

(1) The director annually may inspect the alarm system at the alarm site and shall require necessary repairs or improvements. If the director finds that the signaling

device fails to comply with the requirements of this article, the director may terminate the letter of agreement and require the removal of equipment and indicators from the police department. Such removal shall be at the expense of the financial institution;

(2) The financial institution shall, at its expense, provide service for the alarm system at the request of the financial institution or the director. In no event shall the city become liable for service charges for repairs and maintenance for any such alarm system; or

(3) The financial institution may cancel its letter of agreement with the city at any time by giving written notice to the director. Upon giving such notice thereof, the financial institution shall promptly remove its equipment and indicators from the monitoring panel in the police department. Such removal shall be at the expense of the financial institution.

(Code 1996, § 4.08.010; Ord. No. O-01-16, 1-11-2016)

Sec. 8-114. Exclusion of certain alarm systems by owner.

(a) A property owner or agent of the property owner authorized to make decisions regarding the use of the property may elect to exclude the city from receiving an alarm signal by an alarm system located on the owner's property by filing such exclusion on a form provided by the city.

(b) If the police department response is requested to a signal from the alarm system in subsection (a) of this section and such alarm signal is a false alarm, a fee shall be imposed on the property owner in an amount set forth in the city fee schedule for each response.

(Code 1996, § 4.08.011; Ord. No. O-01-16, 1-11-2016)

Chapter 9

RESERVED

Chapter 10

ETHICS

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ARTICLE I. IN GENERAL

Sec. 10-1. Policy.

(a) *General policy statement.* It is the policy of the city that all city officials shall conduct themselves both inside and outside the city's service so as to give no occasion for distrust of their integrity, impartiality or devotion to the best interest of the city and the public trust which the city holds.

(b) *Appearance of impropriety.* Public service is a public trust. All city officials are stewards of the public trust. They have a responsibility to the citizens of the city to administer and enforce the city Charter and city ordinances. To ensure and enhance public confidence in city government, each city official must strive not only to maintain technical compliance with the principles of ethical conduct set forth in this article and in state law, but also to avoid the appearance of impropriety at all times.

(c) *Purpose.* This chapter has five purposes:

(1) To encourage ethical conduct on the part of city officials;

(2) To encourage public service with the city;

(3) To establish standards for ethical conduct for city officials by defining and prohibiting conduct that is incompatible with the interests of the city;

(4) To require disclosure by city officials of their economic interests that may conflict with the interests of the city; and

(5) To serve as a basis for disciplining those who fail to abide by its terms.

(d) *Intention.* This chapter is not intended to be used as a political weapon or to intimidate or embarrass affected persons. The officials charged with administration of this chapter shall administer it in a manner that avoids any such use of this chapter.
(Code 1996, § 1.23.001; Ord. No. O-12-19, 10-15-2019)

Sec. 10-2. Application.

(a) This chapter applies to members of the city council and all city boards, committees or commissions.

(b) This chapter applies to the conduct or actions of public officers which occur in whole or in part after October 15, 2019. This chapter applies to officers only while such persons hold their position or office.

(c) This chapter does not apply to employees, including those individuals employed on a full-time, part-time or internship basis, nor to independent contractors of the city. The standards of conduct for employees are governed by the city's personnel policies.
(Code 1996, § 1.23.002; Ord. No. O-12-19, 10-15-2019)

Sec. 10-3. Definitions.

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

Benefit means anything reasonably regarded as pecuniary gain or pecuniary advantage, including any money, real or personal property, purchase, sale, lease, contract, option, credit, loan, discount, service or other tangible or intangible thing of value. The term "benefit" includes a pecuniary gain or pecuniary advantage to any other person in whose welfare the beneficiary has a direct and substantial interest.

Board member means a member of a board or commission whose membership is wholly appointed by the city council.

Business entity means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, unincorporated association, or any other entity recognized by law, including a nonprofit organization or governmental entity.

Candidate means every person who declares for or files for any city office to be filled by election.

Compensation means any benefit received in return for labor, services, property or investment.

Economic interest includes a legal or equitable interest in real property, personal property, or intangible property, or a contractual right. Service by a city official as an officer, director, advisor, or other active participant in a nonprofit educational, religious, charitable, fraternal, or civic organization does not create, for that city official, an economic interest in the property of the organization. Ownership of an interest in a mutual or common investments fund that holds securities or other assets is not an economic interest in the securities or other assets unless the person in question participates in the management of the fund.

Employee means any person employed by the city, whether under civil service regulations or not, including those individuals on a part-time basis, but not including any independent contractor.

Family member means the spouse and any dependent children of any official or candidate.

Gift means a benefit received other than as compensation, but not including campaign contributions reported as required by state law.

Identification means for an individual, the person's name, street address, city and state. For any entity other than an individual, the term "identification" means the name, address, city and state of the entity's principal location or place of business; the type or nature of the entity's principal location or place of business; the type or nature of the entity; the date on which it came into existence; the state of incorporation, if any; and the names of the partners or officers of the entity.

Immediate family means the spouse, children, brothers, sisters and parents of an officer or employee.

Income means a benefit received.

Officer or *official* means the mayor or any member of the city council and any appointive member of a city board, commission or committee established by ordinance, charter or state law on a permanent basis.

Source of income means any business entity, employment, investment or activity which earned or produced income, including interest, dividends, royalties or rents.
(Code 1996, §§ 1.23.003, 1.23.014; Ord. No. O-12-19, 10-15-2019)

Secs. 10-4—10-24. Reserved.

ARTICLE II. POLICY AND RULES

Sec. 10-25. Prohibition against involvement in actions affecting economic interests.

(a) *General rule.* It is unlawful for a city official to take any official action that the official knows is likely to:

(1) Affect an economic interest of:

a. The official;

b. The official's immediate family member;

c. A member of the official's household;

d. An outside employer of the official or of the official's immediate family member;

e. A business entity in which the official or the official's immediate family member holds an economic interest;

f. A business entity for which the city official serves as an officer or director or in any other policy-making position; or

g. A person or business entity from whom the official or the official's immediate family member has solicited, received and not rejected, or accepted an offer of employment within the past 12 months; or

(2) Confer a benefit on the official, or deprive the official of a benefit, where the effect of the action on the official is distinguishable from the effect of the action on members of the public in general or a substantial segment of the public.

(b) *Meaning of affect.* In subsection (a)(1) of this section, an action is likely to affect an official's economic interest if it meets all of the following:

(1) The action is likely to have an effect on that interest, either positive or negative, that is distinguishable from its effect on members of the public in general or a substantial segment of the public;

(2) The effect of the action on that interest is direct, and not secondary or indirect. However, the action need not be the only producing cause of the effect in order for the effect to be direct;

(3) The effect on the interest must be more than insignificant or de minimis in nature or value.

In determining whether a person, entity or property is or was affected by vote or decision, it will not be necessary to prove the actual existence or occurrence of an economic effect or consequence if the effect or consequence would be reasonably expected to exist or occur.

(c) *Recusal and disclosure.* A city official whose conduct is prohibited by subsection (a) of this section or a state conflict of interest law must abstain from participation in the action in accordance with the following:

(1) Immediately refrain from further participation in the matter, including discussions with any persons likely to consider the matter, from the time the person discovers or reasonably should have discovered the matter triggering the recusal;

(2) Promptly file a form for disclosing the nature and extent of the interest triggering the recusal with the city secretary; and

(3) Promptly disclose the interest triggering the recusal, if the person is a member of a city board or commission, to other members of the board or commission, and leave the room in which the board or commission is meeting during the board or commission's discussion of, or voting on, the matter.

(Code 1996, § 1.23.004; Ord. No. O-12-19, 10-15-2019)

Sec. 10-26. Standards of conduct.

(a) *Representation and appearance at meetings.* No city officer shall knowingly:

(1) Appear before the body of which the officer is a member as a representative for any private person, including the officer or any immediate family member, or any group or interest;

(2) Represent, directly or indirectly, any private person, including the officer or any immediate family member, or any group or interest in any action or proceeding against the interests of the city or in any litigation in which the city or any department, agency, commission or board thereof is a party;

(3) Accept other employment or engage in outside activities incompatible with the full and proper discharge of city duties or that might impair independent judgment in the performance of city duties;

(4) Make a false statement of material fact at a public meeting.

This subsection shall not be construed to deprive an officer of the right to due process under the law, including the right to self-represent in a court proceeding.

(b) *Representation by councilmembers.* No city councilmember shall knowingly represent any private person, including the city councilmember or any immediate family member, or any group or interest in any matter before any department, agency, commission or board of the city, except that city councilmembers may represent their interests in their owner-occupied homesteads before a board, agency, commission or department of the city other than the city council.

(c) *Representation in municipal court.* In any action or proceeding in the municipal court which is instituted by a city officer in the course of official duties:

(1) No city councilmember shall knowingly represent any private person other than the person. If a city councilmember elects to have a trial in municipal court, the city council, without the participation of the affected city councilmember, will appoint a special judge to preside over the trial;

(2) No city officer shall knowingly represent any private person other than the person, including any immediate family member, or any group or interest.

(d) *Representation in land use and development matters.* A member of the planning and zoning commission shall not knowingly represent the member or any other person, group or interest in any matter before the development regulation variance board involving land use or development, and a member of the development regulation variance board shall not knowingly represent the member or any other person, group or interest in any matter before the planning and zoning commission involving land use or development. This subsection does not apply to members representing their interests in their owner-occupied homesteads.

(e) *Prohibited use of city position.* A city official shall not use the official position to unfairly advance or impede private interests, or to grant or secure, or attempt to grant or secure, for any person (including the person) any form of special consideration, treatment, exemption, or advantage beyond that which is lawfully available to other persons. A city official who represents to a person that the official may provide an advantage or impediment to the person based on the official's office or position violates this rule.
(Code 1996, § 1.23.005; Ord. No. O-12-19, 10-15-2019)

Sec. 10-27. Contracts with city; eligibility for appointment or election to office.

(a) No member of the city council shall have a financial interest in the sale to the city of any land, materials, supplies or service, outside of the person's position with the city. Any person having an interest shall be ineligible for election as a city councilmember, and any city councilmember who acquires an interest shall forfeit the office. Any violation of this subsection with the actual or constructive knowledge of the city councilmember shall render the contract voidable by the city manager or the city council.

(b) In this section, the term "sale to the city" includes a sale to city-sponsored entities and organizations subject to substantial control by the city in one or more of the following respects:

(1) All or a majority of the governing body of the entity or organization is appointed by the city council;

(2) The city provides more than one-half of the operating funds of the entity or organization;

(3) The city has approval authority over purchasing decisions made by the entity or organization;

(4) The city has approval authority over bonds or other indebtedness issued by the entity or organization; or

(5) The city has approval authority over the budget of the organization.

(c) This section does not apply to acquisition of property by the city as a result of eminent domain proceedings or the threat of eminent domain proceedings.
(Code 1996, § 1.23.006; Ord. No. O-12-19, 10-15-2019)

Sec. 10-28. Restrictions on former officials.

No former city officer or official shall, for a period of one year from the date of leaving office, knowingly represent, directly or indirectly, any private person or any group or interest in any action or proceeding against the interests of the city or in any litigation in which the city or any department, agency, commission, or board thereof is a party.
(Code 1996, § 1.23.007; Ord. No. O-12-19, 10-15-2019)

Sec. 10-29. Ethics review commission—Established, composition, terms of members.

An ethics review commission is established, to be composed of seven members, all of whom will reside in the city. Members of the commission will be appointed by a majority vote of the city council for staggered three-year terms and will serve until their respective successors are appointed.
(Code 1996, § 1.23.008; Ord. No. O-12-19, 10-15-2019)

Sec. 10-30. Ethics review commission—Organization; rules and regulations.

The ethics review commission each year will elect from its membership a chairperson and will promulgate its own rules and regulations as to its forms and procedures and maintain proper records of its opinions and proceedings.
(Code 1996, § 1.23.009; Ord. No. O-12-19, 10-15-2019)

Sec. 10-31. Ethics review commission—Authority and duties.

(a) *Review and recommendations.* The ethics review commission will meet at least once a year to review this article and may make recommendations to the city council.

(b) *Hearings.* The ethics review commission shall consider and conduct hearings on complaints of violations of this article and of state conflict of interest laws in accordance with section 10-32.

(c) *Advisory opinions.* The commission shall render advisory opinions on potential conflicts of interest or violations of this article at the request of a public official, subject to the terms of this article. The opinion must relate to an action proposed to be taken by the person requesting the opinion.

(d) *Opinions binding.* Any advisory opinion rendered by the commission to a person is binding on the commission in any subsequent complaint concerning the person about whom the opinion was requested and who acted in reliance on it in good faith, unless material facts were omitted or misstated by the person in connection with the opinion.
(Code 1996, § 1.23.010; Ord. No. O-12-19, 10-15-2019)

Sec. 10-32. Complaints; review and hearing; sanctions for violations.

(a) *Complaint procedure.*

(1) Any officer, official, or employee of the city who believes an official has violated a provision of this article or a state conflict of interest law may file a written complaint with the city attorney. The complaint must:

a. Identify the complainant and the person who allegedly committed the violation;

b. Provide a sufficient statement of the facts which, if true, would constitute a prima facie violation of a provision of this article or a state conflict of interest law;

c. Specify the provision of this article or a state conflict of interest law which is alleged to have been violated;

d. Identify sources of evidence, if any, that the complainant recommends should be considered by the commission; and

e. Be filed on a form prescribed by the commission.

(2) The city attorney will acknowledge the receipt of the complainant and provide a copy of the complaint to the commission and to the person accused.

(b) *Review of complaints by commission.*

(1) The commission shall review each complaint prior to conducting a hearing to determine whether the complaint is in proper form and alleges sufficient facts to constitute a prima facie violation of a provision of this article or a state conflict of interest law;

(2) If the commission determines that the complaint is defective in form or does not allege sufficient facts to constitute a prima facie violation of a provision of this article or a state conflict of interest law, the commission shall dismiss the complaint and provide notice, including the reasons for the dismissal, to the complainant and to the person accused;

(3) If the commission determines that the complaint is in proper form and alleges sufficient facts to constitute a prima facie violation of a provision of this article or a state conflict of interest law, the commission shall schedule a hearing on the complaint.

(c) *Hearings.*

(1) The commission will adopt rules of procedure to govern hearing on complaints. The rules will allow for the presentation of evidence by the complainant and the person accused, and cross examination of witnesses;

(2) The chairperson of the commission or any person acting in that capacity, and the recording secretary of the commission, are authorized to administer oaths to persons who testify at hearings conducted by the commission.

(d) *Ex parte communications.* It is unlawful for a person who has filed a complaint alleging a violation of this article or a state conflict of interest law by a city officer, or a person against whom such a complaint has been filed, to communicate verbally or in writing about the subject matter of the complaint with a member of the ethics review commission at any time other than during a public meeting of the commission. All such communications by such persons to the commission outside of a public meeting of the commission must be directed to the city attorney. The city attorney will collect all such communications and provide them to the commission with the agenda materials for the meeting at which the complaint is considered. The city attorney will make copies of these communications available to interested persons in accordance with state law.

(e) *Sanctions.* If the commission determines at the conclusion of a hearing that a violation has occurred, it may impose or recommend any of the following sanctions:

(1) A letter of notification, if the violation is clearly unintentional, or when the official's action was made in reliance on a written opinion of the city attorney. A letter of notification shall advise the official of any steps to be taken to avoid future violations;

(2) A letter of admonition, if the commission finds that the violation is minor and may have been unintentional but calls for a more substantial response than a letter of notification;

(3) A reprimand, if the commission finds that the violation:

a. Was minor and was committed knowingly, intentionally or in disregard of this article or a state conflict of interest law; or

b. Was serious and may have been unintentional.

A copy of any reprimand directed to an official shall be sent to the city council;

(4) A recommendation of suspension from office, if the commission finds that the violation:

a. Was serious and that was committed knowingly, intentionally or in disregard of this article or a state conflict of interest law; or

b. Was minor but similar to a previous violation by the official, and was committed knowingly, intentionally or in disregard of this article or a state conflict of interest law;

A recommendation of suspension of an official appointed by the city council shall be transmitted to the city council, and the council will have final authority on whether to impose a suspension;

(5) A recommendation for recall or removal from office, if the commission finds that the violation was serious and was committed knowingly, intentionally or in disregard of this article or a state conflict of interest law. A recommendation for recall of a city councilmember or removal of an official appointed by the city council will be forwarded to the city council;

(6) In addition to a sanction under subsections (e)(1) through (5) of this section, the commission may recommend to appropriate authorities that the official be prosecuted for a violation of this article or a state conflict of interest law.

(Code 1996, § 1.23.011; Ord. No. O-12-19, 10-15-2019)

Sec. 10-33. Special counsel.

An independent outside attorney approved by the city council, who does not otherwise represent the city, shall be retained to serve as special counsel to the ethics review commission in the following situations:

(1) When a complaint is filed alleging that the mayor or a member of the city council, or the city manager or city secretary violated this article or a state conflict of interest law;

(2) When an advisory opinion is requested under section 10-31(c) by the mayor or a member of the city council, or by the city manager or the city secretary.

(Code 1996, § 1.23.012; Ord. No. O-12-19, 10-15-2019)

Sec. 10-34. Discipline for violations.

The penalties prescribed herein do not limit the power of the city council to discipline its members for violations of this article, the home rule Charter, any ordinance of the city, or a state conflict of interest law.

(Code 1996, § 1.23.013; Ord. No. O-12-19, 10-15-2019)

Sec. 10-35. Financial disclosure statement required.

(a) Between March 15 and April 30 of each year, every city councilmember, and the city manager and city secretary shall file a sworn financial disclosure statement with the city secretary reflecting the financial situation of the official as of December 31 of the previous year and the official's financial activity between January 1 to December 31 of the previous year.

(b) A newly elected city councilmember and a newly appointed city manager or city secretary shall file a sworn financial disclosure statement with the city secretary within 30 days from the date the position is assumed. The statement shall reflect the financial condition as of the date of filing and financial activity for the previous 12 months.

(c) A candidate for city council shall file a sworn statement with the city secretary not later than ten days from the date the candidate files with the city secretary an application to be placed on the official ballot. This statement shall include:

(1) A list of any financial interest the person has, direct or indirect, in real property located within the corporate limits or within the extraterritorial jurisdiction of the city;

(2) A list of any financial interest the person has, direct or indirect, in any business entity located in the city or its extraterritorial jurisdiction or any business entity doing business with the city;

(3) The financial interests listed by the person shall include those held at any time during the 12 months preceding the date of filing for office and shall include any interest held by the candidate or a family member of the candidate.

(d) All board members shall file a disclosure statement with the city secretary within 30 days after their initial appointment, and thereafter between October 1 and October 31 of each year, regarding their relevant substantial interests in business entities and real property during the 12-month period preceding the date of the statement. The statement shall be on a form provided by the city. For purposes of this section, the term "business entity" and the determination of substantial interests in business entities and real property shall be as defined and determined under V.T.C.A., Local Government Code ch. 171.

(e) Any person filing a statement required by this section may include additional time periods.
(Code 1996, § 1.23.015; Ord. No. O-12-19, 10-15-2019)

Sec. 10-36. Information required on financial disclosure statement.

(a) Every person required to file a financial disclosure statement under section 10-35(a) or (c) shall include in that statement the following information:

(1) The person's name, the name of each family member and all names under which the person or family members do business;

(2) Identification of each source of income amounting to more than $100.00 received in the reporting periods by the person or family members, stating the name, address, and nature of the source of income and stating the amount of income received; and identification of each option held, owned, acquired or sold during the reporting period, stating the nature of the option, the amount of transaction, and identification of the other parties to the transaction;

(3) Identification of each business entity, nonprofit entity or union in which the person or family member:

a. Was a partner, manager, officer, member of the board of directors, proprietor or beneficiary, during the reporting period, stating the position held; or

b. Had an ownership interest of more than $100.00 at the fair market value at any time during the reporting period, stating the value and a description of that ownership interest, provided that, where the ownership interest includes or consists of shares of stock, the number of shares owned shall be stated together with the number of outstanding shares; and, if sold during the reporting period, a statement of the net gain or loss realized from the sale;

(4) Identification by street address, legal or lot-and-block description of all real property located within the city and its extraterritorial jurisdiction, together with its fair market value and present use, in which the person or family member has an interest as:

a. Fee simple owner;

b. Beneficial owner;

c. Partnership owner, naming the partners;

d. Joint owner with an individual or corporation, naming the individual or corporation;

e. Board member, officer or the owner of more than five percent of a corporation that has title to the real property, naming the corporation; or

f. A leaseholder, naming the person or corporation from whom the property is leased, and the amounts of annual rental;

The form shall note whether the person claims a homestead exemption on any real property owned by the person.

(5) Identification of persons, business entities or guarantors to whom the person or a family member owed a debt of more than $100.00 during the reporting period, stating the amount, but not including debts owed to persons related within the second degree of consanguinity or affinity and excluding loans to a political campaign which were reported as required by law. If this debt was repaid during the reporting period, the date and amount of repayment shall also be stated;

(6) This information is not privileged by law. Identification of persons, entities or guarantors who owed the person or a family member a debt of more than $100.00

during the reporting period, stating the amount, including all bonds, notes and other commercial paper held or owed by the person reporting or any family member during the reporting period, but not including debts owed by persons related within the second degree of consanguinity or affinity. If this debt was repaid during the reporting period, the date and amount of repayment shall also be stated;

(7) Identification of the source of each gift or accumulation of gifts from one source of more than $100.00 in value received by the person or family member, or received by another person for the use and benefit of the person or family member, within the reporting period, stating the amount; but this requirement does not include:

a. A gift received from a relative if given because of kinship; or

b. A gift received by will, by intestate succession or as distribution from an inter vivos or testamentary trust established by a spouse or ancestor;

(8) Provided this information is not privileged by law, if the person filing the statement is the owner of five percent or more of any business entity, the person shall list all customers from whom the entity received at least ten percent of its gross income during the reporting period;

(9) Identification of any financial interest in or any transaction during the reporting period with any holder of any franchise issued by the city, other than as a utility or franchise customer or patron, stating the nature and amount of interest and transaction, including transactions by any family member and any business entity in which the person filing the statement has an ownership interest of five percent or more.

(b) Except for the identification of transactions and amounts required by subsection (a)(9) of this section, any amount required to be reported under subsection (a) of this section may be reported by categories as follows:

(1) Category I: at least $100.00 but less than $10,000.00;

(2) Category II: at least $10,000.00 but less than $20,000.00;

(3) Category III: at least $20,000.00 but less than $50,000.00;

(4) Category IV: at least $50,000.00 but less than $75,000.00;

(5) Category V: at least $75,000.00 but less than $100,000.00; and

(6) Category VI: $100,000.00 or more, report to the nearest $100,000.00.

(Code 1996, § 1.23.016; Ord. No. O-12-19, 10-15-2019)

Sec. 10-37. Retention of statements and inspection.

(a) The city secretary shall maintain all statements required to be filed with the city clerk under section 10-35 as public records and shall retain them for a period of three years, after which the statements will be returned to the person filing them or will be destroyed.

(b) The financial disclosure statement file maintained by the city secretary under this section shall be kept in alphabetical order for each year in which statements are filed. This file is open to public inspection during normal hours. The city secretary shall maintain a list of all persons requesting to inspect these files, identifying the files inspected.
(Code 1996, § 1.23.017; Ord. No. O-12-19, 10-15-2019)

Sec. 10-38. Forms of statements.

Financial disclosure statements shall be filed on the form promulgated by the city secretary. The city secretary will provide a form to any person requesting one and, not less than ten days before the last day set for filing a statement by any person, shall send a form to the person.
(Code 1996, § 1.23.018; Ord. No. O-12-19, 10-15-2019)

Chapter 11

RESERVED

Chapter 12

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ARTICLE I. IN GENERAL

Sec. 12-1. Authority of city manager to provide central management and oversight.

The city manager has the right to appoint and remove the fire chief or the police chief, or to combine the management and oversight duties of the fire department and police department into one position, which position may be created and staffed by the city manager.
(Code 1996, § 5.02.005; Ord. No. 696-00, 12-4-2000)

Sec. 12-2. Arson reward.

(a) *Established.* The city will pay, out of the general fund of the city, the sum of $250.00 as a reward to any person giving information or otherwise causing the arrest and conviction of any person found guilty of committing the crime of arson within the corporate limits of the city. This reward is a standing offer. The city council shall be the sole and exclusive judge in determining whether a person is entitled to such reward and in determining the proration between persons where more than one person is entitled to such reward, and the conclusions of the city council in such cases shall be final.

(b) *Posting.* The city secretary is directed to cause placards measuring eight inches by 12 inches in size to be printed with the following language thereon: "Arson Reward. The City of Glenn Heights, Texas, offers a reward of $250.00 for the arrest and conviction of any person found guilty of committing the crime of arson within the corporate limits of the city. This reward is a standing offer and shall be paid out of the general fund of the city."
(Code 1996, §§ 5.07.001, 5.07.002)

Secs. 12-3—12-22. Reserved.

ARTICLE II. FIRE DEPARTMENT

Sec. 12-23. Created and established; purpose.

The city has created and established a fire department in and for the city for the purpose of preservation of life and property from the ravages of fire, injury and sudden illness. The fire department, which shall be known as the Glenn Heights Fire Department (GHFD), is and shall be a full, bona fide department of the city. The department head, entitled as "fire chief," shall be appointed by and immediately subordinate and accountable to the city manager or other person designated by the city manager.
(Code 1996, § 5.02.001; Ord. No. 696-00, 12-4-2000)

Sec. 12-24. Officers, members, and employees.

The GHFD shall be composed of volunteer members and paid employees, whether full-time or part-time. All members, whether volunteer or paid, shall obey all superior officers whether they are volunteer or paid and shall comply with all rules and regulations of the GHFD. All officers shall ensure fair and impartial direction, leadership and discipline

as administered to paid employees and volunteer members alike according to the department's rules and procedures. All officers shall be selected for promotion in a manner consistent with the city's ordinances and policies.
(Code 1996, § 5.02.002; Ord. No. 696-00, 12-4-2000)

Sec. 12-25. Fire chief's duties and powers generally.

(a) The fire chief, or other person designated by the city manager, shall be the chief executive officer of the GHFD and shall fulfill all responsibilities pertaining to the department, including, but not limited to, personnel management, planning and organization, budget preparation and control, establishing policies and procedures, training of personnel, vehicle and facility maintenance, fire service communications, inventory control, emergency scene management/coordination, fire prevention and education activities, and submitting necessary records and reports pertaining to the fire department.

(b) The fire chief, or other person designated by the city manager, shall have full authority to reprimand or suspend any member, whether paid or volunteer, who fails to comply with the department rules, regulations or procedures. The fire chief shall have the authority to recommend the employment and discharge of any member to the city manager.
(Code 1996, § 5.02.003; Ord. No. 696-00, 12-4-2000)

Sec. 12-26. Organization.

The fire chief, or other person designated by the city manager, shall organize the GHFD in a logical manner to facilitate the accomplishment of the department's goals and objectives in a safe, orderly and efficient manner. The fire chief, or other person designated by the city manager, may establish bureaus, divisions, sections, etc., as deemed appropriate, and shall designate officers to head each of those subunits and specify the chain of command of those officers as well as the duties of each. The fire chief, or other person designated by the city manager, shall designate the order of succession of the assistant fire chiefs, and shall establish a chain of command in case of an emergency.
(Code 1996, § 5.02.004; Ord. No. 696-00, 12-4-2000)

Secs. 12-27—12-55. Reserved.

ARTICLE III. FIRE REGULATIONS

DIVISION 1. GENERALLY

Sec. 12-56. Fire code and other publications adopted by reference.

The city has adopted in section 50-27 the 2021 edition of the International Fire Code, subject to amendments as provided in section 50-27. In addition to the International Fire Code, the city adopts the most recent version of the National Fire Prevention Association

99C Standard on Gas and Vacuum Systems (NFPA 99C), including all appendices, except as modified or amended in this article. A copy of NFPA 99C shall be on file in the office of the city secretary.
(Code 1996, § 5.03.001; Ord. No. O-04-18, 2-20-2018; Ord. No. O-13-24, § 7, 6-18-2024)

Sec. 12-57. Storage of certain flammable or combustible liquids prohibited.

The storage of flammable or combustible liquids in outside aboveground tanks is prohibited within the corporate city limits.
(Code 1996, § 5.03.004)

Sec. 12-58. Storage of liquefied petroleum gases restricted.

No bulk storage of liquefied petroleum gases and no storage of liquid petroleum gases for resale shall be allowed within the corporate city limits. Only that liquefied petroleum gas which is being consumed by the occupant for either personal or business needs will be allowed within the corporate city limits.
(Code 1996, § 5.03.005)

Sec. 12-59. Storage of explosives and blasting agents prohibited.

The limits referred to in Table 2703.1.1(1) of the adopted fire code, in which storage of explosives and blasting agents is limited to certain amounts per control area, is amended to disallow all storage of explosives and blasting agents within the corporate city limits.
(Code 1996, § 5.03.006; Ord. No. O-847-07, § 3, 7-16-2007)

Sec. 12-60. Appeals.

When the chief disapproves an application or refuses to grant a permit applied for, or when it is claimed that the provisions of the fire code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the chief to the city manager within 30 days from the date of the decision appealed.
(Code 1996, § 5.03.007)

Sec. 12-61. New materials, processes or occupancies which may require permits.

The city manager, the fire chief and the chief of the bureau of fire prevention shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies for which permits are required in addition to those now enumerated in the code. The chief of the bureau of fire prevention shall post such list in a conspicuous place in the chief's office and distribute copies thereof to interested persons.
(Code 1996, § 5.03.008)

Sec. 12-62. Outdoor burning.

Outdoor burning shall be done only in accordance with the rules and regulations of the state natural resource conservation commission.
(Code 1996, art. 5.05)

Sec. 12-63. Penalties.

(a) Any person who shall violate this article or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the city manager or by a court of competent jurisdiction, within the time fixed herein, shall severally for every such violation and noncompliance, respectively, be guilty of a misdemeanor, punishable by a fine as provided for in the general penalty provision found in section 1-9, or by imprisonment for not less than three days nor more than 30 days or by both such fine and imprisonment.

(b) The imposition of one penalty for any violation shall not excuse the violation or permit it to continue, and all such persons shall be required to correct or remedy such violations or defects within a reasonable time.

(c) When not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense.

(d) The application of the penalty set forth in subsection (a) of this section shall not be held to prevent the enforced removal of the prohibited conditions.
(Code 1996, § 5.03.009)

Secs. 12-64—12-84. Reserved.

DIVISION 2. FIREWORKS

Sec. 12-85. Definitions.

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

Fireworks means a composition or device designed for entertainment to produce a visible or audible effect by combustion, explosion, deflagration, or detonation and defined by 49 CFR 173.56(j) (1996).

Fireworks, 1.4G, means a small fireworks device, primarily designed to produce visible or audible effects by combustion, deflagration, or detonation, that complies with the construction, labeling, and chemical composition requirements of the United States Consumer Product Safety Commission in 16 CFR pt. 1507, and that is classified by the department in 49 CFR pt. 173.
(Code 1996, § 5.06.001)

Sec. 12-86. Fireworks prohibited.

It is unlawful, except as otherwise provided in this division, for any person to have, keep, store, discharge, use, manufacture, assemble, sell, handle, transport, receive, offer for sale, or have in possession with intent to sell, use, discharge, cause to be discharged, ignite, detonate, fire, or otherwise set in action, any fireworks of any description within the city limits and within an area immediately adjacent and contiguous to the city limits and extending for a distance of 5,000 feet.
(Code 1996, § 5.06.002)

Sec. 12-87. Exceptions.

This article shall not apply to the retail sale of Class C (1.4G) common fireworks and related activities on certain properties within 5,000 feet of the city limits, provided that:

(1) No fireworks warehouse is permitted;

(2) The retail locations are adjacent to and fronting on Interstate 35E and were issued fireworks retail permits as of June 1994, or before;

(3) Retail sales are permitted only from June 24 through July 4 and from December 20 through January 1 of each year;

(4) Retail fireworks sales are only allowed from fireworks buildings constructed in accordance with 28 Tex. Admin. Code § 34.382;

(5) All retail fireworks sales must be strictly in accordance with the general requirements as set forth in 28 Tex. Admin. Code § 34.817;

(6) No manufacturing or magazine facilities as defined by 28 Tex. Admin. Code §§ 34.801 through 34.832 shall be permitted.

(Code 1996, § 5.06.003)

Sec. 12-88. Fireworks as a public nuisance.

(a) The presence of any fireworks within the jurisdiction of the city and within an area immediately adjacent and contiguous to the city limits and extending for a distance of 5,000 feet in violation of this division is declared to be a nuisance.

(b) The fire chief is directed and required to seize and cause to be destroyed any fireworks found in violation of this section, and any police officer of the city or any other peace officer is empowered to stop the transportation of and detain any fireworks found being transported illegally or to close any building where any fireworks are found stored illegally until the fire chief can be notified in order that the fireworks may be seized and destroyed in accordance with the terms of this section.

(c) Notwithstanding any penal provision of this Code, the city attorney is authorized to file suit on behalf of the city and the fire chief, or both, for such injunctive relief as may be necessary to prevent the unlawful storage, transportation, keeping, or using of fireworks as prohibited herein, and to aid the fire chief in the discharge of the chief's duties and to

particularly prevent any person from interfering or attempting to interfere with the seizure and destruction of such fireworks. It shall not be necessary to obtain any such injunctive relief as a prerequisite to such seizure and destruction.

(d) The fire chief is authorized to enter any building where the unlawful presence of fireworks is suspected in order to inspect the same for the presence of such fireworks. If the fire chief or duly authorized assistant has probable cause to believe that fireworks are being stored in a building, the chief shall promptly enter the building for the purpose of inspection. It is the duty of the owners, lessees, their agents, or anyone else thereof to open and permit the entry of authorized inspectors to the building.
(Code 1996, § 5.06.004)

Sec. 12-89. Territorial applicability.

This division shall also be applicable and in force within the area immediately adjacent and contiguous to the city limits and extending for a distance outside the city limits for a total of 5,000 feet, and it is unlawful to do or perform any act in violation of this article within such area of 5,000 feet outside the city limits, provided that this division shall not apply within any portion of such 5,000-foot area which is contained within the territory of any other municipal corporation.
(Code 1996, § 5.06.005)

Sec. 12-90. Not necessary to negate exceptions.

In any prosecution for any violation of this division, it shall not be necessary for the prosecution to negate any provisions of exceptions, but the same may be raised by the defendant by way of defense.
(Code 1996, § 5.06.006)

Secs. 12-91—12-108. Reserved.

DIVISION 3. SMOKE DETECTORS

Sec. 12-109. Definitions.

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

Bedroom means any room which is designed with the intent that it be used for sleeping purposes.

Corridor means a passage which connects parts of the dwelling unit.

Dwelling unit means a home, mobile home, duplex unit, apartment unit, condominium unit, or any dwelling unit in a multi-unit residential structure, which is not owner-occupied. The term "dwelling unit" also means one or more rooms which are subject to a single rental agreement and which are rented to a tenant for use by persons as a permanent residence.

Landlord means the owner, lessor, or sublessor of a dwelling unit. A managing agent or leasing agent, whether residing or officing on site or off site, shall be considered the agent of the landlord for purposes of notice and other communications required or allowed under this division. Otherwise, a manager or agent of the landlord shall be considered a landlord only if the manager or agent purports to be the owner, lessor, or sublessor in the rental agreement.

Smoke detector means a device which is:

(1) Designed to detect visible or invisible products of combustion;

(2) Designed with an alarm audible to the bedrooms it serves;

(3) Powered by either battery, alternating current, or other power source;

(4) Tested and listed for use as a smoke detector by Underwriters Laboratories, Inc., Factory Mutual Research Corporation, or United States Testing Company, Inc.; and

(5) In good working order.

Tenant means any person who is entitled to occupy a dwelling unit to the exclusion of others and who is obligated to pay rent for the dwelling unit under a written or oral rental agreement.

Test of smoke detector means the performance of the act which the manufacturer of a smoke detector recommends for that particular model of smoke detector as a simple test of whether or not the smoke detector is in good working order.
(Code 1996, § 5.08.001)

Sec. 12-110. Location and installation standards.

(a) For all dwelling units, at least one smoke detector shall be installed by the landlord outside of each separate bedroom in the immediate vicinity of the bedroom, except that:

(1) Where the dwelling unit is designed with the intent that a single multipurpose room be used for dining, living, and sleeping purposes, the smoke detector shall be located inside the room rather than outside;

(2) Where the bedrooms are served by the same corridor, at least one smoke detector shall be installed in the corridor in the immediate vicinity of the bedrooms; and

(3) Where one or more bedrooms are located on a level above the cooking and living area, the smoke detector shall be placed at the center of the ceiling directly above the top of the stairway.

(b) A smoke detector required by this division shall be installed prior to commencement of possession of the dwelling unit by the tenant in accordance with the manufacturer's recommended procedures, subject to the following:

(1) A smoke detector shall be installed on a ceiling or wall;

(2) If installed on a ceiling, the smoke detector shall be installed no closer than six inches to a wall;

(3) If installed on a wall, the smoke detector shall be installed no closer than six inches to the ceiling and no further than 12 inches from the ceiling;

(4) A smoke detector may be located elsewhere if permitted by ordinance or by written authority of a city, county, or state fire marshal; and

(5) If a smoke detector is electrically operated rather than battery operated, the power system and installation procedures for the smoke detector shall comply with applicable provisions of this Code.

(Code 1996, § 5.08.002)

Sec. 12-111. Duty to install in existing units.

For all dwelling units constructed before the adoption of the ordinance from which this division is derived, at least one smoke detector shall be installed by the landlord in accordance with section 12-110. A smoke detector required by this section shall be installed in accordance with the location and installation procedure requirements of section 12-110(b).
(Code 1996, § 5.08.003)

Sec. 12-112. Duty to inspect and repair.

(a) Upon commencement of a tenant's possession of a dwelling unit containing a smoke detector, the landlord shall have a duty to test the smoke detector to verify that it is in good working order. Upon installation of a smoke detector by a landlord after commencement of the tenant's possession of a dwelling unit, the landlord shall have a duty to test the smoke detector at that time to verify that it is in good working order.

(b) During the term of the rental agreement or any renewal or extension thereof, the landlord shall have a duty to inspect and repair a smoke detector only if the tenant has given notice to the landlord of malfunction or made a request to the landlord for inspection or repair. The notice to the landlord need not be in writing unless written notice is required in the written rental agreement. The landlord shall comply with the tenant's request for inspection and repair within a reasonable time, considering the availability of material, labor, and utilities.

(c) A landlord shall not have a duty to inspect or repair a smoke detector if the damage or malfunction is caused by the tenant or the tenant's family, guests, or invitees during the term of the rental agreement or any renewal or extension period of the rental agreement;

provided, however, a landlord shall have a duty to repair or replace a smoke detector covered by this subsection if the tenant pays in advance for the reasonable cost of the repair or replacement, including labor, materials, taxes, and overhead.

(d) A landlord shall have satisfied the duty to inspect or repair a damaged or malfunctioning smoke detector if, after a test of the smoke detector, the test indicates that the smoke detector is in good working order.
(Code 1996, § 5.08.004)

Sec. 12-113. Duty to replace batteries.

After commencement of possession by the tenant of a dwelling unit, the landlord shall have no duty to provide replacement batteries for a battery-operated smoke detector which was in good working order according to a test of the smoke detector at the time of commencement of possession by the tenant.
(Code 1996, § 5.08.005)

Sec. 12-114. Exemptions.

This division shall not apply to dwelling units which are owner-occupied and not rented or leased to a tenant, in whole or in part, or nursing and convalescent homes licensed by the state department of health and certified to meet the life safety code under federal law.
(Code 1996, § 5.08.006)

Sec. 12-115. Waiver not permitted.

The landlord's duty of installation of smoke detectors under this division may not be waived.
(Code 1996, § 5.08.007)

Sec. 12-116. Required in hotels and motels.

Every guest room in an existing hotel or lodginghouse used for sleeping purposes shall be provided with smoke detectors conforming to building code standards.
(Code 1996, § 5.08.008)

Secs. 12-117—12-145. Reserved.

ARTICLE IV. FIRE MARSHAL

Sec. 12-146. Office created.

The city has established the office of fire marshal which is independent of other city departments. The office shall be filled by appointment by the city manager.
(Code 1996, § 5.04.001)

Sec. 12-147. Investigation.

(a) The fire marshal shall investigate the cause, origin, and circumstances of every fire occurring within the city by which property has been destroyed or damaged and shall especially make investigation as to whether such fire was the result of carelessness or design. Such investigation shall be begun within 24 hours, not including Sunday, of the occurrence of such fire. The fire marshal shall keep in the fire marshal's office a record of all fires, together with all facts, statistics, and circumstances, including the origin of the fires and the amount of the loss, which may be determined by the investigation required by this article.

(b) The fire marshal, when in the fire marshal's 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. If the fire marshal 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, the fire marshal 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, including a copy of all pertinent and material testimony taken in the case.

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

(d) Any witness who refuses to be sworn or who refuses to appear or testify, or who disobeys any lawful order of the fire marshal, or who fails or refuses to produce any book, paper, or document touching any matter under examination, or who is guilty of any contemptuous conduct during any of the proceedings of the fire marshal in the matter of the investigation or inquiry, after being summoned to give testimony in relation to any matter under investigation, 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 misdemeanor shall be fined as provided for in the general penalty provision found in section 1-9; provided, however, that any person so convicted shall have the right of appeal.

(e) All investigations held by or under the direction of the fire marshal may, in the fire marshal's discretion, be private, and persons other than those required to be present may be excluded from the place where such investigation is held, and witnesses may be kept separate and apart from each other and not allowed to communicate with each other until they have been examined.
(Code 1996, § 5.04.002)

Sec. 12-148. Inspections.

(a) The fire marshal shall have the authority at all times of day or night, when necessary, in the performance of the duties imposed upon the fire marshal 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. Should entry be denied, the fire marshal shall obtain a search warrant in order to attain entry.

(b) 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.

(c) It shall be the fire marshal's duty, monthly or more often, to enter upon and make or cause to be entered and made a thorough examination of all mercantile, manufacturing, and public buildings, together with the premises belonging thereto. When the fire marshal shall find any building or other structure which, for want of repair, or by reason of age or dilapidated condition, or for any cause, is especially liable to fire, and which is so situated as to endanger other buildings or property, or so occupied that fire would endanger persons or property therein, and when the fire marshal shall find an improper or dangerous arrangement of stoves, ranges, furnaces, or other heating appliances of any kind, including chimneys, flues, and pipes with which the same may be connected, or a dangerous arrangement of lighting devices or systems, or a dangerous or unlawful storage of explosives, compounds, petroleum, gasoline, kerosene, dangerous chemicals, vegetable products, ashes, combustibles, 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 firefighters or occupants, the fire marshal shall order the same to be removed or remedied, and such order shall be forthwith complied with by the owner or occupant of the building or premises.

(d) If the owner or occupant deems the owner or occupant aggrieved by an order of the fire marshal, the owner or occupant may, within five days, appeal to the mayor, who shall investigate the cause of the complaint and unless, by the mayor's authority, the order is revoked, such order shall remain in force and be forthwith complied with by the owner or occupant.

(e) At the end of each month the fire marshal shall report to the state fire marshal all existing hazardous conditions, together with separate reports on each fire in the city during the month.
(Code 1996, § 5.04.003)

Sec. 12-149. Responsibility of owner and occupant.

(a) 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 situated as to endanger buildings or property of others, or is especially liable to fire and which is so occupied that fire would endanger other persons or their property therein, shall be punished by a fine as provided for in the general penalty provision found in section 1-9.

(b) Any owner or occupant of any building or other structure or premises who shall keep or maintain the same with an improper arrangement of a stove, range, furnace, or other heating appliance of any kind whatever, including chimneys, flues, and pipes with which the same may be connected, so as to be dangerous in the matter of fire, 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, refuse, or with any other condition which shall be dangerous in character to the person, 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 firefighters or occupants of such building, structure, or premises other than the maintenance thereof, shall be punished by a fine as provided for in the general penalty provision found in section 1-9.
(Code 1996, § 5.04.004)

Sec. 12-150. Notice required.

No prosecution shall be brought under section 12-149 until the order provided for in section 12-148(c) is given, and the party notified shall fail or refuse to comply with the same.
(Code 1996, § 5.04.005)

Sec. 12-151. Penalties.

The penalties provided for herein shall be recovered by the city in the same manner as provided by law for the enforcement of fines, forfeitures, and punishments for offenses against the city.
(Code 1996, § 5.04.006)

Secs. 12-152—12-170. Reserved.

ARTICLE V. FIRE PROTECTION AND EMERGENCY SERVICES FEES

Sec. 12-171. Collection of fees.

(a) The chief of the fire department, or designee, shall collect all fees for fire prevention and protection services and for other public safety and emergency services rendered by the department. Such fees include, but are not limited to, the use of equipment, materials, maintenance and overhead expenses and costs of whatever nature which constitute full reimbursement to the fire department for services actually rendered and as hereinafter authorized.

(b) Within 30 days of the date of providing fire prevention and protection services or other public safety and emergency services, the chief of the fire department, or designee, shall submit an invoice for all costs, fees, charges and expenses related to providing such services, in the minimum amount found in the city fee schedule, to the customer, client, owner, designated agent, representative or insurance company who received, covered or otherwise benefited from these services.

(c) Any bills, fines or penalties, including, but not limited to, cleanup costs, fees or expenses that are imposed upon the city or the fire department by any local, state or federal agency, related to the rendering of fire protection or prevention services or for other public safety and emergency services, may be included in the billing or billed separately within 30 days of receipt.

(d) Any fees or expenses billed by the fire chief, or designee, shall be payable in full within 60 days of the date of the invoice. Failure to timely make payment may result in the accumulation of interest on any unpaid balances at the rate of ten percent per annum for any unpaid balances.
(Code 1996, § 5.09.001)

Sec. 12-172. Fee schedule.

Fees and expenses shall be billed in accordance with the city fee schedule.
(Code 1996, § 5.09.002)

Sec. 12-173. Enforcement.

The city may enforce the provisions of this article by any action allowed by law for the collection of any amounts due hereunder, including reasonable and necessary attorney's fees, costs and expenses, in a court of competent jurisdiction.
(Code 1996, § 5.09.003)

Chapter 13

RESERVED

Chapter 14

HEALTH AND PUBLIC WELFARE

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ARTICLE I. IN GENERAL

Sec. 14-1. Standards of care for city youth programs adopted.

Pursuant to V.T.C.A., Human Resources Code § 42.041(b)(14), the city council has adopted minimum standards of care for the city parks and recreation department's youth programs. The programs operated by the city are recreational in nature and are not licensed by the state as certified day care programs. A copy of the standards is on file in the office of the city secretary and provided by the parks and recreation department to the parents of each program participant. Parents of each program participant shall be informed that the program is not licensed by the state and is not advertised as a child care facility.
(Ord. No. O-09-24, 5-21-2024)

Secs. 14-2—14-20. Reserved.

ARTICLE II. SMOKING IN PUBLIC PLACES

Sec. 14-21. Definitions.

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

Administrative area means the area of an establishment not generally accessible to the public, including, but not limited to, individual offices, stockrooms, employee lounges, or meeting rooms.

Bar means an establishment which has more than 51 percent of its annual gross sales from alcoholic beverages and which is devoted to the serving of alcoholic beverages pursuant to state law for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of such beverages and where minors are not allowed admittance unless accompanied by a parent or legal guardian. Food establishments that contain a bar are not considered a bar.

Business means:

(1) A sole proprietorship, partnership, joint venture, corporation, or other business entity, either for-profit or not-for-profit, including retail establishments where goods or services are sold;

(2) Professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered; and

(3) Private clubs.

Conspicuous means of a size and contrast that is clearly visible and legible to the general public and unobstructed from view.

Director means the director of the department designated by the city manager to enforce and administer this article, or the director's designated representative.

Electronic cigarette or *e-cigarette* means any electronic or mechanical device usually composed of a mouthpiece, heating element or atomizer, battery, and electronic circuits that provides, or is manufactured to provide, a vapor or gas derived from liquid nicotine or other substances delivered or deliverable to the user to inhale in simulation of smoking. The term "electronic cigarette" includes every version and type of such devices, whether they are manufactured or marketed as electronic cigarettes, e-cigarettes, electronic cigars, e-cigars, electronic pipes, e-pipes, electronic vaping device, mechanical PVs, electronic nicotine delivery system, or other similar device under any other product name or description.

Employee means a person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and a person who volunteers services for a nonprofit entity.

Employer means a person, business, partnership, association, corporation, including a municipal corporation, trust, or nonprofit entity that employs the services of one or more individual persons.

Enclosed area means all space between a floor and a ceiling that is bounded on at least two sides by walls, doorways, or windows, whether open or closed. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent and whether or not containing openings of any kind.

Food service establishment or restaurant means an eating establishment, including, but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term "restaurant" shall include a bar area within the restaurant.

Health care facility means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including, but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, long-term care facilities, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, psychiatrists, dentists, and all specialists within these professions. The term "health care facility" shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.

Hospital means an institution that provides medical, surgical and overnight facilities for patients.

Liquid nicotine means any liquid product composed either in whole or in part of nicotine, propylene glycol or any other substance and manufactured for use with electronic cigarettes or e-cigarettes.

Motion picture theater means any theater engaged in the business of exhibiting motion pictures to the public.

Place of employment means an area under the control of a public or private employer, including, but not limited to, work areas, private offices, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways, construction sites, temporary offices, and vehicles. A private residence is not a place of employment unless it is used as a child care, adult day care, or health care facility.

Playground means any park or recreational area designed in part to be used by children that has play or sports equipment installed or that has been designated or landscaped for play or sports activities, or any similar facility located on public or private school grounds or on city grounds.

Private club means an organization, whether incorporated or not, which is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain, and which only sells alcoholic beverages incidental to its operation. The affairs and management of the organization are conducted by a board of directors, executive committee, or similar body chosen by the members at an annual meeting. The organization has established bylaws or a constitution to govern its activities. The organization has been granted an exemption from the payment of federal income tax as a club under 26 USC 501.

Public business means any deliberation between a quorum of members of any board, commission, department, committee, or agency within the executive or legislative department of the state, or the city council, or any board or commission of the city council, or any board or commission of the city, at which any public business or public policy is discussed or considered, or at which any formal action is taken.

Public place or area means an area to which the public is invited or in which the public is permitted, including, but not limited to, bars, educational facilities, financial institutions, gaming facilities, health care facilities, hotels and motels, laundromats, parking structures, public transportation vehicles and facilities to include all ticketing, boarding, and waiting areas, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports arenas, theaters, and waiting rooms. A private residence is not a public place unless it is used as a child care, adult day care, or health care facility.

Public service area means any area to which the general public routinely has access for city services or which is designated a public service area in a written policy prepared in compliance with this article.

Retail or service establishment means any establishment which sells goods or services to the general public, including, but not limited to, department stores, grocery stores, liquor stores, banks, gasoline service stations, drugstores, theaters, stadiums, auditoriums and movie houses.

Retail tobacco store or *tobacco store* means a retail store where 75 percent of quarterly sales are from tobacco products and accessories, to include electronic or digital cigarettes, and in which the sale of other products is merely incidental.

Service line means an indoor or outdoor line in which one or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money, including, but not limited to, ATM lines, concert lines, food vendor lines, movie ticket lines, and sporting event lines.

Shopping mall means an enclosed or unenclosed public walkway or hall area that serves to connect retail or professional establishments.

Smoking means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, including hookahs and marijuana, whether natural or synthetic, in any manner or in any form. The term "smoking" also includes the use of an electronic cigarette or electronic smoking device of any kind which creates an aerosol or vapor from the lighting, heating or burning of a tobacco product, liquid nicotine or any tobacco substitute, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this article.

Sports arena means a place where people assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events, including sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, and bowling alleys.

Vapor shop means a store used primarily for the sale of electronic or digital cigarettes or substances used in those or similar devices to produce inhalable vapors and in which the sale of other products is incidental and where 80 percent of quarterly sales are from the sale of these devices or substances.

Workplace means any enclosed area of a structure, or portion thereof, intended for occupancy by employees who provide primarily clerical, professional, or business services of a business entity, or which provides primarily clerical, professional or business services to other business entities, or to the public at that location.
(Code 1996, § 8.069.001; Ord. No. O-18-15, 12-8-2015)

Sec. 14-22. Applicability of article to city-owned facilities and property.

All enclosed areas, including buildings and vehicles owned, leased, or operated by the city, as well as all outdoor property adjacent to such buildings and under the control of the city, shall be subject to the provisions of this article.
(Code 1996, § 8.06.005; Ord. No. O-18-15, 12-8-2015)

Sec. 14-23. Smoking—Prohibited in enclosed public places.

Smoking shall be prohibited in all enclosed public places within the city, including, but not limited to, the following places:

(1) Galleries, libraries, and museums;

(2) Areas available to the general public in businesses and nonprofit entities patronized by the public, including, but not limited to, financial institutions, laundromats, professional offices, and retail service establishments;

(3) Child care and adult day care facilities;

(4) Convention facilities and meeting areas;

(5) Educational facilities, both public and private;

(6) Elevators and escalators;

(7) Gaming facilities, including, but not limited to, bowling and billiard facilities;

(8) Health care facilities and hospitals;

(9) Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, nursing homes, assisted living and independent living facilities, and other multiple-unit residential facilities;

(10) Parking structures;

(11) Polling places;

(12) Private and semi-private rooms in nursing homes;

(13) Public transportation vehicles, including buses and taxicabs, under the authority of the city, and ticket, boarding, and waiting areas of public transportation facilities, including bus, train, and airport facilities;

(14) Restrooms, lobbies, reception areas, hallways, and other common-use areas;

(15) Retail stores, except as provided in section 14-27(3);

(16) Rooms, chambers, places of meeting or public assembly, including school buildings, under the control of an agency, board, commission, committee or council of the city or a political subdivision of the state, to the extent the place is subject to the jurisdiction of the city;

(17) Service lines;

(18) Shopping malls;

(19) Sports arenas, including enclosed places in outdoor arenas;

(20) Theaters and other facilities primarily used for exhibiting motion pictures, stage dramas, lectures, musical recitals, or other similar performances;

(21) Enclosed areas in food establishments as provided in section 14-26; and

(22) Enclosed areas of workplaces as provided in section 14-25.

(Code 1996, § 8.06.002(a); Ord. No. O-18-15, 12-8-2015)

Sec. 14-24. Smoking—Prohibited in certain outdoor public places.

Smoking shall be prohibited in the following outdoor public places within the city:

(1) Within a reasonable distance of 50 feet outside entrances, operable windows, and ventilation systems of enclosed areas where smoking is prohibited, so as to prevent tobacco smoke from entering those areas;

(2) On all outdoor property that is adjacent to buildings owned, leased, or operated by the city, and that is under the control of the city;

(3) In outdoor shopping malls, including parking structures;

(4) In all outdoor arenas, stadiums, and amphitheaters. Smoking shall also be prohibited in, and within 50 feet of, bleachers and grandstands for use by spectators at sporting and other public events;

(5) In outdoor recreational areas, including parking lots;

(6) In city-owned public parks, including parking lots;

(7) In, and within 50 feet of, all outdoor playgrounds;

(8) In, and within 50 feet of, all outdoor public events;

(9) In, and within 50 feet of, all outdoor public transportation stations, platforms, and shelters under the authority of the city;

(10) In all outdoor service lines, including lines in which service is obtained by persons in vehicles, such as service that is provided by bank tellers, parking lot attendants, and toll takers. In lines in which service is obtained by persons in vehicles, smoking is prohibited by both pedestrians and persons in vehicles, but only within 50 feet of the point of service;

(11) In outdoor common areas of apartment buildings, condominiums, manufactured home/trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities, except in designated smoking areas, not to exceed 25 percent of the total outdoor common area, which must be located at least 50 feet outside entrances, operable windows, and ventilation systems of enclosed areas where smoking is prohibited;

(12) In outdoor areas of food establishments as provided in section 14-26; and

(13) In outdoor areas of workplaces as provided in section 14-25.

(Code 1996, § 8.06.002(b); Ord. No. O-18-15, 12-8-2015)

Sec. 14-25. Employer may restrict smoking in workplaces.

(a) An employer who owns, occupies, or controls a workplace may:

(1) Designate the workplace or portions thereof as non-smoking areas;

(2) Have and implement a written policy on smoking which conforms to this article;

(3) Make the policy available for inspection by employees and communicate the policy to all employees at least three weeks prior to its adoption;

(4) Prominently display reasonably sized signs that smoking is prohibited; and

(5) Provide facilities in sufficient numbers and in such locations as to be readily accessible for the extinguishment of smoking materials.

(b) An employer may not discharge, retaliate or discriminate against an employee who files a complaint or causes a proceeding to be instituted under or related to this article; testifies or will testify in a proceeding instituted under this article; or exercises on the person's own behalf or the behalf of others any right afforded by this article.

(c) A person commits an offense if the person smokes a cigarette, cigar, cigarillo, pipe, or electronic cigarette or possesses a burning tobacco, weed, or other plant product in any portion of the workplace which has been designated as a nonsmoking area or if the person violates any other provisions of an employer's written policy adopted, implemented, and maintained in accordance with this article.
(Code 1996, § 8.07.001; Ord. No. O-18-15, 12-8-2015)

Sec. 14-26. Smoking in food service establishments restricted.

(a) The owner or manager of any publicly or privately owned food service establishment, including, but not limited to, a coffee shop, cafeteria, short order café, luncheonette, sandwich shop, soda fountain, restaurant, or other similar eating establishment serving food, which has indoor or enclosed dining areas must provide separate indoor or enclosed dining areas for non-smoking and smoking patrons. A non-smoking area must:

(1) Be separated, where feasible, from smoking areas by a minimum of four feet of contiguous floor space;

(2) Be ventilated, where feasible, and situated so that air from the smoking area is not drawn into or across the non-smoking area;

(3) Be clearly designated by appropriate signs visible to patrons within the dining area indicating that the area is designated non-smoking area;

(4) Have ashtrays or other suitable containers for extinguishing smoking materials at the perimeter of the non-smoking area.

(b) Each food service establishment's entrance indicating that smoking is permitted in designated areas only shall:

(1) Have and implement a written policy on smoking which conforms to this article;

(2) Make the policy available for inspection by employees and the director or authorized representative; and

(3) Have a sign at the establishment's entrance indicating that smoking is permitted in designated areas only.

(c) Any non-dining areas of any food service establishment affected by this article to which patrons have general access, including, but not limited to, food order areas, food service areas, waiting areas, restrooms, and cashier areas, shall be designated as non-smoking areas.

(d) It shall be a defense to prosecution under this section that the smoking took place in a physically separated bar area of a food service establishment otherwise regulated by this section.

(e) A person commits an offenses if the person smokes a cigarette, cigar, cigarillo or pipe or possesses a burning tobacco, weed, or other plant product in an area of a food service establishment designated as non-smoking.
(Code 1996, § 8.06.006)

Sec. 14-27. Places smoking not prohibited.

Notwithstanding any other provision of this article to the contrary, the following areas shall be exempt from provisions of this article:

(1) Private residences, unless used as a childcare, adult day care, or health care facility;

(2) Private automobiles; and

(3) Retail tobacco stores and vapor shops for sampling of the products sold in such stores, so long as such smoking does not cause smoke or aerosol/vapor to cross into other areas where smoking is not allowed.
(Code 1996, § 8.06.003; Ord. No. O-18-15, 12-8-2015)

Sec. 14-28. Posting of signs and removal of ashtrays.

(a) The owner, operator, manager, or other person in control of a public place where smoking is prohibited by this article shall:

(1) Clearly and conspicuously post "no smoking" signs or the international "no smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) in that place;

(2) Clearly and conspicuously post at every entrance to that place a sign stating that smoking is prohibited or, in the case of outdoor places, clearly and conspicuously post "no smoking" signs in appropriate locations as determined by the director or an authorized designee;

(3) Clearly and conspicuously post on every vehicle that constitutes a place of employment under this article at least one sign, visible from the exterior of the vehicle, stating that smoking is prohibited; and

(4) Remove all ashtrays from any area where smoking is prohibited by this article, except for ashtrays displayed for sale and not for use on the premises.

(b) It shall be a defense to prosecution under this section that the place where the offense takes place does not have a sign displayed in accordance with this section.
(Code 1996, § 8.06.004; Ord. No. O-18-15, 12-8-2015)

Sec. 14-29. Enforcement.

(a) This article shall be enforced by the director.

(b) Notice of the provisions of this article shall be given to all applicants for a certificate of occupancy in the city.

(c) Any citizen who desires to register a complaint under this article may initiate enforcement with the director.

(d) An owner, manager, operator, or employee of place regulated by this article shall direct a person who is smoking in violation of this article to extinguish or turn off the product being smoked. If the person does not stop smoking, the owner, manager, operator, or employee shall refuse service and shall immediately ask the person to leave the premises. If the person in violation refuses to leave the premises, the owner, manager, operator, or employee shall contact a law enforcement agency.

(e) Notwithstanding any other provision of this article, an employee or private citizen may bring legal action to enforce this article.

(f) In addition to the remedies provided by the provisions of this section, the director or any person aggrieved by the failure of the owner, operator, manager, or other person in control of a public place to comply with the provisions of this article may apply for injunctive relief to enforce those provisions in any court of competent jurisdiction.
(Code 1996, § 8.06.007; Ord. No. O-18-15, 12-8-2015)

Sec. 14-30. Violations and penalties.

(a) A person who smokes in an area where smoking is prohibited by the provisions of this article shall be guilty of an infraction, punishable by a fine not to exceed $2,000.00 for each violation.

(b) Violation of this article is declared to be a public nuisance, which may be abated by the city director or authorized designee by restraining order, preliminary and permanent injunction, or other means provided for by law, and the city may take action to recover the costs of the nuisance abatement.

(c) Each day on which a violation of this article occurs shall be considered a separate and distinct violation.
(Code 1996, § 8.06.008; Ord. No. O-18-15, 12-8-2015)

Secs. 14-31—14-48. Reserved.

ARTICLE III. FOOD SERVICE REGULATIONS

DIVISION 1. GENERALLY

Sec. 14-49. State rules adopted.

The enforcement of this article shall be in accordance with the Texas Retail Food Rules, 25 Tex. Admin. Code §§ 228.1 through 228.278, which are adopted by reference as though fully set forth herein to the extent applicable within the city. All establishments subject to this article shall comply with the requirements of the adopted rules unless specifically exempt in this article.
(Code 1996, §§ 6.03.003, 6.03.004; Ord. No. O-11-23, 9-19-2023)

Sec. 14-50. Review of plans.

(a) *Submission.* When a food service establishment is constructed or extensively remodeled and when an existing structure is converted to use as a food service establishment, properly prepared plans and specifications for such construction, remodeling, or conversion shall be submitted to the city for review and approval before construction, remodeling or conversion is begun. The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans, and construction materials of work areas, and the type and model of proposed fixed equipment and facilities. The city shall approve the plans and specifications if they meet the requirements of this article. No food service establishment shall be constructed, extensively remodeled, or converted except in accordance with plans and specifications approved by the city.

(b) *Preoperational inspection.* When plans and specifications are required by subsection (a) of this section to be submitted to the city, the city shall inspect the food service establishment prior to the start of operations, to determine compliance with the approved plans and specifications and with the requirements of this article.
(Code 1996, § 6.03.011; Ord. No. O-11-23, 9-19-2023)

Sec. 14-51. Permit, license, or certificate required; display; transfer.

No person shall operate a food service establishment or temporary food establishment who does not have a valid permit, license, or certificate issued to the person by the city in accordance with this article. Only a person who complies with the requirements of this article shall be entitled to receive or retain such permit, license, or certificate. The fee for issuance of a permit, license, or certificate shall be in the amount provided in the city fee schedule. Permits, licenses, or certificates are not transferable. A valid permit, license, or certificate shall be posted in every food service establishment.
(Code 1996, § 6.03.001; Ord. No. O-11-23, 9-19-2023)

Sec. 14-52. Issuance.

(a) Any person desiring to operate a food service establishment, food sales, temporary vending of food shall make written application for a permit on forms provided by the city. Such application shall include the name and address of each applicant, the location and type of the proposed food being served or sold and the signature of the applicant.

(b) Prior to approval of an application for a permit, license, or certificate, the city shall inspect the proposed temporary food establishment to determine compliance with the requirements of this article. If the applicant has been convicted of a felony or misdemeanor, the application shall be considered in accordance with Vernon's Ann. C.C.P. ch. 62.

(c) The city shall issue a permit, license, or certificate to the applicant if its inspection reveals that the proposed temporary food establishment complies with the requirements of this article and the state regulations adopted herein.
(Code 1996, § 6.03.014; Ord. No. O-11-23, 9-19-2023)

Sec. 14-53. Suspension of permit, license, or certificate; notice and hearing.

(a) The city may, without warning, notice, or hearing, suspend any permit, license, or certificate to operate a food service establishment if the holder of the permit, license, or certificate does not comply with the requirements of this article, or if the operation of the establishment does not comply with the requirements of this article, or if the operation of the food service establishment otherwise constitutes a substantial hazard to public health, or if the holder has been convicted of a misdemeanor or felony, as provided in Vernon's Ann. C.C.P. ch. 62. Suspension is effective upon service of the notice required by this section. When a permit, license, or certificate is suspended, food service operations shall immediately cease.

(b) When a permit, license, or certificate is suspended, the holder of the permit, license, or certificate or the person in charge shall be notified in writing that the permit, license, or certificate is, upon service of the notice, immediately suspended and that an opportunity for hearing will be provided if a written request for hearing is filed with the city by the holder of the permit, license or certificate within ten days. If no written request for hearing is filed within ten days, the suspension is sustained. The city may end the suspension at any time if reasons for suspension no longer exist.

(c) The hearing provided for in this article shall be conducted by the city at a time and place designated by it. Any oral testimony given at a hearing shall be reported verbatim, and the presiding officer shall make provision for sufficient copies of the transcript. The city shall make a final finding based upon the complete hearing record and shall sustain, modify or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the holder of the permit, license, or certificate by the city.
(Code 1996, § 6.03.015; Ord. No. O-11-23, 9-19-2023)

Sec. 14-54. Revocation of permit, license, or certificate; notice and hearing.

(a) The city may, after providing opportunity for hearing, revoke a permit, license, or certificate for serious or repeated violations of any of the requirements of this article or for interference with the city in the performance of duty, or upon conviction of a felony or misdemeanor, as provided in Vernon's Ann. C.C.P. ch. 62.

(b) Prior to revocation, the city shall notify the holder in writing of the permit, license, or certificate, or the person in charge, of the specific reasons for which the permit, license, or certificate is to be revoked and that the permit, license, or certificate shall be revoked at the end of the ten days following service of such notice unless a written request for hearing in filed with the city by the holder of the permit, license, or certificate within such ten-day period.

(c) If no request for hearing is filed within the ten-day period, the revocation of the permit, license, or certificate becomes final.
(Code 1996, § 6.03.016; Ord. No. O-11-23, 9-19-2023)

Sec. 14-55. Application after revocation.

When a revocation of a permit, license, or certificate has become final, the holder of the revoked permit, license, or certificate may make written application for a new permit, license, or certificate.
(Code 1996, § 6.03.001; Ord. No. O-11-23, 9-19-2023)

Secs. 14-56—14-83. Reserved.

DIVISION 2. OPERATION STANDARDS AND SPECIFICATIONS

Sec. 14-84. Food manager certification requirements.

(a) No person or company shall operate a food establishment unless the establishment has a person on duty who has completed an approved state department of health food protection management class.

(b) A food establishment with multiple shifts shall ensure that a person in charge of each shift has completed an approved food protection management class.

(c) The person on duty and in charge shall make available to the city personnel the food manager certificate when inspections are conducted or when proof of class completion is required.

(d) The food manager certificate shall be valid for not less than five years, at which time, an approved food protection recertification class must be completed within 45 days after the expiration of the original certificate, and every five years thereafter.

(e) Temporary food vendors, mobile food vendors who sell only prepackaged foods, and small retail vendors who sell only prepackaged foods shall be exempt from the requirements of this section.
(Code 1996, § 6.03.009(a); Ord. No. O-11-23, 9-19-2023)

Sec. 14-85. Food employee requirements.

(a) All food employees shall complete a state-approved food handler class within 30 days of employment at a local food establishment. A food employee is any person employed in a food premises who, at any time, may be involved in the manufacturing, preparation, serving or packing of food for sale.

(b) Food handler cards shall be made available to city personnel when inspections are conducted or when proof of course completion is requested.

(c) Food handler cards shall be valid for not less than two years, at which time, the card must be renewed. Employees must renew the card within 45 days of the expiration of the original card and every two years thereafter.

(d) Any person not completing a food protection management class must complete an approved food handler class.

(e) A food handler class may not be taken in place of a required food protection management class.

(f) Mobile food vendors who sell only prepackaged foods shall be exempt from this section.

(g) Temporary food vendors shall be exempt from this section.
(Code 1996, § 6.03.009(b); Ord. No. O-11-23, 9-19-2023)

Sec. 14-86. Mobile vending unit requirements.

(a) A health permit is required for all mobile vending units. All mobile vending units will be inspected before a permit is issued and one time each six months. The applicant must provide proof of automobile insurance with the permit application.

(b) The hours of operation for mobile vending units shall be 7:00 a.m. until sunset.

(c) Operation of mobile vending units is prohibited in all city parks, within one block of a school one hour before or after school hours, or within 100 feet of a street intersection. No vendor shall remain stationary at one location for more than 15 minutes.

(d) Ice cream trucks shall have the following equipment:

(1) A sign on front and back of truck that states in three-inch lettering "watch for children";

(2) The company's name and phone number on the vehicle;

(3) A serving window shall be located on curbside only;

(4) Mirrors shall be provided on the truck with capability to see around the entire truck;

(5) Operable yellow/amber flashing lights on front and rear of truck;

(6) A truck rear bumper cover required to prevent children from jumping on the rear of the vehicle.

(e) Sound equipment shall be limited to music or human speech which is not audible more than 100 yards from the truck. Sound shall be no louder than 80 dBA and shall be turned off while the vehicle is stopped for vending.

(f) All drivers of vehicles vending products to children shall submit a copy of their driver's licenses to the city and obtain the permit described in this article before operating such vehicle.
(Code 1996, § 6.03.018; Ord. No. O-11-23, 9-19-2023)

Secs. 14-87—14-115. Reserved.

DIVISION 3. ADMINISTRATION AND ENFORCEMENT

Sec. 14-116. Service of notices.

A notice provided for in this article is properly served when it is delivered to the holder of the permit, license, or certificate, or the person in charge, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the holder of the permit, license, or certificate. A copy of the notice shall be filed in the records of the city.
(Code 1996, § 6.03.013; Ord. No. O-11-23, 9-19-2023)

Sec. 14-117. Examination and condemnation of food.

(a) Food may be examined or sampled by the city as often as necessary for enforcement of this article. The city may, upon written notice to the owner or person in charge, specifying with particularity the reasons therefor, place a hold order on any food which it believes is in violation of 25 Tex. Admin. Code §§ 228.1 through 228.278, or any section of this article.

(b) The city shall tag, label, or otherwise identify any food subject to the hold order. No food subject to a hold order shall be used, served, or moved from the establishment. The city shall permit storage of food under conditions specified in the hold order, unless storage is not possible without risk to the public health, in which case immediate destruction shall be ordered and accomplished.

(c) The hold order shall state that a request for hearing may be filed within ten days and that if no hearing is requested, the food shall be destroyed. If a request for hearing is received, the hearing shall be held within 20 days after receipt of this request.

(d) On the basis of evidence produced at that hearing, the hold order may be vacated or the owner or person in charge of the food may be directed by written order to denature or destroy such food or to bring it into compliance with the provisions of this article.
(Code 1996, § 6.03.010; Ord. No. O-11-23, 9-19-2023)

Sec. 14-118. Inspections.

(a) An inspection of each food service establishment shall be performed at least once every six months by the city. Additional inspections of each food service establishment shall be performed as often as necessary for the enforcement of this article.

(b) Representatives of the city, including any sanitarian employed by the health department of Dallas or Ellis County, after proper identification, shall be permitted to enter any food service establishment at any reasonable time for the purpose of making inspections to determine compliance with this article. The representatives shall be permitted to examine the records of the establishment to obtain information pertaining to food and supplies purchased, received, or used.

(c) All food service establishments, mobile food establishments and temporary food establishments shall be subject to an inspection of the establishment and vehicle as in the application; compliance with requirements for the issuance, suspension and revocation of any permits to operate; and compliance with the prohibition of the sale of unsound or mislabeled food or drink.
(Code 1996, §§ 6.03.002, 6.03.003, 6.03.005, 6.03.006; Ord. No. O-11-23, 9-19-2023)

Sec. 14-119. Inspection report.

(a) When an inspection of a food establishment is made, the findings shall be recorded on the inspection report form set out in 25 Tex. Admin. Code §§ 228.1 through 228.278. The inspection report form shall summarize the requirements of this article and shall set forth a weighted point value for each requirement. Inspectional remarks shall be written to reference, by section number, the section violated and shall state the correction to be made.

(b) The rating of the establishment shall be the total of the weighted point values for all violations, subtracted from 100. A copy of the completed inspection report form shall be furnished to the person in charge of the establishment at the conclusion of the inspection.

(c) The completed inspection report form is a public document that shall be made available for public disclosure to any person who requests it according to law.
(Code 1996, § 6.03.007; Ord. No. O-11-23, 9-19-2023)

Sec. 14-120. Correction of violations.

(a) The completed inspection report form shall specify a reasonable period of time for the corrections of the violations found, which shall not be later than 90 days from the date of inspection; and correction of the violations shall be accomplished within the period specified, in accordance with the following:

(1) If an imminent health hazard exists, such as complete lack of refrigeration or sewage backup into the establishment, the establishment shall immediately cease food service operations. Operations shall not be resumed until authorized by the city;

(2) All violations of four- or five-point weighted items shall be corrected as soon as possible but, in any event, within ten days following inspection. Within 15 days after the inspection, the holder of the permit, license, or certificate shall submit a written report to the city stating that the four- or five-point weighted violations have been corrected. A follow-up inspection shall be conducted to confirm correction;

(3) All one- or two-point weighted items shall be corrected as soon as possible but, in any event, by the time of the next routine inspection;

(4) When the rating score of the establishment exceeds 30 demerits, the establishment shall initiate corrective action on all identified violations within 48 hours. One or more re-inspections will be conducted at reasonable time intervals to ensure correction;

(5) In the case of temporary food service establishments all violations shall be corrected within 24 hours. If violations are not corrected within 24 hours, the establishment shall immediately cease food service operations until authorized to resume by the city.

(b) The inspection report shall state that failure to comply with any time limits for corrections may result in cessation of food service operations. An opportunity for hearing on the inspection findings or the time limitations or both will be provided if a written request is filed with the city within ten days following cessation of operations. If a request for hearing is received, a hearing shall be held within 20 days of receipt of the request.

(c) When a food service establishment is required under the provisions of this section to cease operations, it shall not resume operations until it is shown on reinspection that conditions responsible for the order to cease operations no longer exist. Opportunity for reinspection shall be offered within a reasonable time.
(Code 1996, § 6.03.001; Ord. No. O-11-23, 9-19-2023)

Sec. 14-121. Procedure when infection is suspected.

When the city has reasonable cause to suspect possible disease transmission by an employee of a food service establishment, it may secure a morbidity history of the suspected employee or make any other investigation as indicated and shall take appropriate action. The city may require any or all of the following measures:

(1) The immediate exclusion of the employee from employment in food establishments;

(2) The immediate closing of the food service establishment concerned until, in the opinion of the city, no further danger of disease outbreak exists;

(3) Restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease;

(4) Adequate medical and laboratory examination of the employee and of other employees and of their body discharges.
(Code 1996, § 6.03.012; Ord. No. O-11-23, 9-19-2023)

Sec. 14-122. Penalties; injunctive relief.

(a) Violations of this article constitute misdemeanors that, upon conviction, are subject to a fine not to exceed the sum of $2,000.00 for each offense. Every day the violation is continued shall constitute a separate offense. Allegation and evidence of culpable mental state are not required for proof of an offense.

(b) In addition to the penalties specified, the city may seek equitable relief to enjoin violations of this article in addition to other forms of relief under law.
(Code 1996, § 6.03.019; Ord. No. O-11-23, 9-19-2023)

Secs. 14-123—14-142. Reserved.

ARTICLE IV. DONATION BOXES

Sec. 14-143. Purpose.

The purpose of this article is to protect the public health, safety and welfare of city residents by requiring the permitting, regulation, and maintenance of donation boxes within the city limits. This article further serves to protect the aesthetic quality of the community and promote the tidy and ordered appearance of developed property by regulating donation boxes and ensuring that material is not allowed to accumulate outside of donation boxes. This article additionally serves to ensure that donation boxes do not pose a hazard to pedestrian and vehicular traffic. The provisions included herein are intended to provide efficient legal remedies for unpermitted or poorly maintained donation boxes that threaten the orderly development of the city.
(Code 1996, § 6.04.001; Ord. No. O-13-17, 9-12-2017)

Sec. 14-144. 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:

Administrator means the director of the department designated by the city manager to enforce and administer this article and the director's designees.

Donation box means a box, trailer, receptacle, container, accessory structure or other similar structure located outside of an enclosed building in a place accessible to the public and designed or intended for the collection and temporary storage of donated personal property.

Operator means a person who owns, operates or is otherwise in control of a donation box.

Property owner means the person or entity that is the owner of the real property upon which the donation box is located.
(Code 1996, § 6.04.002; Ord. No. O-13-17, 9-12-2017)

Sec. 14-145. Permit required; issuance.

Notwithstanding any other provision of law to the contrary, no person shall place, use or employ a donation box within the city limits unless they have a current permit for a period of one year issued under this article by the city upon application filed with the administrator. The city shall issue a permit to the operator of a donation box upon payment of the nonrefundable annual permit fee and submission of an annual permit application establishing that the donation box is in compliance with all requirements of this article and not in violation of or conflict with any other law.
(Code 1996, § 6.04.003; Ord. No. O-13-17, 9-12-2017)

Sec. 14-146. Permit fee.

A nonrefundable annual permit fee in the amount provided in the city fee schedule must be paid at the time of submission of the annual permit application. To the extent that any person may be exempt from paying this annual permit fee pursuant to any other law, that person must still annually apply for and secure a permit.
(Code 1996, § 6.04.004; Ord. No. O-13-17, 9-12-2017)

Sec. 14-147. Permit application requirements.

An application for a donation box permit under this article shall be submitted annually upon a form provided by the city and shall include:

(1) The address or other identification of the property where the donation box would be situated;

(2) A site plan showing where on the property the donation box will be located and specifically containing:

   a. The location and dimensions of all parcel boundaries;

   b. The location of all buildings;

   c. The proposed donation box location;

   d. The distance between the proposed donation box and parcel lines and buildings; and

   e. The location and dimensions of all existing and proposed driveways, garages, carports, parking spaces, maneuvering aisles, pavement and striping/marking;

(3) An elevation of the donation box showing the appearance, materials, and dimensions of all sides of the donation box;

(4) A description or diagram of the proposed locking mechanism of the donation box;

(5) The name, physical address, mailing address, and telephone number of the applicant and all owners of the donation box, as well as all persons which may share in or profit from any donations collected via the donation box;

(6) Written consent from the property owner to place the donation box on the property;

(7) A detailed maintenance and collection schedule for the donation box, which collection will include removal of items and debris on and around the donation box; and

(8) Evidence of compliance with section 14-148.

(Code 1996, § 6.04.006; Ord. No. O-13-17, 9-12-2017)

Sec. 14-148. Donation box requirements.

All donation boxes located within the city limits must meet the following requirements:

(1) A donation box shall only be placed on a lot which contains a building that is occupied;

(2) A donation box shall only be placed on a lot within a retail or commercial zoning district;

(3) No more than one donation box may be permitted for placement on any one lot. In the case of a shopping center or office development that consists of multiple platted lots, the administrator shall treat the shopping center or office development as if it is one contiguous lot;

(4) A donation box shall be located so as not to interfere with visibility triangles, on-site vehicle or pedestrian circulation, landscaping, and required parking;

(5) A donation box shall be placed on a concrete or asphalt surface;

(6) A donation box shall not be placed in a required building setback, buffer yard, access easement, drainage easement, floodplain, utility easement or fire lane;

(7) No donation box shall be located in or impede access to any required parking or driveways, pedestrian routes, emergency vehicle routes, building ingress or egress, required disabled access routes, required easements, trash enclosure areas or access to trash bins or trash enclosures, or any place that would impede the functioning of exhaust, ventilation or fire extinguishing systems;

(8) A donation box shall not be placed within 200 feet of any residentially zoned property, said distance to be measured from lot line to lot line;

(9) No donation box shall be located closer than 200 feet from any other box, even if located on different tracts of land or lots;

(10) At least one parking space shall be required for use of persons accessing the donation box;

(11) A donation box shall be enclosed by use of a receiving door and locked so that the contents of the donation box may not be accessed by anyone other than those responsible for the retrieval of the contents;

(12) A donation box shall not cover a ground surface area of more than 50 square feet, nor be more than seven feet in height;

(13) Each donation box shall be screened from the nearest public street or right-of-way. If a donation box is located on a corner of a lot, then the box shall be screened on a minimum of two sides. Minimum screening shall consist of a seven-foot masonry wall. All screening shall be constructed to prevent the storage or placement of donations outside the donation box, with the screening wall itself being no more than two feet from the screened donation box;

(14) A donation box shall be constructed from metal material and be painted a solid color. No high-intensity or fluorescent colors shall be used for the box or associated signage;

(15) Each donation box shall clearly indicate in writing on the side of each box that all donations must fit into and be placed within the box.

(Code 1996, § 6.04.007; Ord. No. O-13-17, 9-12-2017)

Sec. 14-149. Maintenance and upkeep.

(a) The operator and the property owner shall be held jointly and severally liable and responsible for compliance with this section, for the maintenance, upkeep and servicing of the donation box, and for cleanup and removal of any donations left on the property outside.

(b) Each donation box shall be maintained in good working order and free from graffiti, damaged signs and notifications, peeling paint, rust, and broken parts or operating mechanisms.

(c) Donation boxes shall be serviced not less than weekly between 7:00 a.m. and 7:00 p.m. on weekdays and 10:00 a.m. and 6:00 p.m. on weekends. This service includes the maintenance of the donation box, the removal of collected material, and the abatement of any graffiti, litter, or nuisance condition in, on and around the donation box.

(d) The operator and property owner of each donation box shall ensure that each box is emptied of its contents periodically, in accordance with the maintenance and collection schedule submitted with the permit application for the donation box and more frequently if necessary, to prevent overflow of donated items into the area surrounding the donation box. In cases where items are found outside the donation box, whether on the ground around the donation box or on top of the donation box, the operator and property owner shall be found to be in violation of this article.

(e) The operator and property owner shall maintain, or cause to be maintained, the area within 20 feet of the donation box free from any junk, debris, overflow items, dumped materials, or other materials. The property owner and operator shall be responsible to the extent provided by law for the city's cost to abate any nuisance.

(f) The visual and structural integrity of the donation box must be maintained continuously.

(g) Each donation box shall at all times clearly and conspicuously display on the exterior of the donation box the name, address, and telephone number of the operator of the donation box and the permit number and its date of expiration as well as a statement that a copy of the permit application is on file with the city secretary.

(h) The operator shall maintain on file with the city an active email address and a 24-hour telephone service with recording capability for the public to register complaints.

(i) Any conditions that are in violation of this section must be remedied or abated within 48 hours of being reported to the operator or property owner.
(Code 1996, § 6.04.008; Ord. No. O-13-17, 9-12-2017)

Sec. 14-150. Violations; revocation of permit; removal of donation boxes.

In addition to any other penalties and remedies available under local, state, or federal law, the following penalties and remedies shall apply to violations of this article:

(1) The operator and property owner shall be given written notice of any conditions constituting a violation of this article. Any conditions that are in violation of this article and not remedied within 48 hours of receipt of written notice thereof shall result in revocation of the permit for the donation box at issue;

(2) The administrator shall have the right to revoke any permit issued hereunder if any of the grounds upon which the administrator may refuse to issue a permit is found by the administrator to exist. In addition, the failure of the operator or property owner to comply with the provisions of this article or other provisions of this Code or other law shall also constitute grounds for revocation of the permit. The administrator shall provide written notice to the operator, and property owner stating the specific grounds for revocation;

(3) Upon revocation, the donation box shall be removed from the property within 30 calendar days and, if not removed within this time period, the city may remove and dispose of the donation box and the operator and property owner will be jointly and severally liable for payment to the city of the reasonable and necessary costs of such removal and disposal. Upon revocation, the affected operator and property owner shall be prohibited from applying for a permit for a period of two years;

(4) In addition, any operator, property owner, or other person violating this article shall be punished by a fine not to exceed $500.00 for each offense. Every day a violation shall continue shall be deemed to constitute a separate offense.

(Code 1996, § 6.04.009; Ord. No. O-13-17, 9-12-2017)

Chapter 15

RESERVED

Chapter 16

HUMAN RELATIONS AND SOCIAL SERVICES

Article I. In General

Secs. 16-1—16-18. Reserved.

Article II. Fair Housing

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Sec. 16-20. Interpretation and effect.
Sec. 16-21. Fair housing administrator.
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Sec. 16-25. Exemptions and exclusions.
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ARTICLE I. IN GENERAL

Secs. 16-1—16-18. Reserved.

ARTICLE II. FAIR HOUSING

Sec. 16-19. 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:

Age means the calendar age of an individual 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.

Discriminatory housing practice means an act that is unlawful this article.

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 families or any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.

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

Major life activities means functions, such as, but not limited to, caring for oneself, 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 under the age of 18 years.

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

Physical or mental disability means any physical or mental impairment which substantially limits one or more major life activities. The term "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 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.
(Code 1996, § 4.07.001; Ord. No. 698-01, 3-19-2001)

Sec. 16-20. Interpretation and effect.

This article 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 USC 1691). All aggrieved parties shall retain the rights granted to them by title VIII of the Civil Rights Act of 1968, as amended, and the Federal Equal Credit Opportunity Act. In construing this article, 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.
(Code 1996, § 4.07.002; Ord. No. 698-01, 3-19-2001)

Sec. 16-21. Fair housing administrator.

The mayor shall appoint and the council shall confirm a fair housing administrator (hereinafter referred to as "administrator"), who shall have the responsibility for implementing this article. The administrator may delegate authority to investigate and conciliate complaints to other city employees under the administrator's direction.
(Code 1996, § 4.07.007; Ord. No. 698-01, 3-19-2001)

Sec. 16-22. Discrimination in the sale or rental of housing.

Except as exempted, it is unlawful for any person to:

(1) Refuse to sell or rent, after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, creed, sex, religion or national origin, physical or mental disability, marital status, parenthood or age;

(2) Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, creed, sex, religion or national origin, physical or mental disability, marital status, parenthood or age;

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

(4) Represent to any person because of race, color, creed, sex, religion or national origin, physical or mental disability, marital status, parenthood or age that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available;

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

(Code 1996, § 4.07.003; Ord. No. 698-01, 3-19-2001)

Sec. 16-23. Discrimination in the financing of housing.

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

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

(2) The race, color, creed, sex, religion or national origin, physical or mental disability, marital status, parenthood or age of the present or prospective owner, lessees, tenants, or occupants of the dwelling or dwellings for which such a loan or other financial assistance is to be made or given.

(Code 1996, § 4.07.004; Ord. No. 698-01, 3-19-2001)

Sec. 16-24. Discrimination in the provision of brokerage services.

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

(Code 1996, § 4.07.005; Ord. No. 698-01, 3-19-2001)

Sec. 16-25. Exemptions and exclusions.

(a) Nothing in this article shall apply to:

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

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

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

a. The sale or rental is made without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent or salesperson, 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, salesperson, or person;

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

c. The owner does not own more than three single-family houses at the time of the sale;

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

(b) If the owner does not reside in the house at the time of sale or was not the most recent resident of such house prior to the sale, the exemption granted by this subsection shall apply only with respect to one such sale within any 24-month period.

(c) Nothing in this article shall prohibit a religious organization, association, or society or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious association or society from limiting the sale, rental, or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, national origin, sex, mental or physical disability, marital status, parenthood or age.

(d) Nothing in this article shall prohibit a bona fide private club, not in fact open to the public, which as an incident to its primary purpose provides lodging 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 article 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, when such housing accommodation contains common lavatory, kitchen or similar facilities available for the use of all persons occupying such housing accommodation.

(f) Nothing in this article 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 or marital status.

(g) Nothing in this article shall bar a person who owns, operates or controls rental dwellings, whether located on the same property or on one or more contiguous parcels of property, from reserving any grouping of dwellings for the rental or lease to tenants with a minor child; 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 article. (Code 1996, § 4.07.006; Ord. No. 698-01, 3-19-2001)

Sec. 16-26. Complaints.

(a) Any person who claims to have been injured by a discriminatory housing practice who believes the person will be irrevocably injured by a discriminatory housing practice that has occurred or is occurring (hereinafter referred to as "person charging party") may file a complaint with the administrator. Such complaints shall be in writing and shall identify the person alleged to have committed or alleged to be committing a discriminatory housing practice and shall state the facts upon which the allegations of a discriminatory housing practice are based. The administrator shall prepare complaint forms and furnish them without charge to any person, upon request.

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

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

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

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

(f) All complaints shall be filed within 180 days following the occurrence of an alleged discriminatory housing practice. Upon the filing or referral of any complaint, the administrator shall provide notice of the complaint by furnishing a copy of such complaint to the persons named therein who allegedly committed or were threatening to commit an alleged discriminatory housing practice. The accused may file an answer to the complaint within 15 days of receipt of the written complaint.

(g) All complaints and answers shall be subscribed and sworn to before an officer authorized to administer oaths.
(Code 1996, § 4.07.008; Ord. No. 698-01, 3-19-2001)

Sec. 16-27. Investigation.

(a) Upon the filing or referral of a complaint as herein provided, the administrator shall cause to be made a prompt and full investigation of the matter stated in the complaint.

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

(c) During or after the investigation, but subsequent to the mailing of the notice of complaints, the administrator shall, if it appears that a discriminatory housing practice has occurred or is threatening to occur, attempt by informal endeavors to effect conciliation, including voluntary discontinuance of the discriminatory housing practice and adequate assurance of future voluntary compliance with the provisions of this article. Nothing said or done in the course of such informal endeavors may be made public by the administrator, by the complainant or by any other party to the proceedings without the written consent of all persons concerned.

(d) Upon completion of the investigation and informal endeavors at conciliation by the administrator, but within 30 days of the filing of the complaint with the administrator, if the efforts of the administrator to secure voluntary compliance have been unsuccessful, and if the administrator has made a determination that a discriminatory housing practice has in fact occurred, the administrator shall recommend to the city attorney that such violations be prosecuted in the municipal court. With such recommendations, the administrator shall refer the entire file to the city attorney. The city attorney shall, within 30 days after such referral, make a determination as to whether to proceed with prosecution of such complaint in municipal court. If the city attorney determines to prosecute, the city attorney shall institute a complaint and prosecute same to conclusion within 30 days after such determination or as soon thereafter as practicable.
(Code 1996, § 4.07.009; Ord. No. 698-01, 3-19-2001)

Sec. 16-28. Cumulative legal effect.

This article is cumulative in its legal effect and is not in lieu of any and all other legal remedies which the person aggrieved may pursue.
(Code 1996, § 4.07.010; Ord. No. 698-01, 3-19-2001)

Sec. 16-29. Unlawful intimidation.

It is unlawful for any person to harass, threaten, harm, damage or otherwise penalize any individual, group or business because they have complied with the provisions of this article, because they have exercised their rights under this article, or enjoyed the benefits of this article, or because they have made a charge, testified or assisted in any investigation or in any proceeding hereunder or have made any report to the administrator.
(Code 1996, § 4.07.011; Ord. No. 698-01, 3-19-2001)

Sec. 16-30. Cooperation with the Secretary of Housing and Urban Development.

The administrator and the city attorney are authorized to cooperate with the Secretary of Housing and Urban Development and the U.S. Attorney General pursuant to the provisions of title VII, Fair Housing Act of 1968, Public Law 90-284, and may render such service to the Secretary as they shall deem appropriate to further the policies of this article.
(Code 1996, § 4.07.012; Ord. No. 698-01, 3-19-2001)

Sec. 16-31. Education and public information.

In order to further the objectives of this article, the administrator may conduct educational and public information programs.
(Code 1996, § 4.07.013; Ord. No. 698-01, 3-19-2001)

Sec. 16-32. Penalties and other remedies.

(a) Any person, firm, or corporation violating any provision of this article shall be guilty of a misdemeanor and, upon conviction, shall be fined a sum not to exceed $300.00 for each violation. Each day a violation continues after the passage of 75 days from date of the filing of the initial complaint with the administrator shall constitute a separate and distinct offense.

(b) Any person, firm, or corporation violating any provision of this article may be enjoined by order of a court of competent jurisdiction, and this remedy is in addition to any other penalty provision.
(Code 1996, § 4.07.014; Ord. No. 698-01, 3-19-2001)

Chapter 17

RESERVED

Chapter 18

LAW ENFORCEMENT

Article I. In General

Secs. 18-1—18-18. Reserved.

Article II. Police Department

Sec. 18-19. Established.
Sec. 18-20. Department staffing and management.
Sec. 18-21. Authority of department personnel.
Sec. 18-22. Police code of conduct.
Secs. 18-23—18-47. Reserved.

Article III. Police Reserve Force

Sec. 18-48. Establishment; composition; compensation.
Sec. 18-49. Force to be supplementary.
Sec. 18-50. Police chief to control reserves.
Sec. 18-51. Training requirements.
Sec. 18-52. Political campaigning restricted; reserve officers not to hold public office.
Sec. 18-53. Termination of membership.
Sec. 18-54. Uniforms and badges.
Sec. 18-55. Weapons.
Sec. 18-56. Workers' compensation benefits.
Sec. 18-57. Disciplinary actions.

ARTICLE I. IN GENERAL

Secs. 18-1—18-18. Reserved.

ARTICLE II. POLICE DEPARTMENT

Sec. 18-19. Established.

The city has established a police department for the city, known as the Glenn Heights Police Department and referred to as GHPD in this chapter.
(Code 1996, § 9.05.001; Ord. No. 696-00, 12-4-2000)

Sec. 18-20. Department staffing and management.

(a) As provided by section 5.08 of the Charter, the city manager has authority to appoint and remove the fire chief or the police chief, or to combine the management and oversight duties of the fire department and police department into one position, which position may be created and staffed by the city manager.

(b) The police chief or other person designated by the city manager, shall have the authority to recommend the employment and discharge of personnel of the GHPD to the city manager. It shall be the responsibility and duty of the police chief, or other person designated by the city manager, to establish department policies, and the police chief shall have full authority to discipline and direct all members of the GHPD.
(Code 1996, §§ 9.05.002, 9.05.004; Ord. No. 696-00, 12-4-2000)

Sec. 18-21. Authority of department personnel.

The police chief, and the GHPD and its personnel, shall have all such powers, duties, immunities, and authority as are provided by state and federal law and the city council.
(Code 1996, § 9.05.003; Ord. No. 696-00, 12-4-2000)

Sec. 18-22. Police code of conduct.

(a) The city adopted a code of conduct for the police department dated June 1, 1987. The code, as amended from time to time, is maintained on file in the office of the city secretary and governs the conduct of every sworn member of the police department.

(b) The police chief is authorized to make such deletions, changes, and additions to the code of conduct as the police chief shall deem appropriate and necessary. The police chief is directed to make the code of conduct and any amendments thereto available to every member of the police department.
(Code 1996, § 9.06.001)

Secs. 18-23—18-47. Reserved.

ARTICLE III. POLICE RESERVE FORCE

Sec. 18-48. Establishment; composition; compensation.

(a) The city has established the police reserves for the city police department, which shall be a voluntary force of reserve police officers referred to as the "police reserves." The police reserves shall be composed of personnel who have volunteered to join the organization and serve without compensation, whose applications for membership have been accepted, and who have complied with all the rules, regulations and orders provided for the conduct and the control of the members thereof.

(b) Appointments to the police reserve shall be made by the police chief. The police chief shall establish the size, composition and organization of the police reserves, which shall be determined by the need of the police department.
(Code 1996, § 9.07.001)

Sec. 18-49. Force to be supplementary.

Reserve police officers shall act only in a supplementary capacity to the regular police force and shall in no case assume full-time duties of regular police officers.
(Code 1996, § 9.07.002)

Sec. 18-50. Police chief to control reserves.

The police reserves shall function under the general direction and control of the police chief, subject to the supervision of the city manager, and subject to such rules, regulations and orders as may be promulgated from time to time by the police chief in accordance with the authority vested by the city Charter and this Code.
(Code 1996, § 9.07.003)

Sec. 18-51. Training requirements.

(a) No person shall serve as a police reserve officer prior to receiving training in accordance with the requirements of the state commission on law enforcement officer standards and education and without receiving certification by the commission as a certified peace officer or reserve police officer. Such initial training and certification will be at the applicant's expense and time.

(b) The police chief may authorize the payment of any appropriate schooling for the police reserves at an authorized training school to enhance the skills that are deemed necessary in the performance of their duties. All appointments to said schools will be at the direction and discretion of the police chief.
(Code 1996, §§ 9.07.004, 9.07.008)

Sec. 18-52. Political campaigning restricted; reserve officers not to hold public office.

While in uniform or on active duty, a reserve officer may not take an active part in another person's political campaign for an elective position of the municipality. Reserve officers may not hold publicly elected office and must resign immediately from the reserves if they have filed to run for an elected office.
(Code 1996, § 9.07.005)

Sec. 18-53. Termination of membership.

Members of the police reserve shall serve at the discretion of the police chief. Any reserve officer may be terminated by the police chief at any time for any cause deemed sufficient by the police chief, and any reserve officer may resign from the police reserve at any time, but it shall be the duty of such member to notify the police chief of the reserve officer's resignation and surrender the badge and identification card to the chief of police.
(Code 1996, § 9.07.006)

Sec. 18-54. Uniforms and badges.

The police chief shall prescribe the uniform and badge for members of the police reserves and direct the manner in which the same shall be worn. All reserve officers will be responsible for the purchase of the uniform and its upkeep, to include all leather goods and sidearms.
(Code 1996, § 9.07.007)

Sec. 18-55. Weapons.

No person appointed to the police reserves may carry a weapon while serving as a police reserve officer except at the expressed direction of the police chief. Off-duty carrying of weapons shall be at the discretion of the police chief. No reserve officer shall carry any weapon that is in direct conflict with general orders set out by the department and shall not carry authorized weapons until such time as the officer has qualified with that weapon.
(Code 1996, § 9.07.009)

Sec. 18-56. Workers' compensation benefits.

Workers' compensation benefits will be provided for reserves; therefore, a police reserve officer who sustains injury in the course of performing official duties may receive hospital and medical assistance in the same manner as provided for full-time police officers; provided, however, that nothing in this section shall be construed to authorize or permit a member of the police reserves to become eligible for participation in any pension fund created pursuant to state statute, of which regular officers may become members by payroll deductions or otherwise.
(Code 1996, § 9.07.010)

Sec. 18-57. Disciplinary actions.

In addition to the penalties provided by law, any violation of law under color of performance of their duties as members of the police reserves and any breach of the rules and regulations as established by the police chief shall subject any member to disciplinary action, including dismissal and termination.
(Code 1996, § 9.07.011)

Chapter 19

RESERVED

Chapter 20

MUNICIPAL COURT

Sec. 20-1. Definitions and terms adopted.
Sec. 20-2. Court of record established.
Sec. 20-3. Jurisdiction of court.
Sec. 20-4. Judge.
Sec. 20-5. Appointment of court clerk and court personnel.
Sec. 20-6. Appeals.
Sec. 20-7. Consolidated municipal court building security and technology fund.

Sec. 20-1. Definitions and terms adopted.

Definitions and terms used in V.T.C.A., Government Code ch. 30, are adopted and incorporated herein for all purposes.
(Code 1996, § 7.01.003; Ord. No. O-31-08, 10-6-2008)

Sec. 20-2. Court of record established.

(a) Pursuant to V.T.C.A., Government Code § 30.00003, the city council has established a city municipal court as a court of record in order to provide a more efficient disposition of cases arising in the city and to more effectively enforce the ordinances of the city. This municipal court of record is established pursuant to the authority granted in V.T.C.A., Government Code ch. 30.

(b) All prosecutions in the municipal court of record shall be conducted as provided in the Uniform Municipal Courts of Record Act, V.T.C.A., Government Code § 30.00001 et seq. and Vernon's Ann. C.C.P. ch. 27. Complaints and pleadings must substantially conform to the relevant provisions of Vernon's Ann. C.C.P. chs. 27 and 45A.
(Code 1996, § 7.01.001; Ord. No. O-31-08, 10-6-2008)

Sec. 20-3. Jurisdiction of court.

(a) The municipal court of record has the jurisdiction and authority provided by V.T.C.A., Government Code § 30.00005, and shall have:

(1) Criminal jurisdiction for the purpose of enforcing municipal ordinances enacted under ordinances authorized by V.T.C.A., Government Code §§ 215.072, 217.042, 341.903 and 551.002;

(2) Concurrent jurisdiction with a justice court in any precinct in which the municipality is located in criminal cases that arise within the territorial limits of the municipality and are punishable only by fine;

(3) Civil jurisdiction for the purpose of enforcing municipal ordinances enacted under V.T.C.A., Local Government Code ch. 214 or V.T.C.A., Transportation Code ch. 683;

(4) Concurrent jurisdiction with a district court or a county court at law under V.T.C.A., Local Government Code ch. 54 within the municipality's territorial limits and property owned by the municipality located in the municipality's extraterritorial jurisdiction for the purpose of enforcing health and safety and nuisance abatement ordinances; and

(5) 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.

(b) The municipal court of record has all jurisdiction and authority provided by any state statute or judicial decision for municipal courts or municipal courts of record. Nothing contained in this section shall be construed to limit or otherwise restrict the jurisdiction of the municipal court of record.
(Code 1996, § 7.01.002; Ord. No. O-31-08, 10-6-2008)

Sec. 20-4. Judge.

(a) *Establishment of office.* The municipal court of record shall be presided over by a municipal judge appointed and compensated by the city council according to the provisions of city Charter section 6.02 and V.T.C.A., Government Code § 30.00006. The municipal judge must be a licensed attorney in good standing in the state and must have two or more years of experience in the practice of law in the state. The municipal judge must be a citizen of the United States and a resident of the state. A person may not serve as a municipal judge if the person is employed by the city. A municipal judge who accepts employment with the city vacates the judicial office.

(b) *Alternate municipal court judge.* An alternate municipal court judge may be appointed and compensated by the city council according to the provisions of city Charter section 6.02.

(c) *Supervision and control of the municipal court of record.* The municipal judge shall supervise and control the operation and clerical functions of the administrative department of the municipal court of record, including the court personnel, during the proceedings or docket of the court according to V.T.C.A., Government Code §§ 30.00006 and 30.00009. At all other times, the operation and clerical functions of the administrative department of the municipal court of record is under the supervision and direction of the city manager or designee.

(d) *Removal of judge.* In conformity with V.T.C.A., Government Code § 30.000085, the municipal judge may be removed from office by the city council with the advice and consent of the city manager as set forth in section 6.02 of the city Charter.
(Code 1996, § 7.01.004; Ord. No. O-31-08, 10-6-2008)

Sec. 20-5. Appointment of court clerk and court personnel.

(a) *Appointment.* Pursuant to section 6.03 of the city Charter and V.T.C.A., Government Code § 30.00009, the city manager has the authority to appoint a clerk of the municipal court of record, who shall be known as the municipal court clerk. The municipal court clerk shall keep the records of the municipal court of record, issue process, and generally perform the duties of a clerk of a county court at law exercising criminal jurisdiction. In the annual budget, the city council may provide for deputy clerks, warrant officers, and other personnel as needed for the proper operation of the municipal court of record. The municipal court clerk shall supervise the selection of persons for jury service in the municipal court of record. Trial by jury, including the summoning of jurors, must substantially conform to Vernon's Ann. C.C.P. ch. 45A.

(b) *Seal.* The court clerk is directed to acquire a seal in conformance with state law for the municipal court of record. The appearance and use of the seal must substantially conform to Vernon's Ann. C.C.P. art. 45A.052, but must also include the phrase "Municipal Court of/in Glenn Heights, Texas."

(c) *Court reporter.* A court reporter shall be provided to preserve the record in cases tried before the municipal court of record according to V.T.C.A., Government Code § 30.00010, subject to the following:

(1) The court reporter must meet the qualifications provided by law for official court reporters;

(2) The court reporter or court staff may use written notes, transcribing equipment, video or audio recording equipment, or a combination of those methods to record the proceedings of the court;

(3) The court reporter or court staff are not required to record testimony in any case unless the judge or one of the parties requests a record in writing, and files the request with the court before trial;

(4) If a record is made, it shall be kept for the 20-day period beginning the day after the last day of the court proceeding, trial or denial of motion for new trial, whichever occurs last;

(5) The court reporter is not required to be present during proceedings of the municipal court of record, provided that proceedings that are required to be recorded are recorded by a good quality electronic recording device;

(6) If a case is appealed, the proceedings shall be transcribed from the recording by an official court reporter.

(Code 1996, § 7.01.005; Ord. No. O-31-08, 10-6-2008)

Sec. 20-6. Appeals.

(a) *Right of review; governing law.* 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 Vernon's Ann. C.C.P. art. 44.01. Such appeals shall be in accordance with and conform to V.T.C.A., Government Code §§ 30.00014 through 30.00027.

(b) *Transcript preparation fee.* In the event of an appeal, the appellant shall pay a transcript preparation fee in the amount provided in the city fee schedule. The transcript preparation fee does not include the fee for an actual transcript of the proceedings. The clerk shall note the payment of the fee on the docket of the court. If the case is reversed on appeal, the transcript preparation fee in the amount provided in the city fee schedule shall be refunded to the appellant. In addition to the transcript preparation fee, the fee for the actual transcript of the proceedings and statement of facts must be paid by the appellant, pursuant to V.T.C.A., Government Code §§ 30.00014 and 30.00019.

(Code 1996, § 7.01.006; Ord. No. O-31-08, 10-6-2008)

Sec. 20-7. Consolidated municipal court building security and technology fund.

(a) The city has established a consolidated municipal court building security and technology fund pursuant to Vernon's Ann. C.C.P. art. 102.175, as a fund in the municipal court treasury. The fund consists of money allocated to the fund under V.T.C.A., Local Government Code § 134.103.

(b) Money deposited in a consolidated municipal court building security and technology fund may be used only for the purposed authorized under Vernon's Ann. C.C.P. art. 102.017(b) or (c) for use of a municipal court technology fund or Vernon's Ann. C.C.P. art. 102.0172(b) for use of a municipal court technology fund.

(c) The consolidated municipal court building security and technology fund shall be administered by or under the direction of the city council.

Chapter 21

RESERVED

Chapter 22

OFFENSES AND NUISANCES

Article I. In General

Sec. 22-1. Certain misdemeanors under state law constitute city offenses.
Sec. 22-2. Warrant issuance fee.
Sec. 22-3. Loitering restricted.
Sec. 22-4. Unlawful consumption of alcoholic beverages in public places.
Sec. 22-5. Unlawful discharge of firearms within city limits.
Sec. 22-6. Obstructing public ways.
Secs. 22-7—22-30. Reserved.

Article II. Nuisances

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Sec. 22-31. Prohibited acts and conditions; subject to abatement.
Secs. 22-32—22-50. Reserved.

Division 2. Nuisance Property Conditions

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Sec. 22-52. Prohibited nuisance conditions.
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Sec. 22-57. Additional authority to abate nuisance.
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Article III. Sex Offender Residency

Sec. 22-168. Definitions.
Sec. 22-169. Residency offense.
Sec. 22-170. Evidentiary matters; measurements.
Sec. 22-171. Culpable mental state not required.
Sec. 22-172. Affirmative defenses.
Sec. 22-173. Exemption hearing.
Sec. 22-174. Prohibition against renting or leasing.
Sec. 22-175. Penalties.

ARTICLE I. IN GENERAL

Sec. 22-1. Certain misdemeanors under state law constitute city offenses.

All misdemeanors named in the penal code and civil statutes of the state for which the municipal court has jurisdiction are declared to be offenses against the city, and the fines and penalties and other punishments shall be the same as is prescribed in the penal code and civil statutes.
(Code 1996, § 8.01.001)

Sec. 22-2. Warrant issuance fee.

A fee, as provided for in the city fee schedule, shall be collected for the issuance and service or attempted service of all warrants.
(Code 1996, art. 1.13)

Sec. 22-3. Loitering restricted.

(a) It is unlawful for any person to loiter within the city between the hours of 2:00 a.m. and 6:00 a.m. of any day and for any person under the age of 18 years to loiter within the city between the hours of 12:01 a.m. and 6:00 a.m. of any day.

(b) The term "loiter" as used in this section includes any of the following activities:

(1) Lingering in the streets, sidewalks, parking lots, or vicinity of a business, in which the person has no ownership or employment interest, either within or outside of a vehicle, when the premises are not open for business to the public without permission of the owner;

(2) Failure to leave private property when requested to do so by the owner, manager, proprietor, or lessee of such property;

(3) Walking, standing, driving a vehicle, or parking a vehicle in the city under circumstances that show no apparent business or employment-related need for such activity;

(4) Lingering in the streets, sidewalks, or vicinity of a residence, either within or outside of a vehicle, without the permission of the owner or tenant of the residence.

(c) The following activities shall not be considered loitering and shall be exempt from the provisions of this section:

(1) A person shall not be considered loitering while in direct route, and not lingering, to or from work or to or from a place of residence;

(2) A person shall not be considered loitering while engaged in the repair of a disabled vehicle;

(3) A person under the age of 18 years shall not be considered loitering while engaged in or in direct route to school, church, or entertainment activities with permission of the person's parent or guardian;

(4) A person shall not be considered loitering while sleeping in a vehicle, provided the vehicle is parked on private property with the permission of the owner or manager of the premises, or if the vehicle is parked on public property, with permission of a peace officer of the city.

(Code 1996, § 8.01.002)

Sec. 22-4. Unlawful consumption of alcoholic beverages in public places.

It is unlawful for any person to consume, drink, or possess an open container of an alcoholic beverage in any public place in the city, other than the following:

(1) A premises operated by a person possessing a private club registration permit from the state alcoholic beverage commission, issued for such premises; or

(2) A special event being held in city recreational facility, meeting room in a city building, or other city facility pursuant to a special event alcoholic beverage permit approved by the city manager or designee.

(Code 1996, § 8.01.003; Ord. No. O-20-22, § 2, 1-3-2023)

Sec. 22-5. Unlawful discharge of firearms within city limits.

It is unlawful to discharge within the corporate limits of the city any firearm, air gun, BB gun, pellet gun, or any other mechanism projecting lead or other missiles. This section shall not be construed to prohibit the following:

(1) Any officer of the law from discharging a firearm in the lawful performance of the officer's duty.

(2) Any citizen from discharging a firearm when lawfully defending persons or property.

(3) The use of workers in the construction business of any mechanism designed to propel nails, bolts, screws, rivets, or other fasteners, so long as such mechanism is being used in the manner in which it was intended.

(4) The discharge of blanks during official celebrations, athletic events, etc., when written permission is received from the police chief, or designee.

(5) The operation of any commercial shooting range otherwise lawfully operating under all other applicable laws and ordinances.

(Code 1996, §§ 8.04.001, 8.04.002)

Sec. 22-6. Obstructing public ways.

It is unlawful for any person to place, leave standing, or store any property, structure or any obstruction in or on any public street, alley, sidewalk, public right-of-way or other public property of the city for a time period of more than 24 hours, and such is declared a public nuisance.

(Code 1996, § 12.10.003; Ord. No. 748-03, 4-7-2003; Ord. No. O-12-10, § 3, 6-21-2010)

Secs. 22-7—22-30. Reserved.

ARTICLE II. NUISANCES

DIVISION 1. GENERALLY

Sec. 22-31. Prohibited acts and conditions; subject to abatement.

(a) Any act, condition or thing existing, or in being within the city which endangers the public peace, property, health and safety of the citizens of the city is hereby declared to be a public nuisance and shall be abated as provided in this section.

(b) When the city council shall have legally declared any thing, act, or commission to be a nuisance and, through the police chief, instructed the party guilty of maintaining or creating such nuisance to abate or remove the same within a designated or reasonable time, and notice of the action shall have been served upon the party to be so charged, and the party shall fail to obey the same within the time so reasonably designated, the party shall be deemed guilty of a misdemeanor, which, upon conviction therefor, shall be punishable by fine as provided for in the general penalty provision found in section 1-9. Every day of the existence of such public nuisance shall be and constitute a separate and distinct offense and shall be punishable as herein provided.

(c) When any nuisance has been declared to exist, and the city council has ordered the same to be abated, corrected, or removed, and the author of such nuisance shall fail or refuse to obey such order, the city manager shall direct the police chief to abate the same, who shall proceed at once to carry out such order, calling such assistance as the city manager deems necessary, and all costs accruing therein shall be taxed against the author of such nuisance and collected as other costs.

(d) No act, condition, or thing may be abated as a public nuisance, nor may any person be prosecuted for doing, maintaining, or permitting any such act, condition, or thing as a public nuisance, unless and until the same shall have been by ordinance of the city council declared to be a public nuisance, and until such person so doing, making, or permitting such act, condition, or thing shall be notified in writing to cease, remove, or abate the same, and a reasonable time, not to exceed five days, shall have been allowed within which the same shall have not ceased, been removed, or abated.

(e) Without limiting the power of the city council to declare as public nuisances any other act, condition, or thing, as herein provided, the following specific acts, conditions, and things are, each and all of them, hereby declared to be and constitute public nuisances:

(1) Spitting upon any sidewalk or upon the floor or wall of any public building, or upon any streetcar, bus, automobile, or person;

(2) The accumulation of water in which mosquito larvae breed;

(3) The accumulation of scrap iron and metal, inoperative automobiles, worn-out household appliances, scrap wood, and abandoned and decaying structures where rats, mice, rodents, snakes, and wild or abandoned animals may be concealed;

(4) The maintenance of any but sanitary toilets, and these only in compliance with the public health laws, ordinances and regulations of the state, county and city;

(5) The disposal or accumulation of any vile, decaying, or putrescent substance or other offensive material dangerous to public health, in or upon any lot, street or highway, or the escape of any gases or odors to such an extent that the same or any of them shall, by reason of such offensive odors, become a source of discomfort to persons living or passing by in the vicinity;

(6) The deposit or accumulation of manure or other noxious fertilizer, unless it is in flyproof receptacles;

(7) The presence of polluted water in a well, cistern, spring, or other source of water supply, when the water therefrom is used for human consumption;

(8) The deposit of garbage in any but flyproof, watertight receptacles;

(9) Growth of weeds or grass where mosquitoes may harbor or rubbish be concealed;

(10) The congregating and living together of persons of either sex in any house or tenement in this city, in such numbers and under such circumstances as to endanger the health of the city, or to create contaminating diseases therein, as declared by the health officer of the city, or, in the officer's absence, of the County of Dallas;

(11) The keeping of, or allowing to be kept in any pen, place, or premises within the city, any animal, in such a manner as to be dangerous, offensive, or an annoyance to any other person whatsoever;

(12) The keeping of any hogs or pigs within the city;

(13) Trespassing upon public or private property; or the throwing, or causing to be thrown, of garbage or refuse or any noxious, offensive, or dangerous substance upon any property in the city; or the unlawful interference in any way with the person or property of others.

(Code 1996, § 8.01.004)

Secs. 22-32—22-50. Reserved.

DIVISION 2. NUISANCE PROPERTY CONDITIONS

Sec. 22-51. Definitions.

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

Brush means shrub vegetation or dense undergrowth.

Carrion means the dead and putrefying flesh of any animal, fowl or fish.

Code enforcement official means a city employee or person or entity acting under a contract with the city, authorized to enforce the provisions of this division and city ordinances, including, yet not limited to, the building official, inspector, code enforcement officer or designee.

Dump means to dispose, discharge, place, deposit, throw, leave, sweep, scatter, unload or toss.

Filth means any matter in a putrescent state.

Garbage means any kitchen refuse, foodstuffs or related material, including all decayable waste.

Impure or unwholesome matter means any putrescible or nonputrescible condition, object or matter that may, could or tends to cause injury, death or disease to human beings.

Junk means all worn-out, worthless or discarded material, including, yet not limited to, any of the following materials, or parts of said materials or any combination thereof: new or used iron, steel or nonferrous metallic scrap, brass or waste materials; used or inoperative household appliances, household electrical or plumbing fixtures, floor coverings or window coverings not currently in use; used lumber, brick, cement block, wire, tubing and pipe, tubs, drums, barrels or roofing material not currently in use; air conditioning and heating equipment not currently in use; used vehicle components and parts not currently in use; used furniture other than that designed for outdoor use or what would normally be considered as antique furniture, used or inoperative residential lawn care equipment and machinery not currently in use; used pallets, windows or doors not currently in use; new or used sheet metal, structural steel or chain not currently in use; used or inoperable vending machines, radios or televisions not currently in use; and any other type of used or inoperable machinery or equipment not currently in use.

Matter means that substance of which any physical object is composed.

Nuisance means any condition, object, material or matter that is dangerous or detrimental to human life or health; or that renders the ground, the water, the air or food a hazard or likely to cause injury to human life or health; or that is offensive to the senses; or that threatens to become detrimental to the public health; and shall include, but not be limited to, any abandoned or uncovered (including unsecured covered) wells, shafts or basements, abandoned refrigerators, stagnant or unwholesome water, sinks, privies, filth, carrion, rubbish, junk, trash, debris or refuse, impure or unwholesome matter of any kind, and any objectionable, unsightly, or unsanitary matter of whatever nature.

Objectionable, unsightly or unsanitary matter means any matter, condition or object that is objectionable, unsightly or unsanitary to a person of ordinary sensitivities.

Owner means any person or entity shown as the property owner on the latest property tax assessment rolls or any person having or claiming to have any legal or equitable interest in the property, including any agent who is responsible for managing, leasing or operating the property; provided, however, an individual who is an employee of the owner or management

company is not personally liable for criminal or civil penalties if the individual provides the property owner's name, street address and telephone number to the code enforcement official, if the violation relates to a certificate of occupancy or certificate of completion relative to the construction of improvements on the property yet not as to violations in construction or development of the property, consistent with state law as it exists and as it may be amended.

Property means all privately owned, occupied or unoccupied property, including vacant land or a building designed or used for residential, commercial, business, industrial or religious purposes. The term "property" shall also include a yard, ground, wall, driveway, fence, porch, steps or other structure appurtenant to the property.

Putrescible means the decomposition of organic matter with the formation of foul-smelling, incompletely oxidized products.

Refuse means heterogeneous accumulation of worn-out, used, broken, rejected or worthless materials, including, yet not limited to, garbage, rubbish, paper or litter and other decayable or nondecayable matter.

Rubbish means junk, trash, debris, rubble, stone, useless fragments of building materials, and other miscellaneous, useless waste or rejected matter.

Trash and *debris* mean all manner of refuse, including, yet not limited to, mounds of dirt, piles of leaves, grass and weed clippings, paper trash, useless fragments of building materials, rubble, furniture other than furniture designed for outside use, useless household items and appliances, items of salvage, such as scrap metal and wood, old barrels, old tires, objects that hold water for an extended period of time, tree and brush trimmings, dead standing or fallen trees and other miscellaneous wastes or rejected matter.

Urban nuisance means any condition that exists and, because of violations of this division, is in a state of disrepair, such that it could reasonably cause injury, damage, harm or inconvenience to a considerable portion of the community and the use and enjoyment of property, materially interfering with the proper use or comfort and enjoyment of surrounding property, taking into consideration the nature and use of the properties in the area and the character of the community in which they are situated, which condition would be substantially offensive and annoying to persons of ordinary sensibilities, taste and habits in the community. Such urban nuisance includes, yet is not limited to:

(1) Fences that are leaning, falling down, missing boards or otherwise deteriorated;

(2) Motor vehicles, or parts thereof, that do not qualify as junked vehicles as defined by city ordinances and state statutes but that are wrecked, dismantled or partially dismantled, on blocks, stands, trailers, under tarps or other similar covering.

Vegetative growth means any grass, weeds, shrubs, trees, brush, bushes or vines.

Weeds means any vegetation that because of its height is objectionable, unsightly or unsanitary, excluding shrubs, bushes, trees, cultivated flowers and cultivated crops.
(Code 1996, § 6.02.001; Ord. No. O-05-08, 2-4-2008; Ord. No. O-09-10, 6-21-2010)

Sec. 22-52. Prohibited nuisance conditions.

(a) It is unlawful and declared a nuisance for any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, within the territorial limits of the city, to knowingly or intentionally permit or allow any stagnant or unwholesome water, sinks, refuse, filth, carrion, weeds, rubbish, brush, refuse, trash, debris, junk, garbage, impure or unwholesome matter of any kind, or other objectionable or unsightly matter of whatever nature, to accumulate or remain upon any such real property or within any public easement on or across such real property or upon any adjacent public street or alley right-of-way between the property line of such real property and where the paved surface of the street or alley begins.

(b) It is unlawful and declared a nuisance for any person to knowingly or intentionally dump, or permit to be dumped, upon or along any drain, gutter, alley, sidewalk, street, park, right-of-way or vacant lot into or adjacent to water, or any other public or private property within the territorial limits of the city, any unwholesome water, refuse, rubbish, trash, debris, filth, carrion, weeds, brush, junk, garbage, impure or unwholesome matter of any kind, or other objectionable or unsightly matter of any kind.

(c) It is unlawful and declared a nuisance for any person owing, claiming or occupying or having supervision or control of any real property, occupied or unoccupied, within the territorial limits of the city, to knowingly or intentionally permit or allow an urban nuisance to exist on any residentially zoned property, or on property that abuts a residential use. It shall be an affirmative defense that:

(1) A permit was issued for the repair of the fence and such repair work is being diligently performed within the timeframes authorized under the permit;

(2) The urban nuisance has existed on the property for less than 30 days and the person has documented proof of anticipated date of removal;

(3) The urban nuisance is completely contained on an improved surface, fully screened from public view behind a fence or within a structure.

(d) Weeds and brush in violation of section 22-53.

(Code 1996, § 6.02.002; Ord. No. O-05-08, 2-4-2008; Ord. No. O-09-10, 6-21-2010)

Sec. 22-53. Weeds and brush over ten inches in height prohibited.

(a) It is unlawful for any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, within the territorial limits of the city to knowingly or intentionally permit weeds, brush or any objectionable or unsightly matter to grow to a height greater than ten inches upon such real property within 200 feet of any property line that abuts street rights-of-way, alleys, utility easements, subdivided additions, developed property or any buildings or other structures.

(b) It shall be the duty of such person to keep the area from the line of the property to the curbline next adjacent to it, if there is a curbline, and, if not, then to the centerline of the adjacent unpaved street, or to the edge of the pavement, cleared of the matter referred to above.

(c) All vegetation (including hay, unless the hay is cultivated on property that has been granted an agricultural property tax exemption on the most recent tax roll as certified by the county appraisal district in the county in which the property is located), except regularly cultivated row crops, that exceeds ten inches in height shall be presumed to be objectionable and unsightly matter; provided, further, that regularly cultivated row crops shall not be allowed to grow within the right-of-way of any public street or easement, nor shall such crops be allowed to obstruct the necessary view to and from adjacent rights-of-way, but shall be kept mowed as provided herein.

(d) With respect to lots, tracts or parcels of land of five or more acres, the provisions of this section shall not apply to any area situated more than 200 feet from any open public street or thoroughfare, as measured from the right-of-way line of said street or thoroughfare, and situated more than 200 feet from any adjacent property under different ownership and on which any building is located or on which any improvement exists, as measured from the property line.
(Code 1996, § 6.02.003; Ord. No. O-05-08, 2-4-2008; Ord. No. O-09-10, 6-21-2010)

Sec. 22-54. Inspections.

For purposes of ascertaining whether violations of this division exist, the code enforcement official is authorized to inspect the exterior of a structure and premises that contain no structure. If entry onto the property is refused, the code enforcement official shall have every recourse provided by law, including, yet not limited to, an administrative search warrant or an injunction to secure entry. If the owner, occupant, or person in control cannot be identified or located, the code enforcement official shall be authorized to enter the property to the extent allowed by, and in accordance with, law.
(Code 1996, § 6.02.004; Ord. No. O-05-08, 2-4-2008; Ord. No. O-09-10, 6-21-2010)

Sec. 22-55. Duty of owner or occupant to prevent nuisance conditions.

It shall be the duty of any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, to:

(1) Remove, drain or fill all prohibited matter or conditions and to cut and remove all weeds, brush, vegetative growth, and other objectionable or unsightly matter as often as may be necessary to comply with sections 22-52 and 22-53 and to use every precaution to prevent the same from occurring or growing on such property;

(2) Maintain the exterior of all structures, such as fences, in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety and welfare;

(3) Maintain all exterior property and premises in a clean, safe and sanitary condition;

(4) Keep the sidewalks in front of the property free and clear of all such matter, and to fill up, drain or regrade any lots, ground or yards that have stagnant water thereon, and to cleanse and disinfect any house, building, establishment, lot, yard or ground from refuse, rubbish, trash, filth, carrion, or objectionable, unsightly or unsanitary matter of any kind, or other impure or unwholesome matter of any kind.

(Code 1996, § 6.02.005; Ord. No. O-05-08, 2-4-2008; Ord. No. O-09-10, 6-21-2010)

Sec. 22-56. Notice of violation and to abate; failure to comply; abatement by city.

(a) If a person violating the terms of this division fails or refuses to comply with the demand for compliance contained in the aforementioned notice within seven days after the date of notification, as provided herein, the city shall have the authority as provided by law to enter upon such property and do or cause to be done the work necessary to obtain compliance with this division. All reasonable costs, charges and expenses incurred in doing or in having such work done shall be a charge to, and be a personal liability of, such person.

(b) It shall be the duty of the police chief or duly appointed representative to give a minimum of seven days' official notice in writing to such person violating the terms of this division, subject to the provisions herein stated. The notice shall be in writing and may be served on such person violating the terms of this division:

(1) By delivering it in person; or

(2) By letter or written notice addressed to such person at the person's address as recorded in the appraisal district in which the property is located and delivered by United States certified mail, return receipt requested, with a second copy by United States regular mail; or

(3) Unless required otherwise by state law, by letter or written notice addressed to such person at the person's address as recorded in the appraisal district in which the property is located and delivered by United States regular mail, along with posting the notice on or near the front door of each building on the property to which the violation relates; or

(4) If personal service cannot be obtained:

a. By publication at least once within seven consecutive days in the city's official newspaper; or

b. By posting the notice on or near the front door of each building on the property to which the violation relates; or

c. By posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates, if the property contains no buildings.

(c) If the city mails a notice to the property owner in accordance with subsection (b) of this section and the U.S. Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected and the notice shall be considered as delivered.

(d) The city, in the notice provided herein, may inform the owner by certified mail, return receipt requested, or regular mail and a posting on the property, or by personally delivering the notice, that if the owner commits another violation of the same kind or nature that poses a danger to the public health and safety on or before the first anniversary of the date of such notice, the city, without further notice, may correct the violation at the owner's expense and assess the expense against the property. If the violation covered by a notice under this subsection occurs within said one-year period, and the city has not been informed in writing by the owner of an ownership change, then the city, without notice, may take any action permitted by subsection (a) of this section, and assess its reasonable expenses incurred as provided by section 22-58.
(Code 1996, § 6.02.006; Ord. No. O-05-08, 2-4-2008; Ord. No. O-09-10, 6-21-2010)

Sec. 22-57. Additional authority to abate nuisance.

(a) The city may abate, without notice, weeds that have grown higher than 48 inches and are an immediate danger to health, life or safety of any person.

(b) Not later than the tenth day after the date the city abates weeds under this section, the city shall give notice to the property owner in the manner required by section 22-56. The notice shall contain:

(1) An identification, which is not required to be a legal description, of the property;

(2) A description of the violations that occurred on the property;

(3) A statement that the city abated the weeds; and

(4) An explanation of the property owner's right to request an administrative hearing about the city's abatement of the weeds.

(c) The city shall conduct an administrative hearing before the city council on the abatement of weeds under this section if, not later than the 30th day after the date of the abatement of the weeds, the property owner files with the city a written request for a hearing. An administrative hearing conducted under this section shall be conducted not later than the 20th day after the date a request for a hearing is filed. The owner may testify or present any witnesses or written information relating to the city's abatement of the weeds.

(d) The city may assess reasonable expenses and create liens under this section as it assesses expenses and creates liens under section 22-58. A lien created under this section is subject to the same conditions as a lien created under section 22-58. The authority granted the city by this section is in addition to the authority granted by section 22-58.
(Code 1996, § 6.02.007; Ord. No. O-05-08, 2-4-2008)

Sec. 22-58. Expenses incurred by city; lien.

(a) If a notice as provided for herein is delivered to the owner of such real property, and the owner fails or refuses to comply with such demand for compliance within the seven-day time period established herein, the aforementioned charges shall be, in addition to a charge to and personal liability of said owner, a privileged lien upon and against such real property,

including all fixtures and improvements thereon. In order to perfect such lien, the code enforcement official first shall give such owner written notice of demand for payment of such charges. Such written notice may be given by any one of the methods provided for herein for the giving of the initial notice demanding compliance with the terms of this division.

(b) If such owner fails or refuses to make complete payment of said charges within 30 days of receipt of said notice, the city manager, or designated authorized representative, such as the code enforcement official, shall file a written statement of such charges with the county clerk for filing in the county land and deed records where the property is located. Said statement shall be deemed sufficient if it contains the following minimum information; however, it may also contain such other additional information deemed appropriate by the city manager, the code enforcement official or duly appointed representative:

(1) The name of the owner of the real property, if known;

(2) A legal description of the real property;

(3) A statement of the charges incurred by the city in doing or in having such work done as necessary to bring the real property into compliance with this division; and

(4) A notarized affidavit executed by the code enforcement official stating that all prerequisites required by this division for the imposition of the charges and the affixing of the lien have been met and that all statements or representations made therein are true and correct.

(c) All such charges shall bear interest at the rate of ten percent per annum from the date of payment by the city. The lien obtained is security for the expenditures made and is inferior only to tax liens and liens for street improvements. The city may bring suit to collect the charges, institute foreclosure proceedings, or both. The written statement of such charges provided for herein, or a certified copy thereof, shall be prima facie evidence of the city's claim for charges or right to foreclose the lien. The owner of the real property or any other persons claiming, occupying or having supervision or control of the real property shall be jointly and severally liable for such charges.

(d) The remedy is in addition to any penal provision provided herein.
(Code 1996, § 6.02.008; Ord. No. O-05-08, 2-4-2008)

Sec. 22-59. Enforcement.

The provisions of this division shall be enforced by the code enforcement official, and it is unlawful for any person to interfere with or hinder the code enforcement official in the exercise of the official's duties under this division. Notwithstanding any provisions contained herein to the contrary, the code enforcement officials are hereby granted the authority to issue immediate citations to persons violating any provision of this division in their presence.
(Code 1996, § 6.02.009; Ord. No. O-05-08, 2-4-2008)

Sec. 22-60. Penalty.

(a) Any person violating or failing to comply with any provision or requirement of this division, who continues to violate or fail to comply with same within seven days after notice is given and received as set forth in section 22-56, shall also be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not to exceed $2,000.00, such offense being a violation of the health and safety ordinances of the city. A separate offense shall be deemed committed upon each day during or on which a violation or failure to comply occurs or continues to occur. This section shall be in addition to and cumulative of the provisions for abatement of the nuisance by the city and charging the cost of same against the owner of the property.

(b) Notwithstanding the foregoing, any violation of any provision of this division that constitutes an immediate danger or threat to the health, safety and welfare of the public may be enjoined in a suit brought by the city for such purpose.

(c) In addition to any other remedies or penalties contained herein, the city may enforce the provisions of this division pursuant to the applicable provisions of V.T.C.A., Local Government Code ch. 54.
(Code 1996, § 6.02.010; Ord. No. O-05-08, 2-4-2008)

Secs. 22-61—22-78. Reserved.

DIVISION 3. NOISE NUISANCES

Sec. 22-79. Purpose and enforcement.

(a) The purpose of this division is to make it unlawful for any person or entity to make, cause to be made or allow any loud or unreasonably loud and disturbing noise of such character, intensity and duration as to be detrimental or offensive to the ordinary sensibilities of the inhabitants of the city, or which renders the enjoyment of life, health and property uncomfortable or interferes with public peace and comfort.

(b) The police department, code enforcement officer, director of municipal services or designees may enforce the provisions of this division, including, yet not limited to, the issuance of citations or notices of violation.
(Code 1996, § 8.02.001; Ord. No. O-859-07, 11-19-2007)

Sec. 22-80. Definitions.

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

Construction means any site preparation, assembly, erection, substantial repair, alteration or similar action (excluding demolition) of public or private right-of-way surfaces, structures, utilities or similar property.

Demolition means any dismantling, intentional destruction or removal of public or private right-of-way surfaces, structures, utilities or similar property.

Device means any mechanism which is intended to produce, or which actually produces, noise when operated or handled.

Emergency vehicle means a motor vehicle used in response to a public calamity or to protect persons or property from an imminent exposure to danger.

Motor vehicle means any vehicle propelled by mechanical power, such as, yet not limited to, any passenger car, truck, truck-trailer, semi-trailer, camper, motorcycle, mini-bike, pocket bike, go-kart, dune buggy or racing vehicle.

Noise disturbance means any sound which annoys or disturbs, or which causes or tends to cause an adverse psychological effect upon, the sensibilities of a reasonable, prudent, adult person; any loud or disturbing noise which unreasonably disturbs or interferes with the peace, comfort and repose of persons or ordinary sensibilities.

Noise disturbance per se means a noise not requiring extraneous evidence or support to establish the existence of a noise disturbance.

Nonresidential district means any district not classified by the zoning ordinance as containing residential homes, apartments or condominiums.

Owner means any person having supervision or control of any property.

Power equipment means any motorized electric or fuel powered equipment, including, yet not limited to, tractors, lawnmowers and other similar devices or equipment.

Power motor vehicle means any self-propelled airborne, waterborne or land-borne plane, vessel or vehicle which is not designed to carry persons, including, yet not limited to, any model airplane, boat, car or rocket.

Property means any lot, tract, parcel of land or a portion thereof, occupied or unoccupied, improved or unimproved, public or private, within the territorial limits of the city.

Property boundary means an imaginary line exterior to any enclosed structure, at the ground surface and its vertical extension, which separates the real property owned by one person from that owned by another person.

Quiet zone means property on which a school, hospital, clinic, library or other noise disturbance sensitive facility is operated.

Residential district means any district classified by the zoning ordinance as containing residential homes, apartments, condominiums or dwelling units.

Roadway means any street, alley, parkway, sidewalk or gutter.

(b) All terminology used in this division, and not specifically defined in subsection (a) of this section, shall retain its meaning in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body or the latest volume of Webster's Collegiate Dictionary.
(Code 1996, § 8.02.002; Ord. No. O-859-07, 11-19-2007)

Sec. 22-81. Specific noise disturbances prohibited.

(a) *Generally.* No person shall allow, make or cause to be made any unreasonably loud or disturbing noise which is offensive to the sensibilities of a reasonable, prudent adult person, renders the enjoyment of life or property uncomfortable, interferes with public peace and comfort, or causes a noise disturbance. This prohibition includes, but is not limited to, the following sounds and activities which can create unreasonably loud or disturbing noises in violation of this division, including activities which are noise disturbances per se, unless an exemption exists or a permit of variance was first obtained as provided in section 22-83:

(1) Owning, keeping, possessing or harboring any animal or fowl which, by frequent or habitual noise making, unreasonably disturbs or interferes with the peace, comfort or repose of citizens, or causes a noise disturbance as defined herein. The provisions of this division shall apply to all private or public facilities, including any animal shelter or commercial kennel, which holds or treats animals;

(2) The using, operating or permitting to be played, used or operated any sound production or reproduction device, radio, receiving set, musical instrument, drums, phonograph, television set, loudspeaker and sound amplifiers or other machine or device for the producing or reproducing of sound within a residential or a nonresidential area in such a manner as to cause a noise disturbance;

(3) The using, operating or permitting to be played, used or operated any sound production or reproduction device, radio, receiving set, musical instrument, drums, phonograph, television set, loudspeakers and sound amplifiers or other machine or device that produces or reproduces sound for the purpose of attracting attention to any cause or demonstration, or to any performance, show, sale or display of merchandise so as to attract attention to such cause, demonstration or premises when such use is done in a manner which causes a noise disturbance;

(4) The using, operating or permitting to be played, used or operated any sound production or reproduction device, radio, receiving set, musical instrument, drums, phonograph, television set, loudspeakers and sound amplifiers or other machine or device on trucks or other moving vehicles for the purpose of attracting attention to any cause or demonstration, or for advertising any show, sale or display of merchandise when such use is done in a manner which causes a noise disturbance.

(b) *Motor vehicle sound devices.* It is a violation of this division to operate or control a motor vehicle in either a public or private place within the city while operating a sound device which is part of, or connected to, any radio, stereo receiver, compact disc player, cassette tape player or other similar device in the motor vehicle in such a manner that, when

operated, it is audible at a distance of 30 feet, or when operated, causes a person to be aware of the vibration accompanying the sound at a distance of 30 feet from the source when such operation is done in a manner which causes a noise disturbance.

(c) *Peddlers, hawkers, etc.* It is a violation of this division for any peddler, hawker, or other person to yell, shout, cry, hoot, whistle or sing in such a manner to cause a noise disturbance.

(d) *Loading and unloading vehicles.* It is a violation of this division to load or unload a vehicle in such a manner as to cause a noise disturbance.

(e) *Construction/maintenance work.* The following construction and maintenance activities are violations of this division:

(1) Operating or permitting to be operated any equipment used in construction, maintenance, repair, alteration or demolition work on buildings, structures, streets, alleys, lawns, golf courses or appurtenances thereto or the erection, including excavation, demolition, alteration or repair of any building within a residential district or quiet zone, or within 500 feet of any residence or quiet zone, in such a manner as to cause a noise disturbance. Furthermore, any such activity shall create a noise disturbance per se if conducted between the hours of 9:00 p.m. and 6:00 a.m.;

(2) Operating or permitting to be operated any gravel pit, rock crusher or other machinery for the separation, gathering, grading, loading or unloading of sand, rock or gravel within a residential district or quiet zone, or within 500 feet of a residence or quiet zone. Furthermore, any such activity shall create a noise disturbance per se if conducted between the hours of 9:00 p.m. and 6:00 a.m.;

(3) Operating or permitting to be operated any equipment used in construction, maintenance, repair, alteration or demolition work on buildings, structures, streets, alleys, lawns, golf courses, or appurtenances thereto within a nonresidential district in such a manner as to cause a noise disturbance;

(4) Operating or permitting to be operated any gravel pit, rock crusher or other machinery for the separation, gathering, grading, loading or unloading of sand, rock or gravel within a nonresidential district in such a manner as to cause a noise disturbance.

(f) *Power equipment.* The following activities involving power equipment are violations of this division:

(1) Operating or permitting to be operated any power equipment (as defined herein and excluding construction equipment which is specifically regulated in subsection (e) of this section) within a residential district or quiet zone, or within 500 feet of any residence or quiet zone, in such a manner as cause a noise disturbance. Furthermore, any such activity shall create a noise disturbance per se if conducted between the hours of 9:00 p.m. and 6:00 a.m.;

(2) Operating or permitting to be operated any power equipment (as defined herein and excluding construction equipment which is specifically regulated subsection (e) of this section) within a nonresidential district in such a manner as to cause a noise disturbance.

(g) *Repairs or testing of motor vehicles.* The following activities involving the repair or testing of motor vehicles are violations of this division:

(1) The repairing, rebuilding, modifying or testing of any motor vehicle (including off-road vehicles) or watercraft within a residential district or quiet zone, or within 500 feet of any residence or quiet zone, in such a manner as to cause a noise disturbance. Furthermore, any such activity shall create a noise disturbance per se if conducted between the hours of 9:00 p.m. and 6:00 a.m.;

(2) The repairing, rebuilding, modifying or testing of any motor vehicle (including off-road vehicles) or watercraft within a nonresidential district in such a manner as to cause a noise disturbance.

(h) *Use of loud and defective motor vehicles.* The following activities involving the use of loud or defective motor vehicles are violations of this division:

(1) The use of any automobile, motorcycle or other vehicle so out of repair, so modified, or so loaded, which emits or creates loud or unnecessary grating, grinding or rasping noise, the excessive spinning of tires, or the racing of a motor vehicle engine unnecessarily within a residential district or quiet zone, in such a manner as to cause a noise disturbance. Furthermore, such activity shall create a noise disturbance per se if conducted between the hours of 9:00 p.m. and 6:00 a.m.;

(2) The use of any automobile, motorcycle or other vehicle so out of repair, so modified, or so loaded, which emits or creates loud or unnecessary grating, grinding or rasping noise, the excessive spinning of the tires, or the racing of a motor vehicle engine unnecessarily within a nonresidential district in such a manner as to cause a noise disturbance.

(i) *Motor vehicle exhaust discharges.* It is a violation of this division to discharge emissions into the open air from the exhaust of any motor vehicle in such a manner as to cause a noise disturbance, except as discharged through a muffler or other device which effectively and efficiently prevents loud and unusual noises and annoying smoke.

(j) *Explosive devices.* Explosive sound sources, including, but not limited to, the use of fireworks, explosives, the firing of guns or other explosive devices in such a manner as to cause a noise disturbance is a violation of this division; provided, however, no such noise disturbance shall be deemed to exist when the activity is allowed or sanctioned by this Code or other lawful authority and the activity is conducted in strict accordance with such authority.

(k) *Powered model mechanical devices.* The following activities involving powered model mechanical devices are violations of this division:

(1) The flying of model aircraft powered by internal combustion engines, whether tethered or not, or the firing or operating of model rocket vehicles or other similar noise-producing devices, within a residential district or quiet zone, or within 500 feet of any residence or quiet zone, in such a manner as to cause a noise disturbance. Furthermore, any such activity shall create a noise disturbance per se if conducted between the hours of 9:00 p.m. and 6:00 a.m.;

(2) The flying of model aircraft powered by internal combustion engines, whether tethered or not, or the firing or operating of model rocket vehicles or other similar noise-producing devices within a nonresidential district in such a manner as to cause a noise disturbance.

(l) *Refuse compacting vehicles.* Operating or permitting to be operated any refuse compacting, processing or collection vehicles in any residential district or quiet zone or within 500 feet of any residence or quiet zone in such a manner as to cause a noise disturbance is a violation of this division. Furthermore, any such activity shall create a noise disturbance per se if conducted between the hours of 9:00 p.m. and 6:00 a.m. No noise disturbance shall be deemed to occur when the noise is created in the regular course of the activity for which the equipment is designed and the noise occurs for no longer than reasonably necessary to conduct the activity and the hours of operation occur between 6:01 a.m. and 8:59 p.m.

(m) *Noise in quiet zones.* It is a violation of this division to create a noise disturbance on any street adjacent to any school, hospital, clinic, library or other noise-sensitive facility.

(n) *Stationary nonemergency signaling devices.* Sounding or permitting the sounding of any electronically activated or amplified signal from any stationary bell, chime, siren, whistle, or similar device, intended primarily for nonemergency purposes, from any place for more than five minutes during any consecutive 60-minute period which causes a noise disturbance is a violation of this division. Such signaling device is allowed if used as a danger signal, residential alarm or as required by law if vehicles are backing, starting or turning in such a way as to likely cause a collision.

(o) *Vibrations.* Using or causing to use any device that creates any ground vibration which is perceptible without instruments at any point on or beyond the property boundary of the source is a violation of this division.

(Code 1996, § 8.02.003; Ord. No. O-859-07, 11-19-2007)

Sec. 22-82. Exemptions.

The following sources of potential noise disturbance shall be exempt from the regulations of this division:

(1) Safety signals, storm warning sirens or horns and the testing of such equipment, emergency vehicle sirens or horns used when responding to an emergency, and emergency pressure relief valves;

(2) Sound caused in the performance of emergency or public service work, including police, fire and public utility operations, acting in the performance of lawful duties to protect the health, safety or welfare of the community;

(3) Sounds caused by natural phenomena;

(4) Activities conducted on public parks and playgrounds which are approved, sponsored or sanctioned by the city. Activities conducted on public or private school grounds, including, yet not limited to, school athletic and school entertainment events which are approved, sponsored or sanctioned by the school.

(Code 1996, § 8.02.004; Ord. No. O-859-07, 11-19-2007)

Sec. 22-83. Permits for relief.

(a) The police chief, or designated representative, is authorized to grant permits for relief of any provision in this division on the basis of undue hardship in cases when the sound source will be of short duration and the activity cannot be conducted in a manner as to comply with this division, additional time is necessary for the applicant to alter or modify the activity or operation to comply with this division, or no reasonable alternative is available to the applicant.

(b) An automatic variance will be granted without the payment of permit fees for the purpose of conducting parades or other public events, provided that any noise disturbance created by such activity will be abated when such request is made by the police chief, or designated representative.

(c) The police chief, or designated representative, may prescribe any reasonable conditions or requirements deemed necessary to minimize adverse effects and may suspend any permit issued for violating any provisions prescribed in the permit of relief.

(d) A fee provided in the city fee schedule shall be charged to each applicant for processing permit applications.

(Code 1996, § 8.02.005; Ord. No. O-859-07, 11-19-2007)

Sec. 22-84. Appeals.

(a) Any applicant who has been denied a permit or any permittee whose permit has been suspended shall have the right to a hearing before the city manager.

(b) Request for a hearing shall be made in writing and received by the police chief, or designated representative, within ten days of the date of the denial or the date of the notice of the suspension. The city manager may review the appeal at a staff level and has the authority to reject the action of designated representative and order that a permit be granted or to reinstate a suspended permit. However, should the city manager uphold the denial or suspension of a permit, the city manager, or designated representative, shall schedule a hearing within 30 days of receipt of the request.

(c) The city manager shall have the authority to review all pertinent files and information regarding the applicant/permittee which are in the custody of the police chief, or designated representative. Additionally, the city manager shall have the authority to accept written and verbal testimony from the police chief, designated representative, any appropriate city staff member, applicant/permittee and interested citizens. The city manager shall also have the authority to place time restrictions on the testimony to be given at the hearing.

(d) The city manager shall have the authority to assess whether the police chief, or designated representative, acted properly within the powers granted under this division in the denial or suspension of a permit. Upholding the action of the police chief, or designated representative, shall affirm the denial or suspension. Rejection of the police chief, or designated representative's action, shall automatically grant a permit or reinstate a suspended permit.

(e) No person whose permit has been denied or suspended shall create or allow the creation of the noise disturbance in dispute prior to a determination by the city manager.
(Code 1996, § 8.02.006; Ord. No. O-859-07, 11-19-2007)

Sec. 22-85. Penalty.

(a) Any person violating any of the provisions of this division shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed $500.00. A separate offense shall be deemed committed upon each day during or on which a violation or failure to comply occurs.

(b) Notwithstanding the foregoing, in the event a citation is issued for a violation hereof and the violator commits another act on the same day in the same manner, a separate violation shall be deemed to exist for which a separate citation may issue and an enhanced penalty may be assessed not to exceed the maximum penalty ascribed herein.

(c) Allegation and evidence of a culpable mental state is not required for the proof of an offense under this division.
(Code 1996, § 8.02.007; Ord. No. O-859-07, 11-19-2007)

Sec. 22-86. Injunctive relief and abatement authority.

In addition to and accumulative of all other penalties, the city shall have the right to seek injunctive relief for any and all violations of this division. In the case of noise disturbances created by construction activity, the city shall have the authority to issue stop work orders, or invalidate any permit issued for the activity until compliance with this division is ensured.
(Code 1996, § 8.02.008; Ord. No. O-859-07, 11-19-2007)

Secs. 22-87—22-115. Reserved.

DIVISION 4. JUNKED VEHICLES

Sec. 22-116. Definitions.

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

Antique vehicle means a passenger car or truck that is at least 25 years old.

Inoperable means not capable of being used or operated due to legal or mechanical incapability.

Junked vehicle means a vehicle that is self-propelled and:

(1) Does not have lawfully attached to it an unexpired license plate and a valid motor vehicle inspection certificate;

(2) Is wrecked, dismantled or partially dismantled, or discarded; or

(3) Is inoperable and has remained inoperable for more than 72 consecutive hours if the vehicle is on public property or 30 consecutive days if the vehicle is on private property.

Motor vehicle collector means a person who owns one or more antique or special interest vehicles and acquires, collects or disposes of an antique or special interest vehicle or part of an antique or special interest vehicle for personal use to restore and preserve an antique or special interest vehicle for historic interest.

Special interest vehicle means a motor vehicle of any age that has not been changed from original manufacturer's specifications and, because of its historic interest, is being preserved by a hobbyist.

(Code 1996, § 8.03.001; Ord. No. O-854-07, 9-17-2007)

Sec. 22-117. Junked vehicles declared public nuisance.

A junked vehicle, including a part of a junked vehicle, that is visible at any time of the year from a public place or public right-of-way:

(1) Is detrimental to the safety and welfare of the public;

(2) Tends to reduce the value of private property; invites vandalism;

(3) Creates a fire hazard;

(4) Is an attractive nuisance creating a hazard to the health and safety of minors;

(5) Produces urban blight adverse to the maintenance and continuing development of municipalities; and

(6) Is a public nuisance.

(Code 1996, § 8.03.002; Ord. No. O-854-07, 9-17-2007)

Sec. 22-118. Offenses.

A person commits an offense if the person maintains a public nuisance described by this division. An offense under this section is a misdemeanor punishable by a fine not to exceed $200.00. In addition, the court shall order abatement and removal of the nuisance on conviction.
(Code 1996, § 8.03.003; Ord. No. O-854-07, 9-17-2007)

Sec. 22-119. Abatement procedure and effect.

(a) *Authority; administration.* The city may remove from private or public property or a public right-of-way a junked vehicle or part of a junked vehicle that constitutes a public nuisance as provided in this division. The city police chief or designee shall administer and enforce this division, provided that any designee must be a regularly salaried, full-time employee of the city.

(b) *Right of entry.* The police chief or designee may enter private property to examine a public nuisance, to obtain information to identify the nuisance and to remove or direct the removal of the nuisance, consistent with state and federal law.

(c) *Relocating vehicles does not abate nuisance.* The removal of a junked vehicle that is a public nuisance to another location in the city after a proceeding for the abatement and removal of a junked vehicle has commenced has no effect on the proceeding if the junked vehicle constitutes a public nuisance at the new location.

(d) *Service of notice of violation.* Notice of the nature of the nuisance must be personally delivered, sent by certified mail with a five-day return requested, or delivered by the U.S. Postal Service with signature confirmation service to the last known registered owner of the nuisance, each lienholder of record, and the owner or occupant of the property on which the nuisance is located or, if the nuisance is located on a public right-of-way, the property adjacent to the right-of-way:

(1) If the post office address of the last known registered owner of the nuisance is unknown, notice may be placed on the nuisance or, if the owner is located, hand delivered;

(2) If notice is returned undelivered, action to abate the nuisance shall be continued to a date not earlier than the 11th day after the date of the return;

(3) If the city mails a notice to the property owner in accordance with this subsection and the U.S. Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected and the notice is considered as delivered.

(e) *Content of notice.* The notice of violation must state that the nuisance must be abated and removed not later than the tenth day after the date of the notice and a request for a hearing must be made before the ten-day period expires (which shall also be the date by which the nuisance must be abated and removed).

(f) *No notice required if citation is issued.* No notice is required for issuance of a citation for an offense under this division.

(g) *Hearing.* The municipal court shall have full authority to enforce the abatement procedures, including, but not limited to, issuing all necessary orders. The municipal court judge shall conduct hearings relative to the abatement of junked vehicles, subject to the following:

(1) A public hearing must be conducted prior to the removal of the public nuisance not earlier than the 11th day after the date of service of notice;

(2) If a hearing is requested by a person for whom notice is required under subsection (d)(1) of this section, by no later than the date by which the nuisance must be abated and removed, the hearing shall be held not earlier than the 11th day after the date of the service of notice;

(3) At the hearing, the junked motor vehicle is presumed, unless demonstrated otherwise by the owner, to be inoperable;

(4) If the information is available a resolution or order requiring removal of the nuisance must include the vehicle description, identification (VIN) number, and license plate number.

(h) *Reconstruction prohibited.* As part of the order authorizing removal or abatement of the public nuisance, the court shall prohibit a vehicle from being reconstructed or made operable after removal and require that notice identifying the vehicle or part of the vehicle be given to the department of public safety not later than the fifth day after the date of removal.

(i) *Cancellation of certificate of title.* On receipt of notice of removal, the department shall immediately cancel the certificate of title issued for the vehicle.

(j) *Exceptions.* The procedure provided in this section shall not apply to a vehicle or vehicle part that:

(1) Is completely enclosed in a building in a lawful manner and is not visible from the street or other public or private property; or

(2) Is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard; or

(3) Is an antique or special interest vehicle stored by a motor vehicle collector on the collector's property, if the vehicle or part thereof, and the outdoor storage area, if any:

a. Is maintained in an orderly manner;

b. Does not constitute a health hazard; and

c. Is screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery. A vehicle, or part thereof, covered by a tarp, car blanket, or similar covering does not meet the requisite screening requirements of this division.

(k) *Ordinary public view defined.* For purposes of this section, the term "ordinary public view" means the view from private or public property, or public right-of-way from average grade of the surrounding property.
(Code 1996, §§ 8.03.004, 8.03.005; Ord. No. O-854-07, 9-17-2007)

Secs. 22-120—22-136. Reserved.

DIVISION 5. GRAFFITI

Sec. 22-137. Definitions.

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

Graffiti means any marking, including, but not limited to, any inscription, slogan, drawing, design, painting, symbol, logo, name, character, or figure, that is scratched, painted, sprayed, or placed on any surface of public or private buildings, structures or other facilities or upon any other property, regardless of the nature of the material of the structured component of property.

Graffiti implement means any spray paint container, liquid paint in cans or other containers, graffiti stick, paint stick, or etching tool capable of scarring or otherwise defacing glass, metal, concrete or wood.

Guardian means a person who, under court order, is the guardian of the minor or a public or private agency with whom a minor has been placed by a court.

Minor means any person under 18 years of age.

Owner means any person with the legal right of possession to tangible property.

Paint stick or *graffiti stick* means any device containing a solid form of paint, chalk, wax or other similar substance capable of being applied to a surface by pressure and, upon application, leaving a visible mark that is not water soluble.

Parent means a person who is the natural parent, adoptive parent, or stepparent of another person.

Spray paint means any pressurized spray can containing paint, including, but not limited to, a clear or pigmented lacquer finish.
(Code 1996, §§ 8.08.001(a), 8.08.003(a))

Sec. 22-138. Duty of property owner to remove.

(a) An owner of property in the city commits an offense if the owner fails to remove all graffiti from the property that is visible from any public property or right-of-way, or from any private property other than the property on which the graffiti exists.

(b) Before issuing a citation for violation under this section, the police chief or the city's code enforcement officer shall serve the property owner where the graffiti is located with written notice to remove the graffiti within 21 calendar days from the date the notice is served. The notice may be served by handing it to the owner in person, or by United States certified mail, five-day return receipt requested, addressed to the owner at the owner's post office address as shown on the tax rolls of the city or of the county where the property is located. If the owner cannot be found and the notice is returned by the U.S. Postal Service, then the owner may be notified by:

(1) Publication two times, within ten consecutive days, in the official newspaper adopted by the city council;

(2) Posting the notice on or near the front door of each building on the property to which the violation relates; or

(3) Posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates, if the property contains no buildings.

(c) The 21-calendar-day period referred to in subsection (b) of this section will be counted:

(1) From the date the notice is personally served on the owner or from the sixth day after the notice is placed in the United States certified mail; or

(2) If the owner cannot be found or the notice is returned by the U.S. Postal Service, from the date the notice is published for the second time in accordance with subsection (b)(1) of this section or posted in accordance with subsection (b)(2) or (3) of this section.

(d) If, after the expiration of the 21-day notice, the graffiti is not removed, the police chief or the code enforcement officer shall remove or cause to be removed all the graffiti by any means deemed sufficient by the officials. All costs of the abatement of the graffiti shall be charged to the property owner. Recovery of the expenses will be done in accordance with any and all state and federal regulations or laws.
(Code 1996, § 8.08.001(b)—(d), (f))

Sec. 22-139. Responsibility of parent or guardian for graffiti created by a minor.

A parent or guardian of a minor commits an offense if the parent or guardian intentionally, knowingly or recklessly permits or, by insufficient control, allows the minor to create graffiti on tangible property in the city without the property owner's consent. It is a defense to prosecution under this section if the minor has been emancipated from parental control as mandated by state or federal regulations or laws.
(Code 1996, § 8.08.003(i))

Sec. 22-140. Graffiti implement related violations.

(a) *Possession by a minor.* It is unlawful for a minor to be in possession of any sort of graffiti implement unless the minor is accompanied by a parent or guardian, or a teacher in connection with a bona fide school project, or a supervisor during the minor's regular

employment. It is a defense to prosecution under this subsection if the minor's possession was in connection with an event sponsored by the city or a church or some other officially recognized entity and with the express permission of the property's owner or agent. It is also a defense to prosecution under this subsection if the minor has been emancipated from parental control as mandated by state or federal regulations or laws.

(b) *Possession by persons other than minors.* It is unlawful for any person to have in possession any graffiti implement on private property not open to the public, for the purpose of defacing property. The graffiti implement shall be presumed to be for the purpose of defacing property if it is in the holder's possession while the holder is on private property closed to the public, without permission from either the owner or lawful agent.

(c) *Possession in certain public places.* It is unlawful for any person to have in possession any graffiti implement in city hall or in a public park, public swimming pool, other public recreational facility, or other public ground of the city when the facility is closed to the public. With regard to prosecution of minors for violation of this subsection, it is a defense to such prosecution that the minor's possession was in connection with an event sponsored or supervised by the city.

(d) *Permitting minor to be in unlawful possession in designated public places.* It is unlawful for the parent or guardian of a minor to intentionally, knowingly or recklessly or, by insufficient control, permit a minor to be in possession of any graffiti implement in city hall or in a public park, public swimming pool, other public recreational facility, or other public ground of the city when the facility is closed to the public.

(e) *Sale of implement to minor.* It is unlawful for any person to sell or otherwise transfer any spray paint, graffiti stick, paint stick or any other graffiti implement to a minor unless, at the time of purchase or transfer, the minor is accompanied by a parent or guardian, or a teacher in connection with a bona fide school project, or a supervisor during the minor's regular employment. It is a defense to prosecution under this subsection if the minor has been emancipated from parental control as mandated by state or federal regulations or laws.

(f) *Presenting false evidence of age.* It is unlawful for any minor to furnish fraudulent evidence of majority to purchase or obtain any spray paint container, graffiti stick, paint stick, or any other graffiti implement.
(Code 1996, § 8.08.003(b)—(i))

Sec. 22-141. Other defenses.

In addition to other defenses enumerated in this division, it is a defense to prosecution under this division that:

(1) No notice was served on the property owner in compliance with section 22-138(b);

(2) The property owner has removed graffiti from that particular property three or more times within the preceding 12 months;

(3) Before being issued a citation under this section, the property owner gave the police chief or the code enforcement officer written authorization to allow persons to enter onto the property and remove the graffiti pursuant to a volunteer or community service program approved by the code enforcement officer in which the property is eligible to participate; or

(4) The property owner gave consent for the graffiti to be placed on the tangible property, and the graffiti is not in violation of any regulation of the city.

(Code 1996, § 8.08.001(e))

Sec. 22-142. Penalty.

A person who violates a provision of this division shall be fined in accordance with the general penalty provision in section 1-9. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(Code 1996, § 8.08.004)

Secs. 22-143—22-167. Reserved.

ARTICLE III. SEX OFFENDER RESIDENCY

Sec. 22-168. 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:

Minor means a person younger than 17 years of age.

Permanent residence means a place where a person abides, lodges, or resides for 14 or more consecutive days.

Temporary residence means a place where a person abides, lodges, or resides for a period of 14 or more days in the aggregate during any calendar year and which is not the person's permanent address, or a place where a person routinely abides, resides, or lodges for a period of four or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.

(Code 1996, § 8.09.001; Ord. No. 829-06, 10-16-2006)

Sec. 22-169. Residency offense.

For each person required to register on the state department of public safety's sex offender database (the database) because of a violation involving a victim who was less than 17 years of age, it is unlawful for that person to establish a permanent residence or temporary

residence within 1,000 feet of a playground, school, video arcade facility, youth center or public swimming pool, as those terms are defined in V.T.C.A., Health and Safety Code § 481.134.
(Code 1996, § 8.09.002; Ord. No. 829-06, 10-16-2006)

Sec. 22-170. Evidentiary matters; measurements.

(a) It shall be prima facie evidence that this article applies to a person if that person's record appears on the database and the database indicates that the victim was less than 17 years of age.

(b) For the purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent or temporary residence to the nearest property line of the premises described hereinabove or, in the case of multiple residences on one property, measuring from the nearest wall of the building or structure occupied or the parking lot or driveway, whichever is closer to the nearest property line of the premises, as described herein.

(c) A map depicting the prohibited areas shall be maintained by the police department. The city shall review the map at least annually for changes. Said map will be available to the public at the police department.
(Code 1996, § 8.09.003; Ord. No. 829-06, 10-16-2006)

Sec. 22-171. Culpable mental state not required.

Neither allegation nor evidence of a culpable mental state is required for the proof of a residency offense under this article.
(Code 1996, § 8.09.004; Ord. No. 829-06, 10-16-2006)

Sec. 22-172. Affirmative defenses.

It is an affirmative defense to prosecution that any of the following conditions apply:

(1) The person required to register on the database established the permanent or temporary residence and has complied with all of the sex offender registration laws of the state prior to the date of the adoption of this article;

(2) The person required to register on the database entered into a residential lease or rental agreement prior to the date of the adoption of the ordinance from which this article is derived;

(3) The person required to register on the database was a minor when the person committed the offense requiring such registration and was not convicted as an adult;

(4) The person required to register on the database is a minor or a ward under guardianship;

(5) The prohibited premises, as specified herein, within 1,000 feet of the permanent or temporary residence of the person required to register on the database was opened after the person established the permanent or temporary residence and complied with all sex offender registration laws of the state;

(6) The person required to register on the database maintains a permanent or temporary residence at a jail, prison, juvenile facility or other correctional institution or facility;

(7) The information on the database is incorrect, and, if corrected, this article would not apply to the person who was erroneously listed on the database.

(Code 1996, § 8.09.005; Ord. No. 829-06, 10-16-2006)

Sec. 22-173. Exemption hearing.

(a) A person who is required to register on the database because of a violation involving a victim who was less than 17 years of age may petition the city council, in writing, for an exemption from the requirements of this article.

(b) The city council may authorize an exemption from this article when, in its opinion, undue hardship will result from compliance or an individualized recidivist assessment indicates an exemption should be granted. In granting an exemption, the council shall take into account the probable effect the exemption will have upon the public health, safety and welfare of the community.

(c) No exemption shall be granted without first having held a public hearing on the exemption petition and unless the city council makes written findings regarding the following:

(1) The person lives with the person's family in the only home available and affordable to the family;

(2) The number of victims;

(3) The diversity of victims;

(4) The person's relationship to the victims;

(5) A history of juvenile sexual offenses;

(6) A history of abuse and neglect;

(d) Such findings of the city council, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the council meeting at which such exemption is granted. Exemptions may be granted only when in harmony with the general purpose and intent of this article so that the public health, safety and welfare may be secured and that substantial justice may be done.

(Code 1996, § 8.09.006; Ord. No. 829-06, 10-16-2006)

Sec. 22-174. Prohibition against renting or leasing.

(a) It is unlawful for the owner, lessee or occupant (collectively referred to as "lessor") of any place, residence, structure, dwelling, manufactured dwelling, mobile home, camping trailer or other conveyance, with knowledge that it will be used as a temporary or permanent residence of such person, to rent or lease the same, or any part thereof, to a person required to register on the database because of a violation involving a victim who was less than 17 years of age, if such place, residence, structure, dwelling, manufactured dwelling, mobile home, camping trailer or other conveyance is located within 1,000 feet of any playground, school, video arcade facility, youth center or public swimming pool, as those terms are defined in V.T.C.A., Health and Safety Code § 481.134.

(b) An owner, lessee or occupant (collectively referred to as "lessor") of any place, residence, structure, dwelling, manufactured dwelling, mobile home, camping trailer or other conveyance shall be deemed to have knowledge that another person is required to register on the database because of a violation involving a victim who was less than 17 years of age if such person's record appears on the database and the database indicates that the victim was less than 17 years of age on the earlier of:

(1) The date of receipt of a lease application, rental application or similar document by lessor or officers, agents, employees or volunteers; or

(2) The date the person first occupies lessor's place, residence, structure, dwelling, manufactured dwelling, mobile home, camping trailer or other conveyance.

(Code 1996, § 8.09.007; Ord. No. 829-06, 10-16-2006)

Sec. 22-175. Penalties.

(a) *Civil and criminal penalties.* The city shall have the power to administer and enforce the provisions of this article as may be required by governing law. Any person violating any provision of this article is subject to suit for injunctive relief as well as prosecution for criminal violations.

(b) *Criminal prosecution.* Except as may otherwise be provided herein, any person violating any provision of this article shall, upon conviction, be fined a sum not exceeding $500.00. Except as may otherwise be provided herein, each day that a provision of this article is violated shall constitute a separate offense. An offense under this article is a misdemeanor.

(c) *Civil remedies.* Nothing in this article shall be construed as a waiver of the city's right to bring a civil action to enforce the provisions of this article, and to seek remedies as allowed by law, including, but not limited to, the following:

(1) Injunctive relief to prevent specific conduct that violates this article or to require specific conduct that is necessary for compliance with this article;

(2) Except as may otherwise be provided herein, a civil penalty up to $100.00 a day when it is shown that the defendant was actually notified of the provisions of this article and, after receiving notice, committed acts in violation of the article or failed to take action necessary for compliance with this article; and

(3) Other available relief.

(Code 1996, § 8.09.008; Ord. No. 829-06, 10-16-2006)

Chapter 23

RESERVED

Chapter 24

PARKS AND RECREATION

Article I. In General

Sec. 24-1. Authority over city parks.
Sec. 24-2. Hours of operation of recreational facilities.
Sec. 24-3. Vehicle driving and parking in city recreational areas.
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Article II. Private Use of City Recreational Facilities

Sec. 24-37. Designation of city facilities.
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ARTICLE I. IN GENERAL

Sec. 24-1. Authority over city parks.

The city shall have exclusive control of all city parks within the city limits and shall have the power to control, regulate or remove all obstructions, and prevent all encroachments thereupon.
(Code 1996, § 1.18.001)

Sec. 24-2. Hours of operation of recreational facilities.

The parks and recreational facilities of the city will be available for general use and occupancy during the hours designated by the city. The city may revise operational hours as its seems necessary and appropriate; however, the normal hours of operation and use are 5:00 a.m. to 11:00 p.m. Sunday through Thursday and 5:00 a.m. to 12:00 midnight on Friday and Saturday.
(Code 1996, § 1.18.002)

Sec. 24-3. Vehicle driving and parking in city recreational areas.

(a) It is unlawful to drive, stand, park, or to permit the driving of any motor vehicle on any picnic area, walkway, or ball field within the park.

(b) All vehicles will remain parked or driven only on clearly established and maintained roadways, driveways, and parking lots. However, any motor vehicle actually engaged in the maintenance or service of or to such park areas or any facility therein may deviate from said roadway, driveway, or parking lot for as long as needed to perform said maintenance or service.

(c) This section shall not apply to any vehicle actually engaged in any emergency service involved in the saving or preservation of human life or property within the confines of the park.
(Code 1996, § 1.18.003)

Sec. 24-4. Speed limit in city park.

The designated speed limit for the operation of any motor vehicle within the confines of the park is ten miles per hour at all times.
(Code 1996, § 1.18.004)

Sec. 24-5. Fires and excavations within the city park restricted.

No person shall start any type of fire within the confines of the park except in the designated picnic areas and then only in the designated barbecue grills. There shall at no time be any excavation of the grounds within the park for fires of any type and for any purpose.
(Code 1996, § 1.18.005)

Sec. 24-6. Gambling or wagering within city park permitted.

No gambling or wagering of any type shall be permitted within the park or at any designated event held at the park by any person, group, or civic organization.
(Code 1996, § 1.18.006)

Sec. 24-7. Alcoholic beverages within city park prohibited.

At no time will any person, group, or civic organization be permitted to possess or consume any type of alcoholic beverage within the confines of the park.
(Code 1996, § 1.18.007)

Sec. 24-8. Concessions in recreational facilities restricted.

The sale of concessions in conjunction with any event scheduled at the park or recreational facility is prohibited unless otherwise approved in advance by the city.
(Code 1996, § 1.18.008)

Sec. 24-9. Penalties.

Any person violating this article shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court of the city, shall be fined in accordance with the general penalty provision found in section 1-9.
(Code 1996, § 1.18.009)

Secs. 24-10—24-36. Reserved.

ARTICLE II. PRIVATE USE OF CITY RECREATIONAL FACILITIES

Sec. 24-37. Designation of city facilities.

The city manager shall from time to time designate the city recreational facilities and other city facilities that are available for use by the public for public or private events and meetings. The term "use," as used in this article, includes, but is not limited to, use pursuant to a rental or use agreement, license, or permit, and use with or without charge.
(Code 1996, § 1.18.101; Ord. No. O-20-22, § 1, 1-3-2023)

Sec. 24-38. City manager to establish policy for use.

The city manager is authorized to establish a policy for the use of city facilities as provided in this article, and the use of city facilities as provided in this article shall be subject to the policy for use of city facilities established by the city manager from time to time.
(Code 1996, § 1.18.102; Ord. No. O-20-22, § 1, 1-3-2023)

Sec. 24-39. Use permits, licenses, and agreements.

The city manager, or designee, is authorized to issue permits, licenses, rental or use agreements, or other agreements with respect to the reservation, rental, or use of city recreational facilities, meeting rooms in city buildings, and other city facilities for events and meetings, including permits, licenses or other agreements for the service of alcoholic beverages in such facilities.
(Code 1996, § 1.18.103; Ord. No. O-20-22, § 1, 1-3-2023)

Sec. 24-40. Fees.

The city manager is authorized to establish fees and deposits for the use of city facilities, including special event alcoholic beverage permits, unless the fee or deposit has been established by city ordinance or by resolution of the city council.
(Code 1996, § 1.18.104; Ord. No. O-20-22, § 1, 1-3-2023)

Sec. 24-41. Alcoholic beverages at special events.

(a) No person shall sell, store, possess, or consume an alcoholic beverage in any city facility except as authorized in this section. Pursuant to V.T.C.A., Alcoholic Beverage Code § 1.04, the term "alcoholic beverage," as used in this section, means alcohol, or any beverage containing more than one-half of one percent of alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted.

(b) The city manager or designee may grant a special event alcoholic beverage permit to allow for the consumption, possession, or sale of beer and wine in a city recreational facility, meeting room in a city building, or other city facility. In issuing such permit, the city manager shall designate a specific area within the city facility for the serving and consumption of alcoholic beverages under such permit and shall establish such hours that the alcoholic beverages may be dispensed and consumed. The city manager is further authorized to implement such other appropriate safety and control regulations as deemed necessary for the public safety and general welfare.
(Code 1996, § 1.18.105; Ord. No. O-20-22, § 1, 1-3-2023)

Secs. 24-42—24-70. Reserved.

ARTICLE III. PARKLAND DEDICATION

Sec. 24-71. Purpose.

(a) The requirements contained in this article are intended for the purpose of ensuring open space and community park facilities are available and adequate to meet the needs created by such development while maintaining current and proposed parks and recreation standards pursuant to the city parks, recreation and open space master plan.

(b) The city has imposed a park dedication fee on residential development, and all fees collected shall be used solely and exclusively for the purpose of acquisition and development of new community parks and existing park facilities intended for access and use by the entire city. Acceptable parkland that meets the criteria to be dedicated in lieu of the imposed park fee may be accepted by the city.
(Code 1996, § 1.18.041; Ord. No. O-04-08, 2-4-2008)

Sec. 24-72. Park fees and supplemental requirements.

(a) The city has established a citywide park fee and a neighborhood park fee. A citywide park fee as provided in the city fee schedule per dwelling unit shall be imposed on all residential development in the city. A neighborhood park fee shall be calculated and collected as provided in section 24-74.

(b) The park dedication requirement established by this article is additional and supplemental to, and not in substitution of, any other requirements imposed by the city on the development of land. Such dedication requirement is intended to be consistent with and to further the policies of the comprehensive plan, master park plan, unified development code, subdivision rules and regulations, and all other city policies, ordinances and resolutions by which the city seeks to promote orderly growth and preserve natural resources.
(Code 1996, §§ 1.18.042, 1.18.043; Ord. No. O-04-08, 2-4-2008)

Sec. 24-73. Developer contribution by land dedication in lieu of park fee.

(a) In lieu of the imposed park fee, the developer of any area zoned and to be used for single-family, duplex or multifamily residential purposes within the city may elect to apply a contribution of dedication of community parkland acceptable to the city at the rate of not less than one acre of land per 50 ultimate units of such residential subdivision, and public parks shall not be smaller than five acres in size.

(b) The developer shall propose dedication of parkland in conjunction with approval of the subdivision plat.

(c) The dedicated land required hereby shall be well drained and relatively level in areas that are proposed for active park uses and shall be suitable for appropriate recreational and leisure activities as defined in a community park. All parkland offered for dedication under this section shall meet the requirements for location and for physical land characteristics outlined in the master park plan. Areas having environmentally sensitive ecosystems, attractive views, topographical interests or unique natural features shall be preferred and encouraged for parkland dedication. Areas which are relatively featureless, barren of natural trees and vegetative cover and which are not physically attractive in some other way may not be typically acceptable.

(d) The location and size of public parks within the city shall be determined in all instances by the city council upon recommendations from the city manager or designee. That determination shall be based upon existing circumstances at the time and shall be in accordance with the adopted parks, recreation and open space master plan and as may thereby be amended from time to time by the city.

(e) Dedicated parkland shall be easily accessible to the public, enhance the visual character of the city and minimize conflict with adjacent land uses.
(Code 1996, § 1.18.044; Ord. No. O-04-08, 2-4-2008)

Sec. 24-74. Neighborhood park fees and funds.

(a) A neighborhood park fee shall be due and collectable for residential units to be constructed in any area in the city for which parks and recreation facilities are suitable and desirable, is consistent with the master park plan and which has been identified by the city manager and designee for future construction as a neighborhood park.

(b) Upon the filing of a subdivision plat, concept plan, site plan, proposal for agreement, proposal for PD Planned Development District, application for plat or replat, or other form of authorization that adequately informs the city of a plan to construct residential units in the city, staff shall ascertain whether such units are in an area from which a neighborhood park is contemplated and, if so, shall inform the applicant or other person filing such document of the requirements for payment of a neighborhood park fee.

(c) The maximum neighborhood park component fee shall be calculated by the staff separately for each neighborhood park by dividing the average cost of that type of park facility for the entire area that is reasonably expected to be benefitted by such park and which is reasonably susceptible to and authorized for development for residential purposes.

(d) A separate neighborhood park fee fund shall be established for each neighborhood park that is identified pursuant to this section.

(e) Fees collected for the neighborhood park funds shall be used for the purpose of acquisition and development of neighborhood parks located in reasonable proximity to the residential development from which the park fee was received. Fees collected may be used for site preparation, the extension of utilities to or within sites, the installation of landscaping, play equipment, or recreation improvements and attendant engineering and planning costs associated with park development.
(Code 1996, § 1.18.045; Ord. No. O-04-08, 2-4-2008)

Sec. 24-75. Processing and collection of fees.

(a) *Fee determination.* The developer has the duty to submit the information concerning the number of dwelling units. Upon receipt of an application for a building permit, the city shall calculate the amount of the applicable citywide park fee due and any neighborhood

park fee. The applicable fees shall be collected prior to the issuance of the building permit. No permit shall be issued nor shall any construction be allowed to begin until payment of all fees required by this article are paid.

(b) *Credit against park fee for developer contributions of land.* Parkland that has been dedicated in lieu of the park fee shall be reviewed and approved by the city council subsequent to a recommendation from the parks and recreation board. When review of development applications has resulted in the acceptance of land dedication, such land dedication shall be shown on a final plat and shall contain clear fee simple dedication of that land to the city.
(Code 1996, § 1.18.046; Ord. No. O-04-08, 2-4-2008)

Sec. 24-76. Use of park fees.

(a) Fees collected for the citywide park fund shall be used for the purpose of acquisition and development of new centralized community parks and the improvement of existing park facilities intended for use and access by the entire city. Fees collected may be used for land acquisition, site preparation, the extension of utilities to or within sites, the installation of landscaping, play equipment, or recreation improvements, installation of expansions, new features, athletic fields, parking lots, swimming pools and water recreation facilities, and similar facilities normally associated with parks and recreation, including attendant engineering, architectural, legal, planning or other consultant costs associated with such park development.

(b) All expenditures of fees collected shall be made in accordance with the city parks, recreation and open space master plan, advice or recommendation of the staff and the parks and recreation board, and as approved by the city council to best benefit the citizens of the city.

(c) Any monies paid into the citywide or neighborhood park fund must be expended by the city within ten years from the date received by the city. If such funds are not expended within ten years following final plat approval, the property owner shall be entitled to a refund of such funds upon written request, less any amounts expended for such purposes.
(Code 1996, § 1.18.047; Ord. No. O-04-08, 2-4-2008)

Secs. 24-77—24-95. Reserved.

ARTICLE IV. NAMING CITY RECREATIONAL FACILITIES

Sec. 24-96. 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:

Ancillary feature means individual exterior or interior features or facilities within the larger park or facility, including, but not limited to, meeting rooms, landscaped grounds, flower gardens, sculptures, picnic shelters, play lots, ball fields, and other similar items.

Deceased means a person who has been dead for more than two years.

Elected official means any person who acquires local, regional, or national office through an election.

Family member or *relative* means any person having a current or past familial relationship, including natural born, adopted, or legally connected persons.

Naming means the intention of permanently identifying a human created object, open space, waterway, or other feature occurring in the natural environment.
(Code 1996, § 1.18.081; Ord. No. O-16-12, 7-16-2012)

Sec. 24-97. Procedure.

(a) Because temporary, working designations tend to be retained, the parks and recreation board will carry out the required naming recommendation to city council for a new park or facility within 12 months after its acquisition or development. Facilities will bear number designations until the naming process results in adoption of a name.

(b) The parks and recreation board can initiate the naming process whenever deemed necessary and in the best interest of the city. In the absence of any naming request, the parks and recreation board shall adhere to the criteria stated in this article for recommendation of names. All requests for naming a park or facility are to be presented to the parks and recreation board for consideration.

(c) Only a naming request for a recently deceased individual will have a two-year waiting period before the request may be proposed for consideration.

(d) City staff will log each request by date and time and review the request for completeness before submitting the request to the parks and recreation board for consideration.

(e) Those submitting a name request should show how the proposed name is consistent with the criteria stated in this article. When naming after a person, the application will describe the contributions to the city along with submitted written documentation as required.

(f) City staff will review the proposal for adherence to the stated criteria and authentication of statements relative to contributions in the case of the request being brought forward to the parks and recreation board. If the request is incomplete, staff will contact the applicant in writing and provide them with the opportunity to resubmit a revised request.

(g) The parks and recreation board will place one public notice in the city's newsletter or other media 30 days before the board's meeting where discussion will take place, and/or conduct two consecutive public meetings to offer an opportunity for public input on the proposed name. Public input to be considered shall be postmarked 30 days prior to the public meeting and presented in writing and with supporting documentation to the director of public works, who shall forward the input to the parks and recreation board.

(h) The city council will review the application and supporting documents at the next scheduled council meeting and evaluate merit of public input and documentation for disposition.

(i) City council will inform the parks and recreation board of the final decision; the parks and recreation board will forward the decision to the park department for final notification to the applicant and will have closure of the request on the disposition log.
(Code 1996, § 1.18.082; Ord. No. O-16-12, 7-16-2012)

Sec. 24-98. Park and open space naming policies.

Parks, open spaces, waterways and other elements of the natural environment shall be subject to the following city policy:

(1) *Council to name city parks.* The city council shall designate the names of public parks and recreation facilities. The city council will not make its selection until after receiving written recommendations from the parks and recreation board. Such recommendations shall state how the proposed names meet the naming criteria. If a contest or competition is held to help determine the name of a park or recreation facility, the parks and recreation board shall establish recommended guidelines to the city council. Citizen input shall be encouraged in the naming of the parks, subject to the criteria below;

(2) *Naming criteria.* The naming of public parks and recreation facilities shall be made upon one or more of the following criteria and preferably in the following order:

a. The proposed name fits a neighborhood or geographical identification (e.g., Lake Hollywood, Courtney Lane Park, Cinnamon Springs, and Gateway);

b. The proposed name fits a natural or geological feature, geographical location, and the wishes of the community in which it is located (e.g., Magnolia Creek, Red Oak Creek, Bear Creek);

c. The proposed name is a historical figure or of local cultural or historical significance (e.g., Ida Glenn);

d. The proposed name is for a deceased individual who has made a significant land or monetary contribution or a significant contribution of personal time, effort, or service to the park system that is commensurate with the value of the recognition, but only after said person has been deceased for at least two years and only after, through due diligence, it has been found that said person's character, achievements, reputation, and contributions are above reproach;

e. The proposed name is to recognize a contribution made in memoriam for the donor or entity, when the name has been stipulated as a condition of the donation;

f. The proposed name is for a civic group or corporation whose mission statement is compatible with city goals and objectives and that has made a significant land or monetary contribution of time, effort, or service to the park system;

g. The proposed name recognizes and honors a deceased city employee who was employed by the city for at least 20 years and who, during such employment, made extraordinary and significant contributions to the park system;

h. To avoid duplication, confusing similarity, or inappropriateness, the board or committee, in considering name suggestions, will review existing park and facility names in the park system;

i. No park shall be given the same name as an existing school site or public facility, except where they abut one another;

j. Requests that are rejected or received disapproved from the board are ineligible to resubmit to the parks department without adhering to stated policy and application requirements and only after a period of 12 months.

(3) *Naming of ancillary features.* The individual ancillary features or facilities of a park or open space may have names other than that of the entire park or open space. These names shall be subject to the same general criteria.

(4) *Naming through fundraisers.* The city council may authorize a feature of a park or open space to be developed or established through a fundraising effort that may include naming. It is not the intent of this subsection to prohibit such fundraising activities that involve naming as part of the fundraising effort. Examples may include, but are not limited to, a "named bricks" fundraiser to pave a path; "named seats" to fundraise for a bleacher; "named bushes" to fundraise for a rose garden, etc.

(5) *Naming of donated property; conditions.* The naming of a donated public park property, facility, or ancillary feature should ordinarily be with the intent for it to be a perpetual recognition of the individual, family, corporation, foundation, association or other entity from whom the donation was received. The naming should be commensurate with the value of the donation. The renaming of a donated facility is generally discouraged. Rescinding the name of a donated facility shall occur only under extraordinary circumstances after thorough study and the receipt of written recommendations from the parks and recreation board. The city council may rescind the naming of a facility donated after the effective date of the ordinance from which this article is derived only under the following circumstances:

a. The individual, family, corporation, foundation, association or other entity for which the facility has been named has been convicted of a felony or a crime involving moral turpitude, or has participated in any other illegal or disreputable behavior which would bring discredit to the city and do substantial harm to the reputation and mission and vision of the city and the facility;

b. The useful life of the facility has expired and the facility must be replaced or substantially renovated;

c. The specific agreed upon period of time for the retention of the name has expired; or

d. The donor, or legally authorized representative, has requested or consented to a renaming action by the city.

(6) *Signage.* Following selection of a name, the park department shall identify the specific facility with appropriate signage specifying the name.

(Code 1996, § 1.18.083; Ord. No. O-16-12, 7-16-2012)

Sec. 24-99. Naming of other city facilities.

(a) *General policy.* Other city facilities, such as city hall, police stations, annexes, maintenance buildings, community centers, senior centers, and related human-made structures, shall be subject to the policies outlined in this section. As a general policy, public building names shall be named to reflect the functionality of the facility by simply stating its purpose without further description (example: Glenn Heights Senior Center, Glenn Heights Performing Arts Center, and Public Safety Building).

(b) *City council to name city facilities.* The city council shall designate the names of city facilities, including ancillary features. In making this selection, the city council may request a written recommendation from the parks and recreation board. Such recommendations shall state how the proposed names meet the naming criteria outlined below.

(c) *Naming criteria.* The naming of general city facilities shall be made upon one or more of the following criteria:

(1) The building name simply reflects the functionality of the facility without further description;

(2) The proposed name fits a neighborhood or geographical identification (e.g., Glenn Heights, Bear Creek);

(3) The proposed name is for an individual deceased for two years that has made a significant financial contribution or contribution of time, effort, or service to the city that is commensurate with the value of the recognition;

(4) The proposed name is to recognize a contribution made in memoriam for an individual, when the name has been stipulated as a condition of a significant donation.

(d) *Naming of ancillary features.* A facility's significant individual interior or exterior features or rooms may have names designated other than that of the general facility. These names shall be subject to the same general criteria designated in this section but may be lessened or modified to include and be commensurate with the value of the ancillary feature so named.

(e) *Naming through fundraisers.* The city council may authorize a feature of a building to be developed or established through a fundraising effort that may include naming. It is not the intent of this subsection to prohibit such fundraising activities that involve naming as part of the fundraising effort. Examples may include "named bricks" to fundraise for a floor, path, or sidewalk; "named bushes" to fundraise for a garden, etc.

(Code 1996, § 1.18.084; Ord. No. O-16-12, 7-16-2012)

Sec. 24-100. Name plates for minor ancillary features.

Nothing in this article shall be construed to prohibit the city from fixing a name plate or providing similar recognition to a minor feature in a park or other city facility. Such recognition shall be made only for those persons who have made a significant contribution to the city or otherwise donated the feature to the city. Examples include trees, bushes, flower beds, park benches, kiosks, play toys, water fountains, and similar items.
(Code 1996, § 1.18.085; Ord. No. O-16-12, 7-16-2012)

Sec. 24-101. Nomination and notification from citizens.

A completed citizen nomination should include a completed application with attached narrative to support the proposed name change nomination, letters of support, and a maximum of ten attachments that may include newspaper articles, listing of accomplishments or affiliations, resumes, photos, etc. Individuals submitting applications will receive notification by mail of the status of the application.
(Code 1996, § 1.18.086; Ord. No. O-16-12, 7-16-2012)

Sec. 24-102. Administration of policy.

(a) The city shall provide a good faith, discretionary administration of this article for the benefit of the public in general, but the city makes no promise for the specific application of any part or the whole of this article to any individual. This article is not intended to provide an enforceable right, expectation, or property interest to any third party providing donations or bequests to the city.

(b) Proper and thoughtful consideration and due diligence should be exercised in naming similar facilities uniformly. For example, if the soccer fields are to be named, they should have a similar theme, such as naming them all after indigenous wildflowers or city founders. Consideration should also be given to the level of significance a person played in the city and the size of the amenity to be named, if it is to be named after a person. It seems only fitting that larger facilities be named after someone who played a much larger role in founding the city or parks and park facilities, with smaller facilities/amenities being named after those who played important yet lesser roles.

(c) Established criteria will be the primary rating tool, though there may be some unforeseen situations in which applications may be looked at on a case-by-case basis.
(Code 1996, § 1.18.087; Ord. No. O-16-12, 7-16-2012)

Chapter 25

RESERVED

Chapter 26

SOLID WASTE

Article I. In General

Sec. 26-1. Definitions.
Sec. 26-2. Charges, billing, and delinquencies.
Sec. 26-3. Penalty for violations.
Secs. 26-4—26-24. Reserved.

Article II. Collection and Disposal

Sec. 26-25. Mandatory use of services.
Sec. 26-26. Pickup schedule.
Sec. 26-27. Collection time; placement of garbage for collection.
Sec. 26-28. Container requirements.
Sec. 26-29. Collection of nonconforming containers or bags.
Sec. 26-30. Exclusions.

ARTICLE I. IN GENERAL

Sec. 26-1. Definitions.

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

Bulky items means stoves, refrigerators, water tanks, washing machines, furniture and other similar waste materials. The term "bulky items" shall include loose brush greater than four inches in diameter that cannot be bundled in four-foot lengths and weighs more than 50 pounds. Items of loose brush shall not exceed five feet in length and 50 pounds.

Bundle means trees, shrubs and brush trimmings or newspapers and magazines securely tied together forming an easily handled package not exceeding four feet in length, six feet in diameter, or 50 pounds in weight. The total amount of bundled material set out for collection shall not exceed two cubic yards (six feet by three feet by three feet) during each collection period.

Construction debris means waste building materials resulting from construction, remodeling, repair, demolition or landscaping operations.

Customer means an occupant of a residential unit or commercial establishment who generates refuse.

Dead animals means animals or portions thereof equal to or greater than ten pounds in weight that have expired from any cause, except those slaughtered or killed for human use.

Garbage or *trash* means any and all dead animals of less than ten pounds in weight, except those slaughtered for human consumption, every accumulation of waste (animal, vegetable or other matter) that results from the preparation, 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 definitions of the terms "bulky items," "construction debris," "dead animals," "hazardous waste," "rubbish" and "stable matter."

Hazardous waste means any chemical, compound, mixture, substance or article which is designated by the United States Environmental Protection Agency or appropriate agency of the state to be "hazardous" as that term is defined by or pursuant to police or state law.

Recyclable material means post-consumer products that are not placed in a landfill or incinerated but are diverted from the waste stream for reuse or reprocessing as another product. Except as otherwise provided, recyclable material shall be included as a part of the term "garbage" for all provisions of this chapter related to the collection, pickup and disposal of garbage.

Residential unit means a single-family, duplex, triplex or fourplex dwelling within the corporate limits of the city. A residential unit shall be deemed occupied when city water or sewer or waste removal services are provided to it by reason of human habitation of the premises.

Rubbish means all 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 mattresses, used and discarded clothing, used and discarded shoes and boots, combustible waste pulp and other products such as are used for packaging or wrapping crockery and glass, cinders, floor sweeping, glass, mineral or metallic substances, and any and all other waste materials not included in the definitions of the terms "bulky items," "construction debris," "dead animals," "garbage," "hazardous waste," "rubbish" and "stable matter."

Stable matter means all manure and other waste matter normally accumulated in or around a stable, or any animal, livestock, poultry enclosure, and resulting from the keeping of animals, poultry, or livestock.
(Code 1996, § 13.06.001; Ord. No. O-19-16, 10-18-2016)

Sec. 26-2. Charges, billing, and delinquencies.

(a) The charge to be made for garbage pickup service shall be as fixed by the franchise agreement between the city and the service provider.

(b) Any garbage collection bill not paid in full within 15 days of the due date shall be deemed past due, and a delinquent payment charge shall be assessed. When water, wastewater services and garbage services or a combination of any of the three services are included in a bill, payment in full for all services must be made or otherwise the entire bill will be considered delinquent. Any services for which charges continue to be delinquent for 20 days from the due date are subject to termination by the city.
(Code 1996, §§ 13.06.004, 13.06.005)

Sec. 26-3. Penalty for violations.

Except as otherwise provided in this chapter, any person, firm or corporation violating any term or provision of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be subject to a fine not to exceed the sum of $200.00 for each offense.
(Code 1996, § 13.06.011; Ord. No. O-19-16, 10-18-2016)

Secs. 26-4—26-24. Reserved.

ARTICLE II. COLLECTION AND DISPOSAL

Sec. 26-25. Mandatory use of services.

All residences in the city shall use garbage pickup facilities as provided by the city. The use of such facilities shall be mandatory, and bills for such services shall be added to the monthly water bill of the city.
(Code 1996, § 13.06.002)

Sec. 26-26. Pickup schedule.

The city shall provide or make available garbage pickup service so that garbage will be picked up once weekly at each residential location in the city. The weekly residential pickup day shall be Wednesday unless otherwise provided by the city council.
(Code 1996, § 13.06.003; Ord. No. O-19-16, 10-18-2016)

Sec. 26-27. Collection time; placement of garbage for collection.

(a) Garbage, including all permitted containers and bags, shall be placed either at the front of the premises adjacent to the public street or at the rear of the premises adjacent to a public alley for pickup service at such location. Garbage may be placed out for pickup no earlier than 7:00 p.m. on the day before the scheduled day of pickup and shall be removed no later than 10:00 p.m. on the day of the scheduled pickup. Violations of this subsection shall be subject to a fine of $25.00 for the first offense, $50.00 for a second offense, and $75.00 for the third and all subsequent offenses.

(b) For residential customers, service shall be between 7:00 a.m. and 8:00 p.m. on the scheduled pickup day. Service on Sundays or holidays shall not be provided. There will be at least one pickup per week of a holiday. Holidays, for the purpose of this article, shall be New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day, provided that the city may designate additional holidays by resolution from time to time and with notice to city customers.
(Code 1996, §§ 13.06.006, 13.06.0010, 13.06.0011; Ord. No. O-19-16, 10-18-2016)

Sec. 26-28. Container requirements.

(a) All garbage and trash placed on the exterior of a premises shall be kept in a garbage container. Garbage containers shall meet the following minimum requirements:

(1) The container shall be equipped with suitable lifting handles on the outside, and a securely fitting cover or lid equipped with a handle;

(2) The container must not have any inside structures, such as inside bands and reinforcing angles or anything within the container to prevent the free discharge of the contents;

(3) The container shall not be deteriorated or damaged to the extent that the container has jagged or sharp edges capable of causing injury to garbage collectors or other

persons whose duty it is to handle the containers or the container's cover does not fit securely so as to protect the interior from the elements or small animals, including birds and rodents;

(4) Containers shall be watertight, constructed of a solid and durable grade of metal, fiberglass or plastic, and not exceed 35 gallons in capacity. The combined weight of the refuse container and its contents shall not exceed 50 pounds;

(5) Polycart containers shall be rubber-wheeled, watertight, constructed of a solid and durable grade of metal, fiberglass or plastic and not exceed 95 gallons in capacity. The combined weight of the polycart container and its contents shall not exceed 175 pounds;

(6) Recycling containers shall be watertight, constructed of a durable grade plastic with a minimum capacity of 18 gallons. The container shall be designed for the purpose of curbside collection of recycling materials.

(b) Containers that do not meet the minimum applicable requirements in this section may be condemned and, after written notice to the owner of the container and property owner, confiscated by the city.
(Code 1996, § 13.06.007; Ord. No. O-19-16, 10-18-2016)

Sec. 26-29. Collection of nonconforming containers or bags.

When garbage is not placed in a garbage container as described in this article or in a watertight garbage bag when permitted, it will not be picked up by the garbage collector except by special arrangement with the collector for such service; provided, however, that the collector, in the collector's sole discretion, may pick up garbage placed for pickup that is not secured in a container or bag.
(Code 1996, § 13.06.008; Ord. No. O-19-16, 10-18-2016)

Sec. 26-30. Exclusions.

Garbage collection under this article does not include removal of hazardous, toxic or radioactive wastes or substances as currently or in future defined as such by applicable police, state or local laws or regulations. The city will not be responsible for hauling human or animal waste, hazardous waste, auto parts, rocks, concrete, sand, gravel, dirt, or construction debris, unless specifically contracted for with the generator of such refuse.
(Code 1996, § 13.06.009)

Chapter 27

RESERVED

Chapter 28

STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES

Article I. In General

Secs. 28-1—28-18. Reserved.

Article II. Construction in Public Ways

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ARTICLE I. IN GENERAL

Secs. 28-1—28-18. Reserved.

ARTICLE II. CONSTRUCTION IN PUBLIC WAYS

Sec. 28-19. Permit required; exceptions.

(a) Any person or franchise utility who undertakes to perform any work upon, in, under, above, or about any public street, roadway, alley or sidewalk (herein collectively called "public right-of-way"), shall be required to obtain a permit issued by the public works director or designated representative. The permit must be acquired before any work has begun. This subsection does not apply to work done on private property.

(b) A homeowners' permit may be obtained to cover work by the homeowner on the public right-of-way adjacent to the homeowners' property, and no bond will be required for this work.
(Code 1996, § 3.17.002)

Sec. 28-20. Work required.

(a) It shall be the responsibility of the permit holder to provide, erect, place and maintain proper traffic control devices and barricades as required by the state manual on uniform traffic control devices or as required by the public works director.

(b) It shall be the responsibility of the permit holder to perform all work as required by this article, which work may include, but is not limited to, sawing, cutting, excavation, removal of spoil material, compacted emplacement of subgrade, compacted emplacement of base, and emplacement of asphalt.

(c) All work as required by the permit shall be performed in a timely manner as determined by the public works director. Failure to perform work in a timely manner may result in ten days' formal notice by the public works director that work is not satisfactory, except for emergencies or hazardous conditions; and:

(1) Notification that city crews will perform the work; or

(2) Notice that the work will be performed by a private contractor;

If work is performed at the direction of the city, then the minimum charge shall be as provided in the city fee schedule.

(d) All work covered by this permit shall be in accordance with the provisions of standard specifications for public works construction by the North Texas Council of Governments as adopted by city council or contained within the city subdivision rules and regulations and standard specifications. Except in cases where existing utilities must be tapped under a street or where leaks and repairs are required on existing lines under a street, all placement of lines under a street shall be done by tunneling, jacking or boring.

(e) All work done by the city shall meet the standards established by this article and standard specifications for public works construction.
(Code 1996, § 3.17.003)

Sec. 28-21. Application for permit.

An applicant for a permit hereunder shall file with the director an application showing:

(1) Name and address of the contractor or agent in charge of the proposed work;

(2) Name and address of the owner for whom the work is done;

(3) Location of the work;

(4) Plan or sketch showing the details for the proposed construction.
(Code 1996, § 3.17.004)

Sec. 28-22. Special requirements.

(a) The director may, at the time of issuance of the permit, require the use or specific location of additional barricades, that only a specified area or number of street lanes be blocked at any one time, and that work be performed only at specific times.

(b) Any work performed, other than normal city operating hours, including weekends and holidays, shall be approved by the public works director;

(c) An approved plan or sketch showing details of the construction must be on the job site at all times.
(Code 1996, § 3.17.005)

Sec. 28-23. Fee schedule.

Permit and inspection fees are as provided for in the city fee schedule.
(Code 1996, § 3.17.006)

Sec. 28-24. Bond required.

A bond is required except as otherwise provided in this Code. No person shall construct, cut, repair, alter or grade any sidewalk, curb, curb cut, driveway, storm sewer, or street in the city without executing and delivering to the city a surety bond in the amount of $2,000.00. The bond guarantees that all work will be done in a professional manner, will strictly comply with all ordinances and regulations of the city, will maintain all work for a period of one year after completion of work, and will indemnify and hold harmless the city for any work performed. Bonding is required prior to issuance of the permit except for franchise utilities where work is performed by the utility and not a franchisee contractor.
(Code 1996, § 3.17.007)

Secs. 28-25—28-51. Reserved.

ARTICLE III. RIGHT-OF-WAY MANAGEMENT

Sec. 28-52. Purpose.

The purpose of this article is to:

(1) Assist in the management of facilities placed in, on or over the public rights-of-way in order to minimize the congestion, inconvenience, deterioration, visual impact and other adverse effects and the costs to the citizens resulting from the placement of facilities within the public rights-of-way;

(2) Govern the use and occupancy of the public rights-of-way;

(3) Assist the city in its efforts to protect the public health, safety and welfare;

(4) Conserve the limited physical capacity of the public rights-of-way held in public trust by the city;

(5) Preserve the physical integrity of the streets and highways;

(6) Control the orderly flow of vehicles and pedestrians;

(7) Keep track of the different entities using the public rights-of-way to prevent the interference between them;

(8) Assist in scheduling common trenching and street cuts;

(9) Protect the safety, security, appearance and condition of the public rights-of-way.

(Code 1996, § 3.19.001; Ord. No. O-860-07, 11-19-2007)

Sec. 28-53. Authority; scope.

This article applies to all persons that place facilities in, on or over public rights-of-way. Compensation for use of the public rights-of-way shall be paid in accordance with all applicable state or federal law, including, but not limited to, the federal Cable Act, 47 USC 541 et seq.; V.T.C.A., Local Government Code ch. 283; V.T.C.A., Tax Code § 182.025; and V.T.C.A., Local Government Code § 590.0001, as applicable.

(Code 1996, § 3.19.002; Ord. No. O-860-07, 11-19-2007)

Sec. 28-54. 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:

Cable or video service provider (CVSP) means the same as defined in V.T.C.A., Utilities Code § 66.002(3) and (11) (any entity that has been issued a certificate of franchise authority by the public utility commission of the state to offer cable or video service).

Capital improvements program or project means the official proposed schedule of all future public projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project as adopted by the city council.

Certificated telecommunications provider (CTP) means the same as defined in V.T.C.A., Local Government Code § 283.002(2).

City property means all city buildings, infrastructure, bridges, parks, golf courses, parking lots and all other real property that is not dedicated for utility or street transportation purposes.

Director or *director of municipal services* means the city manager, director of municipal services (formerly public works) or such director's designated representative.

Facilities means any and all wires, cables, fibers, duct spaces, utility holes, poles, conduits, pipes, lines, conduits, underground and overhead passageways and other equipment, structures, plant and appurtenances and all associated physical equipment placed in, on or under the public rights-of-way.

Public rights-of-way means as defined in V.T.C.A., Local Government Code § 283.002(6) and V.T.C.A., Utility Code § 66.002(8), which includes the area on, below or above a public roadway, highway, street, public sidewalk, alley, waterway or utility easement in which the city has an interest. The term "public rights-of-way" does not include the airwaves above a public right-of-way with regard to wireless telecommunications.
(Code 1996, § 3.19.003; Ord. No. O-860-07, 11-19-2007)

Sec. 28-55. City authorization required.

(a) Any person seeking to place facilities on, in or over the public rights-of-way, shall pay a construction permit application fee as provided in the city fee schedule (except CTPs and CVSPs and their contractors to the extent exempted by V.T.C.A., Local Government Code ch. 283 and V.T.C.A., Utilities Code ch. 66), shall file an application for such construction permit with the director and shall abide by the terms and provisions of this article pertaining to use of the public rights-of-way. If there are additional direct costs to the city in processing the applications, the city may recover those from the applicant prior to the issuance of the construction permit.

(b) With the application, applicants shall submit to the director written applications identifying the applicant and all the applicant's affiliates that may have physical control of facilities within the public rights-of-way, with a map of the proposed installations, general description of the services to be provided, a construction schedule and a general description of the effect on public rights-of-way as detailed in section 28-57(3).

(c) Any person, except a CTP or CVSP, prior to placing, reconstructing or altering facilities in, on or over the public rights-of-way, must obtain separate municipal authorization from the city, such as a license agreement or franchise, as may be applicable. For use of the public rights-of-way, all users of the public rights-of-way shall compensate the city on the value of the public rights-of-way used, being typically either on a gross receipts basis or linear foot basis, to the fullest extent allowed by law.

(d) Any person with a current, unexpired consent, franchise, agreement or other authorization from the city (grant) to use the public rights-of-way that is in effect at the time this article takes effect shall continue to operate under and comply with the grant (except to the extent the police powers regulations in such grant are inconsistent with this article, in which event, this article will control) until the grant expires or until it is terminated by mutual agreement of the city and the person, or it is terminated as otherwise provided for in law.

(e) Prerequisites to issuance of construction permit.

(1) Each person must register with the city. In order for the city to know which person owns or has physical control over facilities in a public right-of-way within the city, each such person who owns or has physical control over facilities shall register with the city and provide the following information at a minimum:

a. The person's name, address and telephone numbers; and

b. A 24-hour telephone numbers to a contact person with decision-making authority for the person.

(2) Each person shall update and keep current the person's registration with the city at all times.

(Code 1996, § 3.19.004; Ord. No. O-860-07, 11-19-2007)

Sec. 28-56. Administration and enforcement.

(a) The director shall administer and enforce compliance with this article.

(b) The person shall report information related to the use of the public rights-of-way that the director requires in the form and manner reasonably prescribed by the director.

(c) The director shall report to the city council upon the determination that the person has failed to comply with this article, and said person shall be subject to the penalty provisions provided herein for violation of this article.

(Code 1996, § 3.19.005; Ord. No. O-860-07, 11-19-2007)

Sec. 28-57. Construction obligations.

The person is subject to reasonable police power regulation of the city to manage its public rights-of-way in connection with the excavation, construction, installation, expansion, reconstruction, relocation, alteration, removal, maintenance or repair of facilities in the public rights-of-way, pursuant to the city's rights as a custodian of public property based upon the city's historic rights under state and federal laws. Such regulations include, but are not limited to, those set forth in this section.

(1) At the city's request, the person shall furnish the city accurate and complete information relating to the excavation, construction, installation, expansion, reconstruction, relocation, alteration, removal, maintenance or repair of facilities performed within the public rights-of-way underground according to the applicable city

requirements unless the person makes a compelling demonstration that, in any specific instance, this requirement is not reasonable, feasible or equally applicable to other similar users of the public rights-of-way:

a. The underground placement of facilities is encouraged. In any event, facilities shall be installed underground where existing utilities are already underground. If there are no facilities in the public rights-of-way, then the facilities shall be placed underground. The utility owning the underground facilities shall make a reasonable determination as to whether space is available to accommodate the new facilities. A negative determination shall not relieve the person of the responsibility to underground its facilities in underground utility areas. To the degree reasonably feasible previously installed aerial facilities shall be placed underground in concert, and on a cost-sharing basis, with other utilities when such other utilities convert from aerial to underground construction. All undergrounding of facilities shall be at a depth of 24 inches or more unless otherwise directed by the city;

b. Underground conduits and ducts shall be installed in the public rights-of-way between the adjacent property line and curbline unless otherwise directed by the city;

c. Conduits and ducts shall be installed parallel with the curbline and cross the public rights-of-way perpendicular to the public rights-of-way centerline unless otherwise directed by the city;

d. Ducts and conduits shall be installed by trenchless excavation or directional boring when placing these facilities under paved public rights-of-way centerline unless otherwise directed by the city;

(2) The person shall perform excavations and other construction in the public rights-of-way in accordance with all applicable city requirements, including the obligation to use trenchless technology whenever commercially economical and practical and consistent with obligations on other similar users of the public right-of-way. The city shall waive the requirement of trenchless technology if it determines that, based upon information provided to the city by the person, the particular field conditions warrant a waiver. All excavations and other construction in the public right-of-way shall be conducted so as to minimize interference with the use of public and private property. Any plant or facility placed within the public rights-of-way shall be suspended at a height not less than 22 feet above ground level, unless otherwise approved by the director, yet not in any event less than 15 feet, except to the extent state law controls. The person shall follow all reasonable construction directions given by the city in order to minimize any such interference;

(3) The person must obtain a permit, as reasonably required by applicable city codes, including subsection (2) of this section, at least 72 hours prior to excavation, construction, installation, expansion, reconstruction, relocation, alteration, removal, maintenance or repair of the person's facilities, which 72 hours may be waived or

altered by the city for good cause shown by the applicant. All permit applications shall be accompanied by the certification of a professional engineer licensed in the state that the drawings, plans and specifications submitted with the application comply with applicable technical codes, rules and regulations when required by state law:

a. Bonding will be required as in subsection (11) of this section and insurance as in section 28-59;

b. A construction permit is not required for routine maintenance that does not require excavation of the public rights-of-way or which does not block traffic lanes or sidewalks during peak traffic periods between 7:00 a.m. to 9:00 p.m. and 4:00 p.m. to 6:30 p.m. on weekdays or for more than two hours during any non-peak traffic period. The failure of the person to request and obtain a permit from the city prior to performing any of the above-listed activities in, on or over any public right-of-way, except in an emergency as provided for in subsection (9) of this section, will subject the person to a stop work order from the city and enforcement action pursuant to this Code. If the person fails to act upon any permit within 90 calendar days of issuance, the permit shall become invalid unless extended by the city upon showing of a good cause. Upon expiration of a permit, the person shall be required to obtain another permit pursuant to the requirements of this article;

c. At least 45 days prior to submission of an application for a construction permit for a capital improvements project, the person shall furnish the director with construction plans and maps using the standard format adopted by the department of municipal services, showing the location and plans and specifications for a permit for construction of a capital improvements project and a permit shall not be issued until all required plans and drawings have been approved in writing by the city, which approval will not be unreasonably withheld, taking due consideration of the surrounding area and alternative locations for the facilities and routing;

d. At least three days before beginning excavation, construction, installation, expansion, reconstruction, relocation, alteration, removal, maintenance or repair of facilities for a project that involves an alteration to the surface or subsurface of the public rights-of-way but is not a capital improvements project, the person shall submit an application for a permit for the standard format adopted by the department of municipal services, showing the location and proposed routing of the excavation, construction, installation, expansion, reconstruction, relocation, alteration, removal, maintenance or repair unless otherwise approved by the director. The person may not begin construction until the location of new facilities and proposed routing of the new construction or reconstruction and all required plans and drawings have been approved in

writing by the city and a permit has been issued, which issuance will not be unreasonably withheld, taking due consideration of the surrounding area and alternative locations for the facilities and routing;

e. Construction plans and maps shall show all features within the public rights-of-way that would affect the placement of the proposed facilities, such as, yet not limited to, existing underground and aerial wires or conduits, ducts, poles, wires, pipes, sewerage, water lines and cables as well as their ownership; traffic signal and streetlight poles; fire hydrants; driveways; curbs, inlets and drains; sidewalk; wheelchair ramps; and trees and large shrubs. Drawings shall be drawn to an appropriate scale of no larger than one inch equals 50 feet using the standard formats adopted by the municipal services department. State plane coordinates shall be shown for benchmarks, curblines and elevations. If typical are used, they shall reference the station numbers for which they are to be applied. Traffic control plans shall be in conformance with the latest revision of the state Manual on Uniform Traffic Control Devices (MUTCD);

f. The person shall use its best efforts to coordinate joint trenching with any other persons and/or public utilities which may be constructed in and along the same public rights-of-way in a timeframe reasonably similar to the person's construction timetable. The department of municipal services may mandate such coordination to the fullest extent allowed by law;

g. To the extent known, plans for ongoing repair, maintenance and improvements which involve cutting into paved city roads and streets shall be submitted to the director of municipal services on an annual basis, no later than April of each year and updated based upon any changes. This does not require any proprietary information, such as equipment or customer-specific information. Such information may be designated confidential and to the extent allowed by law will be kept confidential by the city. Alternatively, the person may meet with the appropriate representative of municipal services each calendar quarter to provide such plans to the extent known;

h. Once a permit is issued, the department of municipal services shall be notified at least 24 hours in advance that construction in the public rights-of-way is ready to proceed by the person or its representative. Information signs (at least three feet by three feet in size) stating the identity of the person doing the work, the person's telephone number and the person's identity and telephone number shall be placed at the location where construction is to occur 48 hours prior to the beginning of work in the public rights-of-way and shall continue to be posted at the location during the entire time the work is occurring or until permanent repairs are completed;

i. Erosion control measures and advance warning signs, markers, cones and barricades must be in place before work begins. The person may be required to show proof of engineered plans relating to stormwater and erosion when

applicable or a letter stating the person is not required to obtain such plans. The person shall be responsible for stormwater management erosion control that complies with city, state and federal guidelines, as applicable;

j. Lane closures on major thoroughfares will be limited to between 9:00 a.m. and 4:00 p.m. unless the department of municipal services grants prior approval. Arrow boards will be required on lane closures with all barricades, advance warning signs and 36-inch reflector cones placed according to the specification of the city. Working hours in the public rights-of-way are limited to the hours between 7:00 a.m. to 6:00 p.m. Monday through Friday. Work to be performed after 6:00 p.m. on Monday through Friday or on Saturday must be approved by the department of municipal services in advance. Directional boring is permitted only Monday through Friday 7:00 a.m. to 6:00 p.m. No work in the public rights-of-way shall be performed except for emergencies on Sundays or on holidays;

k. Without affecting the legal relationship between the person and its contractors, the person is responsible for the quality of work and any damages by a contractor or subcontractor;

l. If additional poles on an existing aerial utility route are required, the person shall negotiate with the utility company for the installation of the needed poles in accordance with existing statutes and regulations. However, if the utility will not install new poles on a reasonable basis, then the person may erect its own poles;

(4) a. Within 14 days of completing excavation, construction, installation, expansion, reconstruction, relocation, alteration, removal, maintenance or repair of facilities or other work in the public rights-of-way, the person shall temporarily restore and repair the public rights-of-way in accordance with applicable sections of this Code. Within 30 calendar days after completion of work in the public rights-of-way, the person shall permanently restore, replace, re-lay or repair the surface, base, curbs, drainage systems, irrigation systems, landscape treatment or other city facilities and infrastructure located on, in and under any public rights-of-way that has been excavated, altered or damaged by reason of the excavation, construction, installation, expansion, reconstruction, relocation, alteration, removal, maintenance or repair of the person's facilities in accordance with existing standards of the city in effect at the time of the work. Upon a showing of good cause, the city may, at its sole discretion, extend the time for restoration and repair of the public rights-of-way under this subsection. Unless the person provides a recently dated photograph or a videotape of the public rights-of-way before the construction, the condition of the public rights-of-way before construction should be presumed in good condition, subject only to reasonable wear and tear as determined by the director;

b. Whenever the person shall disturb or destroy any right-of-way markers or monuments, such person shall restore the same within 30 days after construc-

tion has ceased. The person shall furnish three sets of drawings, blueline or blackline, detailing the restored monumentation. State plane coordinates shall be shown for all monumentation (existing or restored). The drawings shall be signed (original signature), sealed and certified by a registered professional land surveyor and delivered to the director of municipal services for approval no later than 30 days after construction has ceased;

(5) Upon failure of the person to perform any such repair or replacement work after five days' written notice has been given by the city to the person, and in the event repairs have not been initiated during such five-day period, the city may repair such portion of the public rights-of-way as may have been disturbed by the person, contractors or agents. The city may, at its discretion for good cause, alter the five-day period. Upon receipt of an invoice from the city, the person shall reimburse the city for the costs so incurred within 30 calendar days from the date of the city invoice;

(6) Should the director reasonably determine within one year from the date of the completion of the repair work that the surface, base, curbs, drainage systems, irrigation systems, landscape treatment or other city facilities and infrastructure located on, in or under any public rights-of-way requires additional restoration, replacement or repair work to meet existing standards of the city, the person shall perform such additional restoration, replacement or repair work to the satisfaction of the city, subject to all city remedies as provided herein;

(7) Notwithstanding the foregoing in subsection (6) of this section, if the director determines that the failure of the person to properly repair or restore the public rights-of-way constitutes a safety hazard to the public, the city may undertake emergency repairs and restoration efforts after emergency notice has been provided to the extent reasonable under the circumstances and the person failed to respond within a reasonable time specified by the city. Upon receipt of an invoice from the city, the person shall promptly reimburse the city for all costs incurred by the city within 30 calendar days from the date of the city invoice;

(8) If the director declares an emergency with regard to the health and safety of the citizens and requests by written notice the removal or abatement of facilities, the person shall remove or abate the person's facilities by the deadline provided in the director's request. The person and the city shall cooperate to the extent possible to ensure continuity of service. If the person, after notice, fails or refuses to act, the city may remove or abate the facility at the sole cost and expense of the person without paying compensation to the person and without the city incurring liability for damages;

(9) Except in the case of customer service interruptions and imminent harm to property and persons (emergency conditions), the person may not excavate the pavement of a street or public rights-of-way without first complying with city requirements. The city department of municipal services shall be notified as promptly as possible regarding work performed under such emergency conditions and the persons shall

comply with the requirements of city standards and of this article for restoration, replacement or repair of the public rights-of-way. Any emergency repairs requiring saw cuts shall be performed in accordance with standards established by the director;

(10) a. Within 120 days of completion of each new permitted section of the person's facilities, the person shall supply the city with a complete set of as-built drawings for the segment in a format used in the ordinary course of the person's business to the extent the person is prepared in the ordinary course of business, excluding customer-specific, proprietary or confidential information and as reasonably prescribed by the city as is described below, and as may be allowed by law. Such as-built maps may be corrected and revised construction plans. In the event the facilities were built as specified in the originally submitted plans, the person may certify to the city that there were no changes. The city may, at its discretion, accept in lieu of as-built drawings any reasonable alternative which provides adequate information as to the vertical depth, linear location and size of facilities in the public rights-of-way which may include direct on-line access to such information;

b. To the extent the person's customary as-built format will conform without economic impracticability, the person shall furnish the city as-built drawings as follows: Drawings shall show ownership of conduits, ducts, poles, cables and other facilities placed within the public rights-of-way. Drawings shall be drawn to a scale of one inch equals 20 feet on 24-inch by 36-inch sheets and one inch equals 40 feet on 11-inch by 17-inch sheets using the standard format adopted by the department of municipal services. The person shall provide one set of all such drawings on diskette in DWG or DGN format drawn to full scale and one set of blue- or black-lined as-built drawings on vellum or Mylar® to the director of the department of municipal services. State plane coordinates shall be shown for benchmarks, curblines and structures. Drawings shall show horizontal dimensions from the curbline and elevations;

c. All persons who have facilities in the public rights-of-way existing as of the date of the ordinance from which this article is derived and who have not provided as-built drawings shall do so no later than 60 days after the passage of the ordinance from which this article is derived, unless the person demonstrates an economic impracticality to provide such as-built drawings in the above format. The city may waive such as-built maps as to existing facilities for good cause;

d. If as-built drawings submitted under this section include information expressly designated by the person as a trade secret or other confidential proprietary information protected from disclosure by state or federal law, the director may not disclose that information to the public without the consent of the person, unless otherwise required by an opinion of the attorney general pursuant to the Texas Public Information Act, as amended, or by a court having jurisdiction of

the matter pursuant to applicable law or as otherwise required by law. This subsection may not be construed to authorize the person to designate all matters as confidential or as trade secrets;

(11) a. Except as to CVSPs to the extent modified by the V.T.C.A., Utility Code ch. 66, the director shall require reasonable bonding requirements of the person, as are required of other entities that place facilities in the public rights-of-way. Such bonding amounts will be reasonably determined by the director depending on several factors as to public safety and risk of harm to persons and property. Such factors include:

1. The nature of the construction project (overhead, trenchless, open trench);
2. Type of facility (gas, electric, water, telecommunications, cable, fiber);
3. Past construction history of person in the city as to any damage claims, repairs and timeliness of construction;

b. The city may, in a non-discriminatory manner, waive or reduce the amount of the bond in the event the person provides written documentation as to reserves available to compensate the city for damages and has a two-year history of no claims or damages to city property by the city or of prompt payment on such claims;

(12) In determining whether any requirement under this section is unreasonable or unfeasible, the director or designee shall consider, among other things, whether the requirement would subject the person to an unreasonable increase in risk or service interruption, or to an unreasonable increase in liability for accidents, or to an unreasonable delay in construction or in availability of its services or to any other unreasonable technical or economic burden;

(13) The person issued a permit pursuant to this article shall, at all times, employ the standard of care attendant to the risks involved to prevent actions, failures and accidents which may cause damage, injury or nuisance to persons, the public, the facilities or of other persons, or to any city structures or structures owned by other persons located in the public rights-of-way. The person issued a permit pursuant to this article shall observe all federal and state statutes and regulations and all applicable city ordinances and safety codes. The person issued a permit pursuant to this article shall keep and maintain its facilities in a safe and suitable condition and in good order and repair sufficient for its intended purpose.

(Code 1996, § 3.19.006; Ord. No. O-860-07, 11-19-2007)

Sec. 28-58. Conditions of public rights-of-way occupancy.

(a) In the exercise of governmental functions, the city has first priority over all other users of the public rights-of-way. The city reserves the right to lay sewer, gas, water facilities and any other pipelines or cables and conduits, and to do underground and overhead work and have attachments and require restructuring or changes in the city's aerial facilities in,

across, along, over or under a public street, alley or public rights-of-way that may be occupied by the person and to change the curb, route or grade of sidewalks and streets, to the fullest extent allowed by law.

(b) The city shall assign the location in or over the public rights-of-way among competing users of the public rights-of-way with due consideration to the public health and safety considerations of each user type, and to the extent that the city can demonstrate that there is limited space available for additional users, may limit new users, as allowed under state or federal law. As a priority, each user of the public rights-of-way will be allowed one alignment on one side of the street for placement of its facilities, provided there is adequate space available. In the event an additional alignments or both sides of the street have been requested by a user, the director will grant such request, provided there is adequate space available and the requestor has demonstrated the financial or technical impracticability of the use of the requestor's single alignment or use of only one side of the street.

(c) If the city authorizes abutting landowners to occupy space under the surface of any public street, alley, or public rights-of-way, the grant to an abutting landowner shall be subject to the rights of the previously authorized user of the public rights-of-way.

(d) (1) If the director gives written notice, the person shall, at such person's own expense, temporarily or permanently, remove, relocate, change or alter the position of person's facilities that are in the public rights-of-way within 120 days, except in circumstances that require additional time as reasonably determined by the city based upon information provided by the person;

(2) For projects expected to take longer than 120 days to remove, relocate, change or alter, the director will confer with the person before determining the alterations to be required and the timing thereof. The director shall give notice whenever the city has determined that removal, relocation, change or alteration is reasonably necessary for the construction, operation, repair, maintenance or installation of a city governmental public improvement in the public rights-of-way. This section shall not be construed to prevent the person's recovery of the cost of relocation or removal from private third parties who initiate the request for relocation or removal, nor shall it be required if improvements are solely for beautification purposes without prior joint deliberation and agreement with the person. On a non-discriminatory basis, the director and the person may agree in writing to different timeframes than those provided above if circumstances reasonably warrant such a change.

(e) If the person fails to relocate facilities in the time allowed by the director in this section, the person may be subject to liability to the city for such delay and as set forth in the city codes or ordinances, now or hereafter enacted.

(f) The person may trim trees or other vegetation in or over the public rights-of-way as needed for the safe and reliable operation, use and maintenance of its facilities. All tree trimming shall be performed in accordance with standards promulgated by the city. Should the person, contractor or agent, fail to remove such trimmings within 24 hours, the city may

remove the trimmings or have them removed, and upon receipt of a bill from the city, the person shall promptly reimburse the city for all costs incurred within 30 working days. The person shall not be responsible for tree trimming or removal, except as to the trimming required to construct, maintain or restore utility service.

(g) The person shall temporarily remove, raise or lower its aerial facilities to permit the moving of houses or other bulky structures, if the requesting party provides written notice to such person no less than five days, except for good cause shown. The expense of these temporary rearrangements shall be paid by the party requesting and benefiting from the temporary arrangements. The person may require prepayment or prior posting of a bond from the party requesting the temporary move.

(h) In the event the person's use of the facilities is discontinued, the person shall be notified by the city and thereafter shall forthwith remove such person's facilities therefrom unless specifically permitted to continue the same, and on the removal thereof shall restore, repair or reconstruct the street area where such removal has occurred, and place the street area where such removal has occurred in the condition prior to the removal, as determined by the city. In the event of failure, neglect or refusal of the person, after 30 days' notice by the director to repair, improve or maintain such street portion, the city may do such work or cause it to be done, and the reasonable cost thereof as determined by the city shall be paid by the person, and collection may be made by court action or otherwise.
(Code 1996, § 3.19.007; Ord. No. O-860-07, 11-19-2007)

Sec. 28-59. Insurance requirements.

(a) Except as to CVSPs to the extent modified by V.T.C.A., Utility Code ch. 66, the person shall obtain and maintain insurance in the amounts reasonably prescribed by the director with an insurance company licensed to do business in the state and acceptable to the city. The person shall furnish the director with proof of insurance at the time of the request for construction permits. The director reserves the right to review the insurance requirements and to reasonably adjust insurance coverage and limits when the director determines that changes in statutory law, court decisions or the claims history of the industry or the person may require adjustment for coverage. For purposes of this section, the city will accept certificates of self-insurance issued by the state or letters written by the person in those instances where the state does not issue such letters, and in all such instances, the person that self-insures shall provide written documentation as to substantially the same coverage, claims process and defense to the city as would be provided by an insurance carrier as required herein, all as may be detailed in the information provided to the city. However, for the director to accept such self-insurance coverage, the person must demonstrate by written information that it has adequate financial information requested by and furnished to the city. The city's insurance requirements are described in Exhibit A attached to Ordinance No. O-860-07.

(b) The person shall furnish to the director, at no cost to the city, copies of certificates of insurance evidencing the coverage required by this section. The city may request the deletion, revision or modification of particular policy terms, conditions, limitations or

exclusions, unless the policy provisions are established by a law or regulation binding the city, the person or the underwriter. If the city requests a deletion, revision or modification, the person shall exercise reasonable efforts to pay for and to accomplish the change.

(c) The insurance certificate required under subsection (b) of this section shall:

(1) Name the city and its officers, employees, board members and elected representatives as additional insureds for all applicable coverage;

(2) Provide for 30 days' written notice to the city for cancellation, non-renewal or material change; and

(3) Provide that written notice of claims shall be provided to the director by certified mail.

(d) The person shall file and maintain proof of insurance with the director. An insurance certificate obtained in compliance with this section is subject to city attorney approval. The city may require the certificate to be changed to reflect changing liability limits. The person shall immediately advise the city attorney of actual or potential litigation that may develop or affect an existing carrier's obligation to defend and indemnify.

(e) An insurer has no right of recovery against the city. The required insurance policies shall protect the person and the city. The insurance shall be primary coverage for losses covered by the policies.

(f) The policy clause "Other Insurance" shall not apply to the city if the city is an insured under the policy.

(g) The person shall pay premiums and assessments for the insurance required under this section. A company which issues an insurance policy has no recourse against the city for payment of a premium or assessment. Insurance policies obtained by the person must provide that the issuing company waives all right of recovery by way of subrogation against the city in connection with damage covered by the policy.
(Code 1996, § 3.19.008; Ord. No. O-860-07, 11-19-2007)

Sec. 28-60. Indemnity.

(a) Except as to CTPs and CVSPs, each person placing facilities in the public rights-of-way shall agree to promptly defend, indemnify and hold the city harmless from and against all damages, costs, losses or expenses:

(1) For the repair, replacement or restoration of the city's property, equipment, materials, structures and facilities which are damaged, destroyed or found to be defective as a result of the person's acts or omissions;

(2) From and against any and all claims, demands, suits, causes of action and judgments for:

a. Damage to or loss of the property of any person, including, yet not limited to, the person, its agents, officers, employees and subcontractors, city's agents, officers and employees and third parties; or

b. Death, bodily injury, illness, disease, loss of services, or loss of income or wages to any person, including, yet not limited to, the agents, officers and employees of the person, person's subcontractors and city third parties, arising out of, incident to, concerning or resulting from the negligent or willful act or omissions of the person, agents, employees or subcontractors, in the performance of activities pursuant to or authorized under this article.

(b) Upon commencement of any suit, proceeding at law or in equity against the city relating to or covering any matter covered by this indemnity, to indemnify and hold the city harmless, or to pay said final judgment and costs, as the case may be, the city shall give the person reasonable notice that the city has the right to defend the same and in addition to being reimbursed for any such judgment that may be rendered against the city, together with all court costs incurred therein, the person shall promptly reimburse the city for attorney's fees, including those employed by the city in such cases, as well as all expenses incurred by the city by reason of undertaking the defense of such suits, whether such suits are successfully defended, settled, compromised or fully adjudicated against the city.

(c) This indemnity provision shall not apply to any liability resulting from the negligence of the city, its officers, employees, agents, contractors or subcontractors.

(d) The provisions of this indemnity are solely for the benefit of the city and is not intended to create or grant any rights, contractual or otherwise, to any person or entity.

(e) To the fullest extent permitted by law, the person shall pay all expenses incurred by the city in defending itself with regard to all damages and penalties provided in this article. These expenses shall include all out-of-pocket expenses, such as attorney's fees and shall also include the reasonable value of any services rendered by any employees of the city. In the event the city is compelled to undertake the defense of any such suit by reason of the person's failure to perform as hereinabove provided, the city shall have the full right and authority to make or enter into any settlement or compromise of such adjudication as the city council shall deem in the best interest of the city, this without the prior approval or consent of the person with respect to the terms of such compromise or settlement.
(Code 1996, § 3.19.009; Ord. No. O-860-07, 11-19-2007)

Sec. 28-61. Governing law.

This article shall be construed in accordance with the city codes in effect on the date of passage of the ordinance from which this article is derived to the extent that such codes are not in conflict with or in violation of the Constitutions and laws of the United States or the

state, subject to the city's ongoing authority to adopt reasonable police power based regulations to manage its public rights-of-way, pursuant to sections 28-57 and 28-58 or as otherwise provided by law.
(Code 1996, § 3.19.010; Ord. No. O-860-07, 11-19-2007)

Sec. 28-62. Unauthorized use of public rights-of-way; penalty.

(a) The city may institute all appropriate legal action to prohibit any person from knowingly utilizing the public rights-of-way unless the person has complied with the provisions of this article.

(b) The person commits a Class C misdemeanor offense if that person knowingly commences or continues with the construction or installation of facilities within the public rights-of-way, except as permitted by this article or state law, as it exists or as it may be amended. Each day that the person continues with the construction or installation of facilities or knowingly engages in maintenance that requires excavation or blocks the public rights-of-way in violation of this article constitutes a separate offense.
(Code 1996, § 3.19.011; Ord. No. O-860-07, 11-19-2007)

Sec. 28-63. Construction permit application.

Each construction permit application to use the public rights-of-way shall contain or have attached the following statement:

"By this application for a construction permit to use the public rights-of-way, I, _____, as the lawful representative of _____ [not the contractor but a representative of the facility owner with authority to bind the owners], hereby agree to use the city's public rights-of-way management regulations."

Name: _____

Title: _____

Date: _____
(Code 1996, § 3.19.012; Ord. No. O-860-07, 11-19-2007)

Chapter 29

RESERVED

Chapter 30

TAXATION

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Secs. 30-1—30-18. Reserved.

Article II. Property Taxes

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Sec. 30-20. Participation in appraisal district.
Sec. 30-21. Residence homestead exemptions for elderly and disabled.
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Sec. 30-123. Use of revenues.
Sec. 30-124. Collection procedures upon purchase of hotel.

ARTICLE I. IN GENERAL

Secs. 30-1—30-18. Reserved.

ARTICLE II. PROPERTY TAXES

Sec. 30-19. Tax collector office established.

(a) The city has established the office of tax collector for the city. The tax collector shall be appointed by the city manager. The position of tax collector may be combined with other positions at the discretion of the city council. The tax collector shall receive such compensation as may be allowed by the city council.

(b) The tax collector shall provide for collection of all property taxes due the city, assist the city council in complying with tax increase notices, issue tax certificates, prepare delinquent tax rolls, make reports to the city council on taxes collected and perform such other duties as may be required by state property tax laws and directives of the city council.

(c) The tax collector shall give the city a bond in the amount of $10,000.00. The tax collector shall be registered and certified as may be required by state law.
(Code 1996, § 11.02.001)

Sec. 30-20. Participation in appraisal district.

The city has elected to participate in the Dallas County Appraisal District. The appraisal district shall be authorized to perform all appraisal and assessment functions required under the state property tax code. The city shall retain collection functions.
(Code 1996, § 11.02.002)

Sec. 30-21. Residence homestead exemptions for elderly and disabled.

(a) *Elderly exemption*. Pursuant to article VIII, section 1-b of the Texas constitution, $25,000.00 of assessed value of the residential homesteads of persons 65 years of age or older shall be exempt from city ad valorem taxes when taxes are levied for the year 2003, and for all subsequent levies, upon the owner's compliance with the following requirements:

(1) The owner of the residence homestead, or one of the spouses if the residence homestead is owned by a married couple, shall be 65 years of age or older as of January 1 of each tax year, beginning with 2003.

(2) All prior year's taxes are paid, and all special assessment payments shall be kept current before exemption hereunder may be granted.

(3) The owner of the residence homestead shall submit to the Dallas Central Appraisal District, before May 1 of each year, an affidavit that the owner or one of the spouses if the residence homestead is owned by a married couple, is 65 years of age or older. The initial exemption claim shall be accompanied by adequate proof of such age. An

exemption, once allowed, need not be claimed in subsequent years. The exemption applies to the property until it changes ownership or the person's qualification for the exemption changes.

(b) *Disabled exemption.* For each fiscal year until otherwise provided, the city has ordained a $25,000.00 ad valorem tax exemption for disabled persons on the assessed value of residential homesteads within the corporate limits for the city.
(Code 1996, § 11.02.003; Ord. No. 755-03, 6-16-2003; Ord. No. 794-05, 6-6-2005)

Sec. 30-22. Tax due date.

The property taxes levied by the city each year shall become due on October 1 of each year for which the levy is made and shall become delinquent on the following February 1. Penalties and interest for delinquent taxes shall incur in accordance with V.T.C.A., Property Tax Code § 33.01.
(Code 1996, § 11.02.005)

Sec. 30-23. Recovery of costs and expenses.

In addition to other costs authorized by law, the city is entitled to recover costs and expenses in a suit to collect delinquent taxes as provided for in V.T.C.A., Tax Code § 33.48.
(Code 1996, § 11.02.006)

Sec. 30-24. Additional penalty for collection costs.

(a) The tax collector of this jurisdiction is hereby directed to cause to be mailed, as expeditiously as possible, notices to all delinquent taxpayers, where addresses are available, of the additional penalty to be imposed, as hereinafter set forth, on all taxes delinquent.

(b) The tax collector is directed to annually mail notices during the month of May to all current year delinquent taxpayers advising them of the additional penalty, as hereinafter set forth, to be imposed as of July 1 on all unpaid current year delinquent taxes.

(c) An additional penalty of 15 percent of the taxes, penalty and interest shall be incurred; furthermore, taxes becoming delinquent shall incur this additional penalty as of July 1 of the year in which they become delinquent.
(Code 1996, § 11.02.007)

Sec. 30-25. Taxation of freeport goods.

All of that property described in the Texas constitution, article VIII, section 1-j, shall be fully taxable in the city.
(Code 1996, § 11.02.008)

Secs. 30-26—30-53. Reserved.

ARTICLE III. SALES TAX

Sec. 30-54. Local sales tax adopted.

A local sales tax of one percent as provided for in the Local Sales and Use Tax Act of 1967 was adopted by the voters of the city as a result of an election held for that purpose on April 3, 1971, and is continued under the Municipal Sales and Use Tax Act, V.T.C.A., Tax Code § 321.001 et seq.
(Code 1996, § 11.03.001)

Sec. 30-55. Local sales tax retained on residential gas and electricity.

The tax imposed by the city pursuant to the Local Sales and Use Tax Act of 1967 on receipts from the sale, production, distribution, lease or rental of gas and electricity for residential use, and the use, storage or other consumption of gas and electricity for residential use is continued as authorized by V.T.C.A., Tax Code § 321.105.
(Code 1996, § 11.03.002)

Sec. 30-56. Taxation of telecommunications services.

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

(b) The rate of the tax imposed by this section shall be the same as the rate imposed by the city for all other local sales and use taxes as authorized by the legislature of the state.
(Code 1996, § 11.03.003)

Secs. 30-57—30-85. Reserved.

ARTICLE IV. COIN-OPERATED MACHINES TAX

Sec. 30-86. Imposition of tax; exemptions.

(a) An occupation tax by the city is hereby levied and imposed on each coin-operated machine that an owner exhibits or displays, or permits to be exhibited or displayed, the rate to be one-fourth of the maximum permitted state rate.

(b) The following coin-operated machines shall be exempt from the tax imposed by subsection (a) of this section, in accordance with V.T.C.A., Occupations Code § 2153.004:

(1) A stamp vending machine;

(2) A service coin-operated machine; or

(3) If subject to an occupation or gross receipts tax, a:

a. Gas meter;

b. Food vending machine;

c. Confection vending machine;

d. Beverage vending machine;

e. Merchandise vending machine; or

f. Cigarette vending machine.

(Code 1996, § 11.04.001; Ord. No. 700-01, 4-16-2001)

Secs. 30-87—30-115. Reserved.

ARTICLE V. HOTEL OCCUPANCY TAX

Sec. 30-116. 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:

Consideration means the monetary cost of a room or sleeping space in a hotel only if the room is one ordinarily used for sleeping and shall not include the cost of any food served or personal services rendered to the occupant of such room not related to the cleaning and readying of such room for occupancy.

Hotel means any building in which members of the public may, for consideration, obtain sleeping accommodations. The term "hotel" includes hotels, motels, bed and breakfasts, tourist homes, houses or courts, lodginghouses, inns, roominghouses, or other buildings where rooms are furnished for consideration, but the term "hotel" shall not include hospitals, sanitariums, nursing homes, or dormitories or other housing facilities owned or leased and operated by an institution of higher education or a private or independent institution of higher education.

Occupancy means the use or possession, or the right to the use or possession, of any room or space in a hotel if the room or space is one which is ordinarily used for sleeping and if the occupant's use, possession or right to use or possession extends for a period of less than 30 days.

Occupant means anyone who, for consideration, uses, possesses, or has a right to use or possess any room in a hotel if the room is one ordinarily used for sleeping.

Quarterly period means the regular calendar quarters of the year, the first quarter being composed of the months of January, February and March; the second quarter being the months of April, May and June; the third quarter being the months of July, August and September and the fourth quarter being the months of October, November and December.
(Code 1996, § 11.05.001; Ord. No. O-04-19, 6-18-2019)

Sec. 30-117. Tax imposed.

Under the provisions of V.T.C.A., Tax Code § 351.002, the city has levied upon the cost of occupancy of any room furnished by any hotel within the corporate limits of the city a hotel occupancy tax equal to seven percent of the consideration paid by the occupant of such room to such hotel, where the consideration of occupancy is at the rate of $2.00 or more per day and such room or space is ordinary used for sleeping. This tax is exclusive of other occupancy taxes imposed by other governmental agencies under the law.
(Code 1996, § 11.05.002; Ord. No. O-04-19, 6-18-2019)

Sec. 30-118. Collection of tax.

Every person owning, operating, managing, or controlling any hotel shall collect the tax levied by this section for the city.
(Code 1996, § 11.05.003; Ord. No. O-04-19, 6-18-2019)

Sec. 30-119. Payment of tax and reporting.

The taxes provided for herein shall be paid on a monthly period basis. On or before the 20th day of the month following each calendar month, every person required by this article to collect the taxes imposed herein shall file a report with the director of finance of the city showing the consideration paid for all room occupancies in the preceding calendar month, the amount of the taxes collected on such occupancies and such other information as the director of finance may reasonably require. The report shall be submitted in a form prescribed by the director of finance of the city. Such person shall pay the taxes due on such occupancies at the time of filing such report.
(Code 1996, § 11.05.004; Ord. No. O-04-19, 6-18-2019)

Sec. 30-120. Rules and regulations; access to books, records.

The city director of finance shall have the power to make such rules and regulations as are reasonable and necessary to effectively collect the tax levied herein, and shall, upon reasonable notice, have access to all books and records of hotels subject to this article as necessary to enable the director of finance to determine the correctness of any report filed as required by this article, and the amount of taxes due under the provisions of this article.
(Code 1996, § 11.05.005; Ord. No. O-04-19, 6-18-2019)

Sec. 30-121. Effect of failure to collect tax, file report.

(a) Any person who fails to collect the tax levied herein, fails to file a report as required herein, files a false report, or fails to pay the director of finance the tax imposed herein when due, shall owe a penalty of five percent of the total tax amount due. After the first 30 days, the person shall owe an additional five percent of such tax. Delinquent taxes shall further draw interest at the rate of ten percent per annum beginning 60 days from the due date.

(b) The city attorney or other attorney acting for the city may bring suit against a person who is required to collect the tax imposed by this article and pay the collections over to the city and who has failed to file a tax report or pay the tax when due under this article to collect the tax not paid, to enjoin the person from operating a hotel in the city until the tax is paid or the report filed, or both, or seek any other remedy permitted by law. In addition to the amount of any tax owed under this article, the city may also seek recovery of and shall be entitled to recovery of the city's reasonable attorney's fees incurred in bringing the action.
(Code 1996, § 11.05.006; Ord. No. O-04-19, 6-18-2019)

Sec. 30-122. Penalty of fine.

Any person violating any of the provisions of this article, including persons who fail to collect the tax, file a false return, or are delinquent in the submitting of a report or tax required by this article, shall be charged with a misdemeanor and shall, upon conviction, be fined in any sum not to exceed $500.00, and each 24 hours of any such violation shall constitute a separate offense.
(Code 1996, § 11.05.007; Ord. No. O-04-19, 6-18-2019)

Sec. 30-123. Use of revenues.

All revenue received from any hotel occupancy tax authorized under this article shall be used only for those purposes authorized by V.T.C.A., Tax Code ch. 351.
(Code 1996, § 11.05.008; Ord. No. O-04-19, 6-18-2019)

Sec. 30-124. Collection procedures upon purchase of hotel.

(a) If a person who is liable for the payment of an amount under this article is the owner of the hotel and sells the hotel, the successor to the seller or the seller's assignee shall withhold an amount of the purchase price sufficient to pay the amount due until the seller provides a receipt from the tax collector/assessor of the city showing that the amount has been paid or a certificate stating that no amount is due.

(b) The purchaser of a hotel who fails to withhold an amount of the purchase price as required by this article is liable for the amount required to be withheld to the extent of the value of the purchase price.

(c) The purchaser of a hotel may request that the tax assessor/collector of the city issue a certificate stating that no tax is due or issue a statement of the amount required to be paid before a certificate may be issued. The director of finance of the city shall issue the certificate or statement not later than 60 days after receiving the request.

(d) If the tax assessor/collector of the city fails to issue the certificate or statement within the applicable period provided by subsection (c) of this section, the purchaser is released from the obligation to withhold the purchase price or pay the amount due.

(e) The period of limitation during which the tax assessor/collector of the city may assess tax against the purchaser under this section is four years from the date when the former owner of the hotel sells the hotel or when a determination is made against the former owner, whichever event occurs later. At any time within three years after a deficiency determination against the purchaser has become due and payable, the city attorney may bring an action in a district court of the county or a court of any other state of the United States in the name of the city to collect the delinquent amounts, together with penalties and interest and all other available legal remedies, including the recovery of the city's reasonable and necessary attorney's fees expended in bringing such action.
(Code 1996, § 11.05.009; Ord. No. O-04-19, 6-18-2019)

Chapter 31

RESERVED

Chapter 32

TRAFFIC AND VEHICLES

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ARTICLE I. IN GENERAL

Sec. 32-1. Traffic division of police department established; enforcement authority.

(a) The city has established within the city police department a traffic division to be under the control of an officer of police appointed by and directly responsible to the police chief.

(b) It shall be the duty of the traffic division to make arrests for violations of this chapter, to investigate accidents and to cooperate with the city traffic engineer and other officers of the city in the administration of the street and pedestrian conditions, and to carry out the duties specifically imposed on the division by this chapter and other provisions of this Code.

(c) In carrying out its duties, the traffic division may be aided by other members of the police department or code enforcement or any person designated by the police chief to enforce city and state street and pedestrian traffic regulations.
(Code 1996, §§ 12.01.001, 12.01.002(a); Ord. No. 748-03, 4-7-2003)

Sec. 32-2. Records of traffic violations.

The traffic division of the police department shall keep a record of all violations of the traffic ordinances of this city or of the state vehicle laws of which any person has been charged, together with a record of the final disposition of all such alleged offenses. Such records shall maintain a complete detail of all violations of this chapter on a continuing basis for a minimum of the immediately passed five-year period.
(Code 1996, § 12.01.003)

Sec. 32-3. City traffic engineer designated; authority and duties.

(a) The city has established the office of city traffic engineer. The police chief shall serve as city traffic engineer in addition to the chief's other functions until such time as the city council shall determine otherwise. The traffic engineer shall exercise the powers and duties with respect to traffic as provided in this chapter.

(b) It shall be the general duty of the city traffic engineer to determine the installation and proper timing and maintenance of traffic control devices, to conduct engineering analysis of traffic accidents and to devise remedial measures, to conduct engineering investigation of traffic conditions, to cooperate with other city officials in the development of ways and means to improve traffic conditions, and to carry out the additional powers and duties imposed by the city.

(c) The city traffic engineer is authorized to promulgate, establish, and enforce temporary or experimental regulations to ensure enforcement of the provisions of this chapter and state traffic law and to cover emergencies. No such temporary or experimental regulations shall remain in effect for more than 30 days.
(Code 1996, §§ 12.01.004, 12.01.005)

Sec. 32-4. When vehicle removal is authorized; redemption.

(a) A police officer is authorized to remove or cause to be removed a vehicle or other property of any description from a street to a place designated by the city council when:

(1) The vehicle or property is left unattended upon a bridge or viaduct or in a tunnel or underpass;

(2) The vehicle is illegally parked so as to block the entrance to any private driveway;

(3) The vehicle is found upon a street, and report has previously been made that the vehicle has been stolen or complaint has been filed and a warrant issued charging that the vehicle has been unlawfully taken from the owner;

(4) The officer has reasonable grounds to believe that the vehicle has been abandoned as defined by state law;

(5) A vehicle upon a street is so disabled that its normal operation is impossible or impractical and the person in charge of the vehicle is incapacitated by reason of physical injury or other reason to such an extent as to be unable to provide for its removal or custody, or is not in the immediate vicinity of the disabled vehicle;

(6) An officer arrests any person driving or in control of a vehicle for an alleged offense;

(7) The vehicle is standing, parked, or stopped in any portion of a street and the officer has reason to believe that the vehicle constitutes a hazard, interferes with the normal function of a governmental agency, or the safety of the vehicle is imperiled;

(8) The vehicle is standing, parked, or stopped in violation of city parking ban regulations;

(9) The vehicle is standing, parked, or stopped in violation of any provision of this chapter.

(b) A vehicle removed and towed pursuant to the provisions of this article shall be kept at the place designated by the city council until application for redemption is made by the owner or authorized agent, who will be entitled to possession of the vehicle upon payment of costs of towing and storage.
(Code 1996, §§ 12.08.001, 12.08.002)

Sec. 32-5. Sale of impounded vehicles.

A public auction shall be held at the old city hall building on Bear Creek Road, on such occasion as the police chief deems necessary for the purpose of selling by sealed bid vehicles impounded by the police department. The city reserves the right to accept or reject any or all bids at said public sale. All sales are final. No refunds or exchanges will be authorized. All vehicles must be removed within five days following the date of sale. No city employee or member of the employee's family shall submit a bid either directly or indirectly for any item.

The purchaser of the motor vehicle shall take title to the motor vehicle free and clear of all liens and claims of ownership, shall receive a sales receipt from the police department and shall be entitled to register the purchased vehicle and receive a certificate of title.
(Code 1996, art. 12.06)

Secs. 32-6—32-28. Reserved.

ARTICLE II. TRAFFIC CONTROL DEVICES

Sec. 32-29. Ratification of existing traffic control devices.

All traffic control signs, signals, devices, and markings placed or erected prior to the adoption of the ordinance from which this article is derived and in use for the purpose of regulating, warning, or guiding traffic are affirmed, ratified, and declared to be official traffic control devices, provided such traffic control devices are not inconsistent with the provisions of this article or state law.
(Code 1996, art. 12.09)

Sec. 32-30. Duty and authority of city traffic engineer to install and maintain.

(a) *Determination of necessity.* The city traffic engineer shall determine the necessity for installation and maintenance of traffic control devices on the public streets and highway within the corporate limits of the city based upon a traffic and engineering study and install or cause to be installed all such traffic control devices determined necessary.

(b) *Safety zones, marking traffic and pedestrian lanes.* The city traffic engineer is authorized to:

(1) Designate and maintain, by appropriate devices, marks, or lines upon the surface of the roadway, crosswalks at intersections where, in the engineer's opinion, there is particular danger to pedestrians crossing the roadway, and at such other places as may be deemed necessary;

(2) Establish safety zones of such kind and character and at such places as may be deemed necessary for the protection of pedestrians;

(3) Mark lanes for traffic on street pavements at such places as may be deemed advisable, consistent with this chapter.

(c) *Report of installation.* When the traffic engineer has erected and installed such traffic control devices, the engineer shall file a report with the city secretary stating the type of any such traffic control devices that were installed and the date when and location where such devices were installed.

(d) *Removal of devices authorized.* The city traffic engineer to remove any and all traffic control devices which the engineer determines in a like manner to be no longer necessary.

(e) *Maintenance of devices.* The traffic engineer shall maintain any other existing traffic control devices and any and all existing traffic control devices previously installed within the corporate limits of the city shall be deemed to be properly installed in accordance with the provisions of this article until such time as they are removed or caused to be removed by the city traffic engineer pursuant to the terms of this article.
(Code 1996, §§ 12.02.002, 12.02.011)

Sec. 32-31. Duty and authority of police chief to designate construction and maintenance zones.

(a) The police chief shall have authority to establish and designate and to cause appropriate signage or other appropriate traffic control devices or markings to be erected or placed that establish zones in which construction or maintenance of streets, utilities or other facilities in city streets or rights-of-way is being conducted, and in which fines for motor vehicles shall be twice the maximum amount when workers are present, as provided in V.T.C.A., Transportation Code § 542.404.

(b) The police chief shall have authority to reduce the prima facie speed limit on a street within a construction or maintenance zone that has been established when, in the opinion of the chief, a special hazard exists that justifies the reduced speed limit.

(c) In the event that the police chief has reason to believe that the speed limit in a construction or maintenance zone should be altered, but no special hazard exists, the chief shall have authority to conduct or obtain an engineering and traffic investigation to determine if the speed limit should be altered.
(Code 1996, § 12.02.012; Ord. No. 840-07, 3-22-2007)

Sec. 32-32. Specifications.

(a) All signs and signals required hereunder for a particular purpose shall, as far as practicable, be uniform as to type and location throughout the city. All traffic control devices so erected and not inconsistent with the provisions of state law or this chapter shall be official traffic control devices.

(b) Any traffic control device installed pursuant to the authority of this article shall be in conformity with the Manual on Uniform Traffic Control Devices, Volumes 1 and 2, promulgated by the state department of transportation pursuant to V.T.C.A., Transportation Code § 544.001 and any other applicable state law or rule.
(Code 1996, § 12.02.003)

Sec. 32-33. When traffic devices are required for enforcement purposes.

No provision of this chapter for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign or other traffic control device is not in proper position and sufficiently legible to be seen by an ordinarily observant person.
(Code 1996, § 12.02.005)

Sec. 32-34. Obedience to official traffic control devices.

(a) The driver of any motor vehicle shall obey the instructions of any traffic control device applicable to such vehicle installed in accordance with the provisions of this article, unless otherwise directed by a peace officer, subject to the exceptions granted to the operator of an authorized emergency vehicle in accordance with applicable state law.

(b) Drivers shall comply with traffic control devices in the manner provided in V.T.C.A., Transportation Code §§ 544.007 through 544.013. In addition, when pedestrian right-of-way control signals are installed, pedestrians shall comply with such signals in the manner provided in V.T.C.A., Transportation Code § 552.002.
(Code 1996, § 12.02.004)

Sec. 32-35. Display of unauthorized signs, signals or markings.

(a) No person shall place, maintain, or display upon or in view of any highways, roads, streets, boulevards, parkways, and alleyways any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic control device or any railroad sign or signal, and no person shall place or maintain nor shall any public authority permit upon any highways, roads, streets, boulevards, pathways, and alleyways any traffic sign or signal bearing thereon any commercial advertising. This shall not be deemed to prohibit the erection upon private property adjacent to highways, roads, streets, boulevards, pathways, and alleyways of signs giving useful directional information and of a type that cannot be mistaken for official signs.

(b) Every such prohibited sign, signal, or marking is declared to be a public nuisance, and the authority having jurisdiction over the highways, roads, streets, boulevards, pathways, and alleyways is empowered to remove the same or cause it to be removed without notice.
(Code 1996, § 12.02.009)

Sec. 32-36. Interference with official traffic control devices or railroad signs or signals.

No person shall without lawful authority attempt to or in fact alter, deface, injure, knock down, or remove any official traffic control device or any railroad sign or signal or any inscription, shield, or insignia thereon, or any other part thereof.
(Code 1996, § 12.02.010)

Secs. 32-37—32-60. Reserved.

ARTICLE III. SPEED REGULATIONS

Sec. 32-61. Speed limit generally.

A person commits an offense if the person operates a vehicle on any street within the city at a speed greater than 30 miles per hour or on any public alley at a speed greater than 15

miles per hour, except as provided in this article. Any speed in excess of 30 miles per hour on a public street or 15 miles per hour in a public alley, unless otherwise provided by this article, shall be prima facie evidence that the speed is not reasonable or prudent and is unlawful.
(Code 1996, § 12.03.001)

Sec. 32-62. Designated speed zones.

A person commits an offense if the person operates or drives a vehicle on the following designated streets at a speed greater than the speed designated by this section for such street or portion of such street, and any speed in excess of the limit provided in this section shall be deemed prima facie evidence that the speed is not reasonable or prudent and is unlawful:

Street Name	*Extant*	*Speed*
Bear Creek	Beginning at intersection with I-35, west to the midpoint of the intersection with S. Uhl Road	45 mph
Bear Creek	From midpoint of the intersection with S. Uhl Road, west to the midpoint of the intersection with Westmoreland Road (except special speed zone)	35 mph
Bear Creek	Beginning at the midpoint of the intersection with Westmoreland Road, west to the west city limits	45 mph
South Hampton	All portions of the city lots subject to the limits of the safety zone provided below	35 mph
Westmoreland Road	All portions within the city limits	45 mph
Uhl Road	All portions within the city limits	35 mph
Heritage Boulevard	All portions within the city limits	20 mph
Orvilla Road (FM 664)	Beginning at the east boundary line at S. Uhl Road, west to the west boundary line at S. Hampton Road	50 mph

(Code 1996, § 12.03.002; Ord. No. 808-05, 11-21-2005)

Sec. 32-63. School zones.

(a) *Bear Creek Road.* A school zone is established on Bear Creek Road from a point 500 feet west of Heritage Boulevard, east to a point 786 feet east of Heritage Boulevard, subject to the following:

(1) A speed limit of 20 miles per hour shall be in effect in such school zone, Monday through Friday, every week of the school semesters of the school districts serving the city when specially marked signs are flashing yellow lights. The school zone shall be

marked by means of special signs stating "SCHOOL - 20 MPH WHEN FLASHING." The police chief is authorized to coordinate the time of activation of such signs with the appropriate school authorities;

(2) The placement of a traffic control device by the city shall be prima facie evidence that the device is installed and maintained pursuant to the authority granted herein, in accordance with state law, in proper position and in full force and effect.

(b) *FM 664 (Ovilla Road).* A school zone is established on FM 664 (Ovilla Road) from a point beginning at milepost 11.676 marking the western boundary of the school zone to milepost 11.546 marking the eastern boundary of the school zone being a total of 686.4 feet, subject to the following:

(1) A speed limit of 35 miles per hour shall be in effect in said school zone, Monday through Friday, every week of the school semester of the school district serving the city when specially marked signs are flashing yellow lights. The school zone shall be marked by means of special signs stating "SCHOOL - 35 MPH WHEN FLASHING." The police chief is authorized to coordinate the time of activation of such signs with the appropriate school authorities;

(2) The school zone shall be in effect from 7:10 a.m. until 8:10 a.m. and from 2:40 p.m. to 3:30 p.m., Monday through Friday, every week of the school semester;

(3) The placement of a traffic control device by the city or TXDOT shall be prima facie evidence that the device is installed and maintained pursuant to the authority granted herein, in accordance with state law, in proper position and in full force and effect.

(c) *Majestic Meadows Drive.* A school zone is established on Majestic Meadows Drive from a point 100 feet north of West Bear Creek Road, north to a point 200 feet north of Wynnewood Drive, subject to the following:

(1) A speed limit of 20 miles per hour shall be in effect in said school zone, Monday through Friday, every week of the school semester of the school district serving the city when specially marked signs are flashing yellow lights. The school zone shall be marked by means of special signs stating "SCHOOL - 20 MPH WHEN FLASHING." The police chief is authorized to coordinate the time of activation of such signs with the appropriate school authorities;

(2) The placement of a traffic control device by the city or state department of transportation (TXDOT) shall be prima facie evidence that the device is installed and maintained pursuant to the authority granted herein, in accordance with state law, in proper position and in full force and effect.

(d) *Wynnewood Drive.* A school zone is established on Wynnewood Drive from a point 200 feet west of Majestic Meadows Drive, east to a point 1085 feet east of Majestic Meadows Drive. A speed limit of 20 miles per hour shall be in effect in said school zone, Monday through Friday, every week of the school semester of the school district serving the city when

specially marked signs are flashing yellow lights. The school zone shall be marked by means of special signs stating "SCHOOL - 20 MPH WHEN FLASHING." The police chief is authorized to coordinate the time of activation of such signs with the appropriate school authorities.

(e) *South Westmoreland Road.* A school zone is established on South Westmoreland Road from a point 200 feet north of Wynnewood Drive north to a point 200 feet south of Wynnewood Drive, subject to the following:

(1) A speed limit of 30 miles per hour shall be in effect in said school zone, Monday through Friday, every week of the school semester of the school district serving the city when specially marked signs are flashing yellow lights. The school zone shall be marked by means of special signs stating "SCHOOL - 30 MPH WHEN FLASHING." The police chief is authorized to coordinate the time of activation of such signs with the appropriate school authorities;

(2) The placement of a traffic control device by the city or TXDOT shall be prima facie evidence that the device is installed and maintained pursuant to the authority granted herein, in accordance with state law, in proper position and in full force and effect.

(Code 1996, § 12.03.003; Ord. No. 724-01, 12-17-2001; Ord. No. O-02-10, § 2, 2-15-2010)

Sec. 32-64. Other speed zones.

Upon the basis of an engineering and traffic investigation made as authorized by the provisions of V.T.C.A., Transportation Code § 545.356, the following prima facie speed limits hereafter indicated for vehicles are determined and declared to be reasonable and safe; and such speed limits are fixed at the rate of speed indicated for vehicles traveling upon the named streets and highways, or parts thereof, described as follows:

(1) No motor vehicle shall be operated along and upon F.M. Highway No. 664 within the corporate limits of the city in excess of the speeds set forth in the following limits: beginning at said point (Station 576+10) being the west city limits thence continuing along F.M. 664 in an easterly direction for a distance of 1.129 miles, approximately, said point (Station 635+71) being the east city limits, a maximum speed of 50 miles per hour.

(2) No motor vehicle shall be operated along and upon Interstate Highway No. 35 Southbound (west) Frontage Road within the corporate limits of the city in excess of speeds now set forth in the following limits:

a. Beginning at said point (north of Bear Creek Road at the city of DeSoto/City of Glenn Heights city limits line), approximately 0.50 miles south of Parkerville Road, continuing along the southbound (west) IH-35 Frontage Road south until approximately 0.10 miles south of Bear Creek Road, or a total distance of approximately 0.60 miles, a maximum speed of 45 miles per hour.

b. Beginning at said point, approximately 0.10 miles south of Bear Creek Road, continuing along the southbound (west) IH-35 Frontage Road south until the Dallas County/Ellis County Line, or a total distance of approximately 0.80 miles, a maximum speed of 50 miles per hour.

(3) No motor vehicle shall be operated along and upon Ovilla Road, Highway FM 664, within the corporate limits of the city in excess of the speeds now set forth in the following limits: beginning at the east boundary line at South Uhl Road, west to the west boundary line at South Hampton Road, 55 mph.

(Code 1996, § 12.03.004; Ord No. O-03-12, 1-17-2012)

Sec. 32-65. Placement of signs.

The police chief or duly authorized representative is directed to erect appropriate signs giving notice to motorists that the aforesaid streets have been zoned by the city for the aforesaid maximum lawful prima facie speed limit as provided in section 32-62, said signs to be posted at each end of the aforesaid speed zones so as to be visible to motorists entering such speed zones from either direction.

(Code 1996, § 12.03.005)

Secs. 32-66—32-88. Reserved.

ARTICLE IV. STOP INTERSECTIONS

Sec. 32-89. Stop signs.

(a) The city traffic engineer shall determine the necessity for installation and maintenance of stop signs on public streets and highways within the corporate limits of the city. It shall be the duty of the traffic engineer to install or cause to be installed all such stop signs determined by the traffic engineer to be necessary on the basis of such traffic and engineering studies or the application of engineering judgment.

(b) It shall further be the duty of the city traffic engineer, and the traffic engineer is hereby authorized, to remove any and all stop signs which the traffic engineer determines in a like manner to be no longer necessary.

(c) Stop signs shall be designed and erected in accordance with the state department of transportation's Texas Manual on Uniform Traffic Control Devices, as amended, and placed in proper position, sufficiently legible to an ordinarily observant person.

(d) It shall also be the duty of the traffic engineer to maintain existing stop signs and all existing stop signs previously installed within the corporate limits of the city shall be deemed to be properly installed in accordance with the provisions of this article until such time as they are removed or caused to be removed by the city traffic engineer pursuant to the terms of this article.

(e) The traffic engineer or designee shall maintain lists of installed traffic signs within the city. The lists shall be in the form prescribed by the traffic engineer. Copies of the lists shall be kept on file in the offices of the traffic engineer and the city clerk.
(Code 1996, § 12.04.001; Ord. No. O-05-17, 6-20-2017; Ord. No. O-09-25, § 1, 7-1-2025)

Sec. 32-90. Stopping.

When stop signs are erected, every driver of a vehicle shall stop such vehicle at such a stop sign and shall remain stopped until the driver can proceed safely.
(Code 1996, § 12.04.002; Ord. No. O-05-17, 6-20-2017)

Secs. 32-91—32-108. Reserved.

ARTICLE V. PARKING

DIVISION 1. GENERALLY

Sec. 32-109. Enforcement officers.

Code enforcement officers may assist with the enforcement of parking regulations to the extent not contrary to state law. In addition, to aid in the enforcement of this chapter, an employee designated by the police chief, in the traffic division, may immobilize a vehicle parked in violation of this chapter within the corporate city limits and remove an immobilized vehicle from a public roadway within the corporate city limits.
(Code 1996, § 12.01.002(b), (c); Ord. No. 748-03, 4-7-2003)

Sec. 32-110. Designating and placing signs for restricted parking.

(a) *Generally.* It shall be the duty of the city manager, or other person designated by the city manager, to erect appropriate signs or mark curbs giving notice of the no parking and restricted parking regulations described in this article, and no such regulations shall be effective unless signs are marked or in place at the time of such alleged offense.

(b) *School zones.* The city manager, or designee, is authorized to erect signs indicating no parking upon that side of any street adjacent to any school property when such parking would, in the city manager's opinion, interfere with traffic or create a hazardous situation.

(c) *Designating angle parking.* The city manager, or designee, shall determine upon what streets angle parking shall be permitted and shall mark or sign such streets.

(d) *Narrow streets.* The city manager, or designee, is authorized to have signs erected indicating no parking upon any street when the width of the roadway does not exceed 20 feet or upon one side of a street as indicated by such signs when the width of the roadway does not exceed 30 feet.

(e) *Hazardous locations.* The city manager, or designee, is authorized to determine and designate by proper signs distances not exceeding 100 feet at places where the stopping or parking of vehicles would cause unusual delay in traffic.

(f) *Passenger and freight loading zones.* The city manager, or designee, is authorized to determine the location of passenger zones and freight loading zones and shall have erected and maintained appropriate signs indicating the same.

(g) *No parking on closed streets during repair.* In any case where any street in the city is being torn up, repaired, or paved or where any work is being done upon the same, making necessary the regulation of traffic thereon, the police chief is authorized to prevent parking either altogether or to any extent deemed wise by the chief for any certain period of time that may be necessary or to close the street to traffic altogether for such period of time.
(Code 1996, § 12.11.006)

Sec. 32-111. Unauthorized parking prohibited; presumption of vehicle ownership.

(a) No operator of a vehicle shall allow, permit or suffer a vehicle to stand, stop or park upon any street within the corporate city limits in violation of any provision of this chapter regulating the standing, stopping or parking of vehicles.

(b) If any vehicle is found in violation of any provision of this article or of state statute regulating the stopping, standing or parking of a vehicle, and the identity of the driver cannot be determined, the owner or person in whose name such vehicle is registered at the time of the issuance of the citation is presumed to be the person who parked said vehicle at the time and place the offense occurred. This presumption is rebuttable and shall have the effects and consequences set forth in V.T.C.A., Penal Code § 2.05.

(c) The state department of transportation's computer-generated record of the registered vehicle owner is prima facie evidence of the contents of the record.
(Code 1996, § 12.01.002(d)—(f); Ord. No. 748-03, 4-7-2003)

Sec. 32-112. Vehicle position.

Except when necessary in obedience to traffic regulations or traffic signs or signals, the driver of any vehicle shall not stop, stand, or park such vehicle in a roadway other than parallel with the edge of the roadway, headed in the direction of traffic, and with the curbside wheels of the vehicle within 18 inches of the edge of the roadway, except where the streets have been marked for angle or head-in parking to permit head-in parking.
(Code 1996, § 12.11.001)

Sec. 32-113. Illegally moving another's vehicle.

No person shall move a vehicle not owned by such person into a prohibited area or away from a curb such distance as is unlawful.
(Code 1996, § 12.11.002)

Sec. 32-114. Leaving vehicle unattended; maximum time.

(a) In addition to the provisions set out in section 32-170(a) and (b), no person shall place, park, or leave standing in any public street, public driveway, public right-of-way, public sidewalk or any other public place any vehicle unattended for a longer period of time than 24 hours.

(b) No special motor vehicles, heavy load vehicles or recreational vehicles shall be left unattended or parked for more than 24 hours within any parking lot, parking spaces, drive aisle, vacant or unused property, or pervious/unpaved surface area (except an appropriately zoned and approved and paved parking lot for such vehicles).
(Code 1996, § 12.11.004; Ord. No. O-12-10, § 4, 6-21-2010)

Sec. 32-115. Parking for display for sale or for cleaning and maintenance prohibited.

No person shall stand or park a vehicle and no owner shall permit any vehicle belonging to the owner to stand or park upon any roadway for the purpose of displaying it for sale or for the purpose of washing, greasing, repairing, changing oil, transmission fluid, gear lube, antifreeze or coolant, or other such fluids that may spill or overflow onto a public street, alley or right-of-way or other public property, or repairing such vehicle, except repairs necessitated by an emergency.
(Code 1996, § 12.11.005; Ord. No. 748-03, 4-7-2003)

Sec. 32-116. Parking animal hauler vehicles in residential areas.

It is unlawful for any person to park or leave standing any truck, trailer or, other vehicle that has been used for the hauling of livestock, animals, fish or fowl in a residentially zoned area of the city when notified by the city enforcement agent that such vehicle is creating a public nuisance. Upon such notification, the owner, operator, driver or other person responsible for such vehicle shall abate the public nuisance or move such vehicle to a location outside of any residentially zoned area of the city.
(Code 1996, § 2.16.003; Ord. No. 695-01, 3-5-2001)

Sec. 32-117. Prohibited locations generally.

No person shall stand or park a vehicle, except when necessary to avoid conflict with other traffic and in compliance with the directions of a police officer or traffic control device, in any of the following places:

(1) On a sidewalk;

(2) In front of a public or private driveway;

(3) Within an intersection;

(4) Within 15 feet of a fire hydrant;

(5) On a crosswalk;

(6) Within 20 feet of a crosswalk at an intersection;

(7) Within 30 feet of any flashing beacon, yield sign, stop sign, or traffic control signal located at the side of a roadway;

(8) On a railroad track or within 50 feet of the nearest rail of a railroad crossing;

(9) Within 20 feet of a driveway entrance to any fire station and within 75 feet of the entrance when properly signposted;

(10) Alongside of or opposite any street excavation or obstruction when such stopping, standing, or parking would obstruct traffic;

(11) On the roadway side of any vehicle stopped or parked at the edge of a curb of a street;

(12) On any bridge, or other elevated structure upon a highway, or within a highway tunnel;

(13) Within one foot of a United States mailbox equipped for depositing mail by a passerby;

(14) Upon any street or at a place thereon at any time when signs are painted or erected showing a loading zone, except a vehicle bearing a commercial license plate and in such case, only for the time and purpose of loading or unloading as herein provided;

(15) At any place where official traffic control devices prohibit standing or parking;

(16) At any space properly marked and signed and reserved for vehicles transporting persons with disabilities, vehicles displaying the international symbol of access or vehicles of disabled veterans of the United States Armed Forces, it is unlawful for any vehicle to be parked in such space unless such vehicle is being operated by or for the transportation of a person with a disability and it displays either special license plates issued under V.T.C.A., Transportation Code § 504.201, or a placard placed on the rearview mirror of the vehicle's front windshield. The city manager or designee is authorized to direct property owners to erect signs indicating no parking except for disabled individuals. The city manager is further authorized to coordinate with the owners of private property to provide for designations of reserved parking spaces for disabled persons on parking lots made available to the public for the purpose of shopping or other public or semipublic uses;

(17) Within a fire lane.

(Code 1996, § 12.11.003; Ord. No. 748-03, 4-7-2003; Ord. No. O-12-10, § 4, 6-21-2010)

Secs. 32-118—32-147. Reserved.

DIVISION 2. PARKING IN RESIDENTIAL DISTRICTS

Sec. 32-148. Definitions.

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

Driveway means the continuous improved surface which provides ingress and egress from a garage, carport or off-street parking area to an adjacent street, alley or other improved public way.

Farm tractor means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry.

Gravel means washed or cleaned stones with a nominal diameter of 1½ inches or less.

Implements of husbandry means every vehicle designed and adopted for use as a farm implement, machinery or tool as used in tilling the soil but shall not include any passenger vehicle.

Improved surface means the continuous area used for the movement, parking or storage of a vehicles that is overlaid or otherwise paved with 3,000 psi Portland cement concrete with a depth of not less than five inches and reinforced with number three reinforcement bar; solid concrete blocks; paving stones; paving bricks or other masonry paving stone suitable for such purpose installed on an approved base course or other hard-surfaced durable material designed to support vehicular weight and approved by the building official.

Park, parking means the standing of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

Privacy fence means a solid or opaque wall or partition at least six feet and not over eight feet in height; or vegetation consisting of a solid hedgerow or evergreen shrubs, or trees and shrubs, providing full screening from the ground to a minimum height of six feet; or any combination of the above that effectively conceals the vehicle from public view and accomplishes the required screening height; or any other form of compatible and appropriate screening as so determined by the building official.

Special motor vehicle includes boats, boat trailers, travel trailers, pickup campers and coaches (designed to be mounted upon automotive vehicles), motorized dwellings (recreational vehicles), tent trailers and the like as well as cases or boxes used for transporting such vehicles, whether occupied by such vehicles or not.

Unimproved surface means a driveway or parking area covered only with asphalt, bordered gravel or a combination of these.

Unscreened means not concealed or hidden behind a privacy fence.

Vehicle means any and every device in, upon or by which a person, persons, or property may be transported, drawn or moved upon a street, highway, waterway or airway and shall include, but is not limited to, any automobile, bus, truck, tractor, motorhome, farm machinery, motorcycle, scooter, moped, all-terrain vehicle, boat, boat trailer, aircraft, recreational vehicle, golf cart, trailer, fifth wheel trailer, camper, camper shell, camper trailer, wheeled towing frame, semitractor, semitractor trailer, truck bed mounted on a chassis and mobile home. The term "vehicle" does not include nonmotorized bicycles, small engine lawn mowers, and devices of a similar scale.

Yard, front, means a yard located in front of the front elevation of a building and extending across a lot between the side yard lines and being the minimum horizontal distance between the front property line and the outside wall of the main building.

Yard, rear, means a yard extending across the rear of a lot measured between the lot lines and being the minimum horizontal distance between the rear lot line and the rear of the outside wall of the main building. On both corner lots and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard.

Yard, side, means a yard between the building and sideline of the lot and extending from the front lot line to the rear lot line and being the minimum horizontal distance between a side lot line and the outside wall of the side of the main building.
(Code 1996, § 12.05.001; Ord. No. 748-03, 4-7-2003; Ord. No. O-12-10, § 2, 6-21-2010)

Sec. 32-149. Residential parking restrictions.

(a) In a residential district within the city:

(1) The parking of any vehicle in the front yard on an unimproved surface is prohibited.

(2) The parking of any vehicle in the side yard must be screened from public or private view behind a minimum six-foot-high privacy fence, unless the vehicle is parked on an improved surface with a minimum clearance of two feet from an adjoining property.

(3) The parking of any vehicle in an unscreened rear yard upon any surface other than an improved rear or side entry driveway or required parking surface shall be prohibited. In no case shall more than one vehicle be parked or stored in such an area and such screening shall be by means of a minimum six-foot-high privacy fence.

(4) Recreational vehicles, travel trailers, camper trailers, trailers, boats, boat trailers, motor homes or other recreational vehicles or equipment may not be used for on-site dwelling purposes and shall be parked and stored on an improved surface and behind the rear building façade of the main structure (i.e., the house) and screened from public view at all times of the year by a fence or perennial vegetation.

(5) No such vehicles shall be used for living, sleeping or housekeeping or similar purposes when parked or stored on a residential lot, or in any location not approved for such use, except as specified in this section.

(6) No required parking space, garage, carport, or other automobile storage space shall be used for the storage of any special motor vehicle, limousine, recreational vehicle, trailer, boat, wrecker, truck-tractor rig, trailer, camper or camper shell, or other similar recreational, dwelling or business vehicle.

(7) No heavy load vehicles are allowed to be stored or parked in residential areas on a regular or repetitive basis.

(b) The parking restrictions in subsection (a) of this section shall not apply to the following:

(1) Vehicles actively engaged in service or delivery functions for the period of time actually engaged in the service or delivery activity;

(2) Publicly owned or franchised emergency or utility vehicles making residential repair calls or emergency utility service repairs;

(3) Emergency vehicles;

(4) Street construction and maintenance vehicles; or

(5) Recreational vehicles or equipment being loaded, unloaded, or otherwise prepared for use or storage during a period of time which does not exceed 24 hours.

(Code 1996, § 12.05.002; Ord. No. 748-03, 4-7-2003; Ord. No. O-12-10, § 2, 6-21-2010)

Sec. 32-150. Standards for parking surfaces; maintenance.

(a) Parking surfaces in the front and side yards must be contiguous to, and on paved concrete or asphalt surface as defined and according to the city's adopted standard construction details. For parking areas used with residences that had gravel driveways in existence before April 7, 2003, gravel may be used for additional parking spaces. When such a parking area is increased to the extent of 50 percent or more, in the area used, said surface shall meet the paving requirements of this article. Subsurface preparation for parking areas shall be approved by the building official.

(b) Parking surfaces, other than the approved driveway, shall not extend beyond the property lines, nor encroach over or upon any public utility easement or right-of-way.

(c) Parking spaces shall conform to the requirements for the specific district set out in the zoning ordinance and additional parking spaces in excess of the minimum shall minimally be eight by 20 feet in size. It shall not be a sufficient parking space to provide runners or pads under the tires or trailer tongue only.

(d) Parking surfaces must be in conformance with any applicable requirements of the city construction standard details manual, or the city building code. The building official shall establish and maintain a set of standard construction details for parking surfaces and driveway surfaces. Materials, such as roofing scraps, shingles, shredded tires, rubble and similar material may not be used for parking surfaces. The building official must approve any material to be utilized as an approved surface to the extent not otherwise provided herein or by other city ordinance.

(e) All parking surfaces shall be kept free of weeds and other vegetative growth.

(f) Parking areas in the front yard may not exceed 50 percent coverage of the front yard area. Parking areas in the rear yard may not exceed 30 percent coverage and shall be consistent with the applicable requirements of chapter 74 for the district in which the parking surface is located. To the extent the zoning ordinance provides for different lot coverage, the zoning ordinance controls.

(g) Parking areas may not be used to store junk or inoperative vehicles, as that term is defined by city ordinance.

(h) It is unlawful for an operator of any vehicle to drive over a raised curb to park or stand a vehicle on property used for residential purposes.

(i) It is unlawful to leave, stand or park a vehicle on a public sidewalk or any part of a sidewalk or parkway area, including the extension of a public sidewalk across a driveway except when necessary to avoid conflict with other traffic or in compliance with the direction of a peace officer or traffic control device.
(Code 1996, § 12.05.003; Ord. No. 748-03, 4-7-2003; Ord. No. O-12-10, § 2, 6-21-2010)

Secs. 32-151—32-168. Reserved.

DIVISION 3. PARKING OF COMMERCIAL VEHICLES

Sec. 32-169. Definitions.

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

Boat trailer means a trailer or semitrailer which is designed and constructed to carry a jet ski, barge, sailboat, motorboat or other vessel used upon any body of water.

Bus means every motor vehicle designed for carrying more than ten passengers and used for the transportation of persons, and every motor vehicle other than a taxicab, designed and used for the transportation of persons for compensation.

Commercial motor vehicle means a motor vehicle designed or used for the transportation of property, or for delivery purposes, not including a passenger bus, passenger automobile, motorcycle, panel delivery truck or pickup truck or vehicle used in the delivery of the United States mail, having a manufacturer rated carrying capacity of one ton or over or a gross vehicle weight of 11,000 pounds or over or having more than two axles.

Farm tractor means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry.

Heavy load vehicle means a self-propelled vehicle having a manufacturer's recommended gross vehicle weight (GVW) of greater than 11,000 pounds, such as large recreational vehicles, tractor-trailers, buses, vans, and other similar vehicles. The term "truck" shall be construed to mean "heavy load vehicle" unless specifically stated otherwise.

Implements of husbandry means every vehicle designed and adopted for use as a farm implement, machinery or tool as used in tilling the soil but shall not include any passenger vehicle.

Manufactured home or *manufactured housing* means a HUD-code manufactured home or a mobile home.

Mobile home means a structure constructed before June 15, 1976, built on a permanent chassis, designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities, transportable in one or more sections which, in the traveling mode, is at least eight body feet in width or at least 40 body feet in length or,

when erected on site, at least 320 square feet. The term "mobile home" includes the plumbing, heating, air conditioning, and electrical systems of the home and does not include a recreational vehicles as defined in 24 CFR 32.82.8(g).

Park or *parking* means the standing of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

Pole trailer means a vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole, or by being boomed, or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads, such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

Recreational vehicle/travel trailer/camper means a vehicular portable structure designed for a temporary or short-term occupancy for travel, recreation or vacation. The term "recreational vehicle/travel trailer/camper" does not apply to mobile homes or HUD-code manufactured housing which are designed for year-round occupancy.

Semitrailer means a vehicle designed with or without motive power, other than a pole trailer, for carrying persons, animals or property, or used with a motor vehicle so that part of the weight of the vehicle and its load rests on, or is carried by, another vehicle.

Trailer means a vehicle that is designed or used to carry a load wholly on its own structure and is drawn or designed to be drawn by a motor vehicle.

Truck-tractor means a motor vehicle designed or used primarily for drawing another vehicle and not constructed to carry a load other than a part of the weight of the vehicle and load to be drawn.

Vehicle means for purposes of this article shall mean any of the enumerated types of vehicles, trailers or trucks stated herein.
(Code 1996, § 12.10.001; Ord. No. 748-03, 4-7-2003; Ord. No. O-12-10, § 3, 6-21-2010)

Sec. 32-170. Prohibited acts.

(a) *Restrictions and limitations.* Except as provided in subsection (c) of this section, it is unlawful for any person or any owner to leave, park or stand any boat or boat trailer, truck-tractor, road tractor, truck trailer, semi-trailer, pole trailer, bus or any other commercial motor vehicle with a rated capacity in excess of one ton according to the manufacturer's classification or over 11,000 pounds gross vehicle weight or over or containing more than two axles, upon any public or private street, parkway, boulevard, or public place within or adjacent to any residence district as may be established in the city zoning regulations. This section shall not prevent the parking or standing of the above-described vehicles in loading zones for the purpose of expeditiously loading and unloading passengers, freight or merchandise.

(b) *Blocking traffic.* It is unlawful for any person or any owner to leave, park or stand any truck-tractor, road tractor, truck trailer, semi-trailer, pole trailer or any other commercial motor vehicle with a rated capacity in excess of one ton according to the manufacturer's classification or over 11,000 pounds gross vehicle weight or over or containing more than two axles, or any camper, travel trailer, mobile home, house trailer, boat trailer, stock trailer, bus, or any other type of trailer upon any public street, alley, parkway, or boulevard in such a manner as to block the flow of traffic upon the public street, alley, parkway or boulevard.

(c) *Exemptions.* The provisions of this section shall not apply to:

(1) The temporary parking or standing of vehicles, for the purpose of loading or unloading passengers or contents, including, but not limited to, buses taking on and discharging passengers at customary bus stops or other vehicles parked in designated loading zones;

(2) The connection or disconnection of such vehicles or trailers;

(3) Street construction, maintenance and repair equipment;

(4) Trucks, equipment, trailers and vehicles used by public service utilities;

(5) A vehicle with a mechanical defect, making it unsafe to proceed further, in which event it shall be lawful to stand or park the vehicle during the time to make emergency repairs;

(6) The performance of the function for which the vehicle was intended; provided, however, that the permitted activities herein stated shall occur during the hours of 7:00 a.m. to 10:00 p.m. and shall be of only the necessary duration to accomplish the permitted activity;

(7) Public service utility vehicles; and

(8) Emergency vehicles.

(Code 1996, §§ 12.10.002, 12.10.004; Ord. No. 748-03, 4-7-2003; Ord. No. O-12-10, § 3, 6-21-2010)

Secs. 32-171—32-193. Reserved.

ARTICLE VI. TRUCK ROUTES

Sec. 32-194. Definitions.

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

Commercial motor vehicle means a motor vehicle or combination of motor vehicles used to transport persons or property that has a gross combination weight rating of 26,001 or more pounds, including a towed unit with a gross vehicle weight rating of more than 10,000

pounds; has a gross vehicle weight rating of 26,001 or more pounds; is designed to transport 16 or more passengers, including the driver; or is transporting hazardous materials and is required to be placarded under 49 CFR 172, subpt. F.

Motor vehicle means any vehicle that is self-propelled, or a vehicle that is propelled by electric power from overhead trolley wires.

Pole trailer means any vehicle without motive power designed to be drawn by another vehicle and secured to the other vehicle by means of a reach, pole or boom or other security device to the towing vehicle and ordinarily used for transporting long or irregularly shaped loads, such as poles, pipes, or structural members capable generally of sustaining themselves as beams between the supporting connection.

Semi-trailer means any vehicle with or without motive power, other than a pole trailer, designed to be drawn by a motor vehicle and to transport persons or property and constructed so that part of the vehicle's weight and load rests on or is carried by another vehicle.

Trailer means any vehicle with or without motive power, other than a pole trailer, designed to be drawn by a motor vehicle and to transport persons or property and constructed so that no part of the vehicle's weight and load rests on the motor vehicle.

Truck-tractor means any motor vehicle designed or used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

Vehicle means a device that can be used to transport or draw persons or property on a highway. The term "vehicle" does not include a device exclusively used on stationary rails or tracks or manufactured housing, as that term is defined in V.T.C.A., Occupations Code § 1201.003.
(Code 1996, § 12.12.001; Ord. No. O-03-19, 5-7-2019)

Sec. 32-195. Applicability.

No person shall operate or cause to be operated any commercial motor vehicle, truck-tractor, trailer, semi-trailer, pole trailer, or any combination thereof, through the city in inter-city travel having a total gross weight with load in excess of 20,000 pounds without a local destination or point of origin, except upon such streets as are designated as truck routes by this article.
(Code 1996, § 12.12.002; Ord. No. O-03-19, 5-7-2019)

Sec. 32-196. Exceptions.

The provisions of this article, however, shall not apply to any of the following vehicles having a gross weight with load in excess of 20,000 pounds:

(1) A vehicle traveling to or from a truck terminal, garage, place of repair, place of performing a service, or a place of loading or unloading, over the shortest practicable

route to or from a point on a truck route; any such vehicle shall be permitted to proceed from one such point not on a truck route to another such point without returning to a truck route, if to so return would unreasonably increase the distance to be traveled between such points; the operator of any such vehicle shall carry evidence of the location of its last stop and of its immediate destination in order for this exception to apply;

(2) An authorized emergency vehicle operating in response to any emergency call;

(3) A vehicle operated by a public utility while cruising in an assigned area for the purpose of inspecting the facilities of said public utility or providing maintenance service to said facilities; and

(4) A vehicle operated for public service (i.e., garbage pickups, street repair and water service and maintenance).

(Code 1996, § 12.12.003; Ord. No. O-03-19, 5-7-2019)

Sec. 32-197. Truck routes designated.

The following streets and parts of streets are designated truck routes under this article:

(1) Interstate Highway 35E: from the north city limits to the south city limits.

(2) 35E FM 664: from the east city limits to the west city limits.

(3) Westmoreland: from the north city limits to the south city limits.

(Code 1996, § 12.12.004; Ord. No. O-03-19, 5-7-2019)

Sec. 32-198. Weighing loaded vehicles.

Any police officer of the city, having reason to believe that the gross weight or axle load of a loaded motor vehicle is unlawful, is authorized to weigh the same or cause the same to be weighed by any license and weight inspector of the state department of public safety, or any sheriff or duly authorized deputy sheriff by means of portable or stationary scales furnished or approved by the state department of public safety, or cause the same to be weighed by any public weigher, and to require that such vehicle be driven to the nearest available scales for the purpose of weighing.

(Code 1996, § 12.12.005; Ord. No. O-03-19, 5-7-2019)

Sec. 32-199. Truck route signs.

The traffic engineer or designee shall erect appropriate signs and markings to designate the truck routes established herein.

(Code 1996, § 12.12.006; Ord. No. O-03-19, 5-7-2019)

Sec. 32-200. Violation.

Except as otherwise provided for herein, it is unlawful for any person to drive, operate or move or to cause or permit to be driven, operated or moved on any public street within the city any commercial motor vehicle contrary to this article.
(Code 1996, § 12.12.007; Ord. No. O-03-19, 5-7-2019)

Secs. 32-201—32-223. Reserved.

ARTICLE VII. WRECKER SERVICE REGULATIONS

Sec. 32-224. 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:

Auto wrecker means any motor vehicle used or designed for the purpose of towing, carrying, pushing, or otherwise transporting a disabled or impounded vehicle.

Disabled vehicle means any motor vehicle located on any public street, alley, sidewalk, or sidewalk area which is unable to be driven under its own power due to mechanical breakdown, collision, or for any other reason.

Impounded vehicle means any vehicle which police officers are authorized to impound and remove under the provisions of any ordinance of the city or any law of the state.
(Code 1996, § 12.07.002)

Sec. 32-225. Annual review by city council.

The city council shall designate and review, on an annual basis, the wrecker service and storage yard for pickup and storage of vehicles disabled or abandoned on public property, or vehicles impounded by the police department.
(Code 1996, § 12.07.001)

Sec. 32-226. City manager to contract annually for wrecker service.

The city manager is authorized to contract for a wrecker service, with storage yard facilities, which shall serve the needs of the city as hereinafter provided.
(Code 1996, § 12.07.003)

Sec. 32-227. Storage facility to be fenced and lighted.

The designated city wrecker service shall maintain a suitable place for the storage of not less than 20 vehicles located at a business address or location acceptable to the city. Said storage area shall be fenced by a wooden fence at least six feet in height, if in the city limits,

be equipped with reasonable securely locked gates and be lighted at night. A responsible person, agent, or employee of the designated city wrecker service shall be designated by said service to be available for call to allow access to the storage area on a 24-hour basis.
(Code 1996, § 12.07.004)

Sec. 32-228. On-call service to be provided.

The designated wrecker service shall provide an on call 24-hour auto wrecker and driver for the purpose of towing and transporting a disabled or impounded vehicle. The police chief, or designee, shall contact the designated service as to location and description of the vehicle to be transported and impounded in the storage area.
(Code 1996, § 12.07.005)

Sec. 32-229. Transportation and impoundment fees; disposal of vehicles.

The designated wrecker service may charge to the vehicle owner a reasonable fee to transport an impounded vehicle or disabled vehicle to the storage area. A schedule of the towing and impoundment fees to be charged shall be submitted to the city council for approval and remain on file with the city secretary until amended by the designated service or termination of agreement with the city. Charging of fees in excess of those on file shall be an immediate cause for termination of designated wrecker service by city. Failure of owner of vehicle to reclaim or pay towing, transportation and storage fees in full may allow city to dispose of the vehicle in compliance with state law.
(Code 1996, § 12.07.006)

Sec. 32-230. Each wrecker and equipment to be maintained in good mechanical condition.

The designated wrecker service shall maintain each auto wrecker, and the equipment contained thereon, in good mechanical condition, and said service shall comply with all state and local regulations governing auto wreckers.
(Code 1996, § 12.07.007)

Sec. 32-231. Wrecker service to be bonded independent contractor.

The designated wrecker service shall not be an agent or employee of the city but shall be an independent contractor to the city. The designated wrecker service shall indemnify and hold the city harmless for any loss or damages arising out of its service and shall further give evidence of being bonded in the amount of $10,000.00.
(Code 1996, § 12.07.008)

Sec. 32-232. Contracts canceled only for good cause; proposals to be accepted.

(a) The annual contract shall be reviewed by the city and shall be canceled only for good cause, including, but not limited to, failure by the designated service in maintaining its storage area in reasonably good condition and failure to properly maintain the property entrusted to its care.

(b) The city council shall request proposals from all interested persons or businesses regarding the proposed wrecker and storage contract with the city in accordance with this article. The council shall contract with the wrecker company which is in compliance herewith and best meets the public demands and needs for removal and storage of disabled and impounded vehicles.
(Code 1996, § 12.07.009)

Sec. 32-233. Liability auto insurance requirements.

The designated wrecker service shall maintain liability auto insurance in the policy amount of $50,000.00.
(Code 1996, § 12.07.010)

Sec. 32-234. Disposition of impounded vehicles.

Any motor vehicle impounded pursuant to any city ordinance or state law shall be processed, disposed, auctioned, and sold in accordance with the provisions of V.T.C.A., Transportation Code ch. 683.
(Code 1996, §§ 12.07.011, 12.08.003)

Chapter 33

RESERVED

Chapter 34

UTILITIES

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ARTICLE I. IN GENERAL

Sec. 34-1. Definitions.

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

DWU means the Dallas Water Utilities.

TCEQ means the Texas Commission on Environmental Quality.

Sec. 34-2. Unauthorized connections.

Connections to the water and wastewater systems of the city shall be made only under the supervision of the city. No person, other than city employees, shall be authorized to connect, turn on, turn off, or disconnect water or wastewater services of the city, or to remove, replace, or repair any equipment connected to such service. Any person violating any provision of this section shall be guilty of a misdemeanor, and the city may refuse service to any such person.
(Code 1996, § 13.02.009(d))

Sec. 34-3. Mandatory sanitary sewer connections.

(a) *Connection to sewer required.* All owners, agents of owners or occupants of any building required by the housing code to have a water closet and which is situated on any lot or tract of land, the property line of which is situated, approaches or extends to within 125 feet of any sanitary line available now or in the future, are required to connect such building with such city sanitary sewer, under the supervision of the plumbing inspector of the city. In the case of any building for which a certificate of occupancy has not been issued prior to the time such sewer line is available, connection to such sanitary sewer line shall be a condition precedent to issuance of a certificate of occupancy for such building.

(b) *Septic tanks.* Use of any septic tank located on such property shall be discontinued upon connection of the building with said sanitary sewer system. In the case of any building for which a certificate of occupancy has previously been issued by the city, connection to the sanitary sewer line shall be completed within nine months of the date such line is available.

(c) *Maintenance of facilities and sewer connection.* It shall be the duty of any such property owner, agent or occupant to keep and maintain any such sewer connection in perfect condition and free from any obstruction.

(d) *Use of privies prohibited.* It is unlawful for any person to build or use any privy vault above or below ground in the city.
(Code 1996, §§ 13.04.001—13.04.003)

Sec. 34-4. Connection to water and sewer system.

(a) *Application.* Persons desiring water and wastewater service furnished by the city shall make application for the same to the appropriate city authority. Customers must connect to both systems except when one of such services is not available. The application shall contain the applicant's name, address, and the uses for which such water and wastewater service is desired. The city may decline or fail or cease to furnish water and wastewater service to any person who is indebted to the city for any reason except ad valorem taxes and special assessments.

(b) *Security deposit.* The application shall be accompanied by a security deposit in the amount provided in the city fee schedule. All deposits shall be held by the city, without payment of interest thereon, until such service is terminated. Any unpaid balance owed to the city shall be deducted from the deposit and the remainder shall be refunded to the customer.

(c) *Assumption of use.* All premises connected to the water or wastewater system of the city shall be assumed to be using such services, and the owner or occupant shall be charged therefor so long as such premises shall remain connected with the system.
(Code 1996, §§ 13.02.001(b), 13.02.007, 13.02.009(a), (b))

Sec. 34-5. Meters.

(a) Meters for the measurement of water or wastewater services furnished by the city shall be provided, installed by and remain the property of the city. All new construction where water and wastewater are available shall be equipped with two water meters, a water/wastewater meter and an irrigation meter. The water/wastewater meter shall be connected to the building or dwelling and shall measure water and wastewater usage.

(b) The irrigation meter shall be for irrigation purposes only and shall measure water usage only. The installation of an irrigation system for existing dwellings or businesses shall also include the installation and connection to an irrigation meter.
(Code 1996, § 13.02.009(c))

Sec. 34-6. Termination of service; reconnection.

(a) *Grounds for termination.* The city shall have the right to disconnect or refuse to connect or reconnect any water or wastewater service for any of the following reasons:

(1) Failure of the customer to meet the applicable provisions of law;

(2) Violation by the customer of rules and regulations pertaining to utility services;

(3) Nonpayment of bills;

(4) Willful or negligent waste of service due to improper or imperfect pipes, fixtures, appliances, or otherwise;

(5) Molesting any meter, seal, or other equipment controlling or regulating the supply of utility service;

(6) Theft or diversion or use of service without payment therefor; or

(7) Vacancy of premises.

(b) *Notice of termination.* Unless arrangements are made for extended or installment payments, accounts not paid in full within 15 days of the due date are delinquent. As soon thereafter as possible, a written notice shall be sent to the customer by regular mail informing the customer that service is subject to termination if all charges (including the delinquent payment charge) are not paid in full by the 20th day after the bill becomes due. If payment in full is not received by the date specified in the notice, the city shall attempt to leave a tag on the door at the address to be disconnected prior to such disconnection. Failure of the city to so tag the premises shall not be a defense to any termination of service.

(c) *Emergency termination.* The city reserves the right at any time to restrict or prevent the use of any service furnished by the city during periods of emergency or circumstances demanding such restriction or prevention of the use. Water and wastewater services may be cut off without notice in case of an emergency. When any interruption in service is necessary for the maintenance and improvement of the system affected, customers will be notified as circumstances permit.

(d) *Reconnection.* No reconnections shall be made unless all fees and charges have been paid, unless provisions have been made for extended payments. A reconnect fee shall be assessed for all reconnections and shall be paid prior to such reconnection. City personnel shall be available after 5:00 p.m. on weekdays and weekends for reconnections on a standby and rotational basis. Cash payments to employees shall be strictly accounted for, and assignments shall be recorded and verified.
(Code 1996, § 13.02.010)

Sec. 34-7. Inspections; right of entry.

Any authorized city inspector shall have access at all reasonable times to the premises supplied with water or wastewater services by the city for the purpose of examination to protect the utilities from abusive use.
(Code 1996, § 13.02.001(d))

Sec. 34-8. City not liable for damages.

The city shall not be liable for any damage to any utility customer caused by backflow of any wastewater system, failure of supply, interruption of service, or any other cause outside the direct control of the city.
(Code 1996, § 13.02.001(e))

Sec. 34-9. Prohibited acts.

It is unlawful for any person to:

(1) Connect to the city's water or wastewater system without the consent of the city;

(2) Turn on or off any water from a street stop cock or to tap any street main or pipe belonging to the city, or to do any work in any street, alley, or public ground in connection with the installation of service connections without the consent of the city;

(3) Damage or destroy property of the city's water or wastewater systems;

(4) Extend, replace, or repair lateral lines or septic tanks in areas where wastewater service is available;

(5) Tamper with, molest, damage, or trespass upon any equipment or premises belonging to the city's water or wastewater system; or

(6) Fail or refuse to pay the charges for services as provided in this article.

(Code 1996, § 13.02.001(c)(1)—(6))

Sec. 34-10. Prevention of contamination of city water supply sources.

(a) *Purpose.* The purpose of this section is to protect the water supply sources serving the citizens of the city by means of sanitary control measures designed to prevent contamination.

(b) *Public water system defined.* The term "public water system" means a system providing water to the public for human consumption through pipes or other constructed conveyances having at least 15 service connections or serving at least 25 individuals for at least 60 days out of the year. An individual served by a public water system if the individual lives in, uses as a place of employment, or works in a place to which drinking water is supplied from the system. The term "public water system" includes:

(1) Any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system;

(2) Any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system; and

(3) Two or more systems each having a potential to serve less than 15 connections or less than 25 individuals but owned by the same person or entity and located on adjacent land when the total potential service connections in the combined systems are 15 or greater or if the total number of individuals served by the combined systems total 25 or greater at least 60 days out of the year.

(c) *Prohibitions.* The following acts are prohibited:

(1) No person may locate a tile or concrete sanitary sewer, a sewerage appurtenance, a septic tank, a storm sewer, a cemetery, a septic tank perforated drain field, areas irrigated by low dosage, low angle spray on-site sewage facilities, an absorption bed, an evapotranspiration bed, an improperly constructed water well, or an underground petroleum and chemical storage tank or a liquid transmission pipeline which is within 150 feet of a public water source;

(2) No person may locate a sewage treatment plant within 500 feet of a public water source or a sewage wet well, sewage pumping station, or a drainage ditch which contains industrial waste discharges or the wastes from sewage treatment systems within 300 feet of a public water source;

(3) No person may locate animal feed lots, solid waste disposal sites, lands on which sewage plant or septic tank sludge is applied, or lands irrigated by sewage plant effluent within 500 feet of a public water source;

(4) No person may allow livestock in pastures within 50 feet of a public water source.

(d) *Violations, penalties, and enforcement.* The city public works director or designee shall enforce the provisions of this section. Violations of this section constitute misdemeanors punishable upon conviction as provided in section 1-9 for a public health and safety offense, provided that:

(1) Misdemeanor penalties shall be in addition to and cumulative of the authority of the city to abate a nuisance and charge the cost thereof against the owner of the property;

(2) In addition to all other remedies available to the city, violation of this section that constitute an immediate danger or threat to the health, safety and welfare of the public may be enjoined in a suit brought by the city for such purpose;

(3) In addition to all other remedies or penalties in this section, the city may enforce this section pursuant to V.T.C.A., Local Government Code ch. 54, which provides for the enforcement of municipal ordinances;

(4) Allegation and evidence of a culpable mental state is not required for the proof of violation of this section.

(Code 1996, §§ 13.09.001—13.09.005; Ord. No. 790-05, 3-21-2005)

Sec. 34-11. Water well drilling.

(a) *Generally.* No water well may be drilled or installed unless the water supply is protected in accordance with TCEQ rules and regulations for public water systems and this section.

(b) *Permit required; fee.* A city-issued permit is required prior to the drilling and installation of water wells within the territorial limits of the city or its extraterritorial jurisdiction. A permit fee as provided in the city fee schedule is established to administer and inspect the installation of water wells within the territorial limits of the city or its extraterritorial jurisdiction.

(c) *Installation by licensed drillers only.* Wells may be drilled and installed only by licensed water well drillers and water well pump installers as provided by the state department of licensing and regulation, as those rules and regulations exist and as they may be amended.

(d) *Violations and penalties.* Violations of this section constitute misdemeanors punishable upon conviction as provided in section 1-9 for a public health and safety offense, provided that:

(1) Misdemeanor penalties shall be in addition to and cumulative of the authority of the city to abate a nuisance and charge the cost thereof against the owner of the property;

(2) In addition to all other remedies available to the city, a violation of this section that constitutes an immediate danger or threat to the health, safety and welfare of the public may be enjoined in a suit brought by the city for such purpose;

(3) In addition to all other remedies or penalties in this section, the city may enforce this section pursuant to V.T.C.A., Local Government Code ch. 54, which provides for the enforcement of municipal ordinances.

(Code 1996, §§ 13.11.001—13.11.004; Ord. No. O-17-08, 6-16-2008)

Secs. 34-12—34-40. Reserved.

ARTICLE II. RATES, CHARGES, BILLINGS, AND COLLECTIONS

Sec. 34-41. Fees and other charges generally.

(a) *Combined utilities bill; partial payment.* Water, wastewater and solid waste collection services shall be treated as one bill; partial payment is unacceptable and will not prevent the entire account from becoming delinquent.

(b) *Customers not receiving water service.* For customers not receiving water services, charges shall be based on 6,000 gallons per month water usage for purposes of calculation.

(c) *Additional fees and charges.* The city may charge the fees and charges in addition to monthly service billings as provided for in the city fee schedule.

(d) *Solid waste charges.* The charges fixed for the removal and disposal of garbage and other refuse shall be levied by the city against all residential water customers in the city. Residential solid waste collection services shall be available to out-of-city water customers at their request.

(e) *Responsibility for multi-unit building charges.* When an apartment house or other building is served water through one meter, the person in whose name the water account stands shall be responsible for payment of all charges.

(f) *Waiver of water tap fee for seniors.* The water tap fee may be waived for new customers that are 62 years of age or older.

(Code 1996, §§ 13.02.001(b), (c)(6), 13.02.002, 13.02.003, 13.02.004, 13.02.006)

Sec. 34-42. Voluntary park system development contribution.

Persons who desire to voluntarily contribute to the development of park facilities may include an additional $1.00 or more in their payment for the monthly municipal utilities bill. All voluntary contributions shall be deposited in a segregated fund, separately accounted for, and used by the city council for the development of a parks system within the city.
(Code 1996, § 13.02.005(a))

Sec. 34-43. Billing and payment.

(a) *Mailing.* The city shall mail a monthly bill to all customers of the city's water and wastewater systems and to all residents for solid waste collection charges as provided in section 34-41(d).

(b) *No water consumption.* Customers with no water consumption during the month will be billed the minimum charge.

(c) *Due date.* Payment of bills is due on the date shown on the billing statement.

(d) *Dishonored checks.* There will be a returned check charge in the amount provided in the city fee schedule for any check in payment of a utilities bill that is returned for any reason. Each check shall be presented twice for payment. If the check is returned, the writer of the check shall be notified by certified mail, return receipt requested, that the amount of the check, plus the returned check charge must be made in full within ten days of receipt of the letter. If any charge remains unpaid, the check and all accompanying documentation shall be forwarded to the city attorney for prosecution and collection.

(e) *Delinquency.* A utilities bill not paid in full within 15 days of the due date shall be deemed past due, and a delinquent payment charge in the amount provided in the city fee schedule shall be assessed. When both water and wastewater services are included in a bill, payment in full for both services must be made or otherwise the entire bill will be considered delinquent. Any services for which charges continue to be delinquent for 20 days from the due date are subject to termination by the city.

(f) *No free service.* There shall be no free city utility services provided.

(g) *Installment payments.* In unusual circumstances and, in limited cases, the city manager may, at the city manager's discretion, enter into a written agreement with a customer for extended or installment payments. The agreement shall provide that no fees or charges shall be waived, and failure to make any payment will render the entire amount due.
(Code 1996, § 13.02.008)

Sec. 34-44. Natural gas rates.

The general service rate for sales of natural gas rendered to residential and commercial consumers within the city limits shall be as provided in the city fee schedule and shall be binding within the city limits on the city's natural gas franchisee in accordance with the franchise contract.
(Code 1996, §§ 13.07.001—13.07.006)

Secs. 34-45—34-61. Reserved.

ARTICLE III. IMPACT FEES

Sec. 34-62. Purpose.

(a) This article is intended to ensure the provision of adequate water and wastewater facilities to serve new development in the city by requiring each development to pay its share of the costs of such improvements necessitated by and attributable to such new development. It is not the purpose of this article to collect any money from new development in excess of the actual amount necessary to offset the demand on the city's water and wastewater facilities generated by such new development activity. It is specifically acknowledged that this article has approached the calculation of proportionate share impact fees in a conservative and reasonable manner.

(b) It is in the interest of the public's health, safety, and general welfare for the city to regulate development and ensure the adequacy of water and wastewater facilities by requiring payment of proportionate share impact fees.
(Code 1996, § 13.05.002; Ord. No. 800-05, 9-19-2005)

Sec. 34-63. Authority.

This article is adopted pursuant to V.T.C.A., Local Government Code ch. 395 and the city Charter. The provisions of this article shall not be construed to limit the power of the city to utilize all powers and procedures authorized under V.T.C.A., Local Government Code ch. 395, or other methods authorized under state law or pursuant to other city powers to accomplish the purposes set forth herein, either in substitution or in conjunction with this article. Guidelines may be developed by ordinance, resolution, or otherwise to implement and administer this article.
(Code 1996, § 13.05.003; Ord. No. 800-05, 9-19-2005)

Sec. 34-64. 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:

Assessment means the determination of the amount of the maximum impact fee per dwelling unit equivalent which can be imposed on new development pursuant to this article. The amount of the impact fee per dwelling unit equivalent is a measure of the water or wastewater impact on system facilities created by the new development.

Capital improvement means any water supply, treatment and distribution facilities, or wastewater collection and treatment facilities, which have a life expectancy of three or more years and are owned and operated by or on behalf of the city.

Credit means the amount of the reduction of an impact fee arising from payments made for a capital improvement included in the water and wastewater study and made prior to September 19, 2005.

Final plat approval or *approval of a final plat* means the point at which the applicant has complied with all conditions of approval and the plat has been released for filing with Dallas or Ellis County, whichever may be applicable.

Final plat recordation or *recordation of a final plat* means the point at which the applicant has complied with all conditions precedent to recording an approved final plat in Dallas or Ellis County, whichever may be applicable, including any infrastructure or other improvements required by the subdivision ordinance or any other ordinance.

Impact fee means a water or wastewater impact fee.

Land use assumptions means the projections of population and employment growth and associated changes in land uses, densities and intensities adopted by the city, as may be amended from time to time, upon which the waste and wastewater study is based.

New development means a project involving the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure, or any use or extension of land, which has the effect of increasing the requirements for capital improvements, measured by the number of dwelling unit equivalents to be generated by such activity, and which requires either the approval and filing with Dallas or Ellis County, whichever may be applicable, of a plat pursuant to the subdivision regulations or the issuance of a building permit.

Offset means the amount of the reduction of an impact fee designed to fairly reflect the value of system facilities or other capital improvements pursuant to rules herein established or council-approved administrative guidelines, provided by a developer pursuant to the subdivision regulations or requirements.

Recoup means to reimburse the city for capital improvements which the city has previously installed or caused to be installed.
(Code 1996, § 13.05.004; Ord. No. 800-05, 9-19-2005)

Sec. 34-65. Applicability.

The provisions of this article apply to all new developments within the corporate boundaries of the city. The provisions of this article apply uniformly within both the water service area and the wastewater service area.
(Code 1996, § 13.05.005; Ord. No. 800-05, 9-19-2005)

Sec. 34-66. Impact fees per dwelling unit equivalent.

(a) Maximum impact fees per dwelling unit equivalent for water and wastewater shall be as set forth in Schedule 1 attached to Ordinance No. 800-05 and on file in the office of the city secretary and made a part of this article by reference.

(b) The water and wastewater impact fee per dwelling unit equivalent which is to be paid by each new development shall be as set forth in Schedule 2 attached to Ordinance No. 800-05 and on file in the office of the city secretary and made a part of this article by reference.

(c) Impact fee Schedules 1 and 2 may be amended from time to time pursuant to state law.
(Code 1996, § 13.05.006; Ord. No. 800-05, 9-19-2005)

Sec. 34-67. Assessment.

(a) Assessment of the impact fee for any new development shall be made as follows:

(1) For land which is unplatted at the time of application for a building permit, or for a new development which received final plat approval prior to or on September 19, 2005, and for which no replatting is necessary pursuant to the subdivision regulations prior to development, assessment of impact fees shall occur at the time application is made for the building permit, and shall be the amount of the maximum impact fee per dwelling unit equivalent as set forth in Schedule 1 then in effect;

(2) For a new development which is submitted for approval pursuant to the subdivision regulations after September 19, 2005, or for which replatting results in an increase in the number of dwelling unit equivalents after such date, assessment of impact fees shall be at the time of final plat recordation and shall be the amount of the maximum impact fee per dwelling unit equivalent as set forth in Schedule 1 then in effect.

(b) Following assessment of the impact fee pursuant to subsection (a) of this section, the amount of the impact fee assessed per dwelling unit equivalent for that development cannot be increased, unless the owner proposes to change the approved development by the submission of a new application for final plat approval, in which case new assessment shall occur at the Schedule 1 rate then in effect.

(c) Following the vacating of any plat or submittal of any replat, a new assessment must be made in accordance with subsection (a)(2) of this section.

(d) Approval of an amending plat pursuant to V.T.C.S., Local Government Code § 212.016, is not subject to reassessment for an impact fee.
(Code 1996, § 13.05.007; Ord. No. 800-05, 9-19-2005)

Sec. 34-68. Payment and collection.

(a) For all new developments, impact fees shall be collected at the time of application for a building permit. The impact fees to be paid and collected are listed in Schedule 2. The city may enter into an agreement with a developer for a different time and manner of payment of impact fees, in which case the agreement shall determine the time and manner of payment.

(b) The city shall compute the impact fees for new development as set forth in the impact fee calculation section of the water and wastewater study, at pages II-12-14, attached to Ordinance No. 800-05 and on file in the office of the city secretary, as Exhibit 1.

(c) If the building permit for which an impact fee has been paid has expired, and a new application is thereafter filed, the impact fees shall be computed using Schedule 2 then in effect, with credits for previous payment of fees being applied against the new fees due.

(d) For a new development which is unplatted at the time of application for a building permit, and for which no replatting is necessary pursuant to the subdivision regulations prior to development, collection of impact fees shall occur at the time application is made for the building permit and shall be the amount of the impact fee per dwelling unit equivalent, as set forth in Schedule 2 then in effect.

(e) When the property owner proposes to increase the number of dwelling unit equivalents for a development, the additional impact fees collected for such new dwelling unit equivalents shall be determined by using Schedule 2 then in effect, and such additional fee shall be collected at the times prescribed by this section.

(f) For a single-family residential lot of record existing on June 20, 1987, for which no replatting is necessary pursuant to the subdivision regulations prior to development, collection of impact fees shall be pursuant to Schedule 2, and such fees shall be collected at the time of application for a building permit.
(Code 1996, § 13.05.008; Ord. No. 800-05, 9-19-2005)

Sec. 34-69. Offsets and credits against impact fees.

(a) The city shall offset the reasonable value of any water or wastewater system facility which has been dedicated to and has been accepted by the city or credit the amount of any monetary contribution to such facility, against the amount of the water or wastewater impact fees due, in accordance with the rules set forth in this section. The city may agree to offset the reasonable value of any other capital improvement which is not on the impact fee water and wastewater capital improvements plan, but which is on the city's generally adopted water and wastewater facilities plans. The value of an offset or credit may be stated in dollars or dwelling unit equivalents.

(b) This subsection applies only to an offset or credit associated with a capital improvement contributed to the city after September 19, 2005. Offsets or credits associated with a capital improvement contributed to the city prior to September 19, 2005, are addressed in subsection (c) of this section.

(1) For purposes of this subsection (b), an offset or credit associated with a capital improvement contributed to the city after September 19, 2005, is created at the time that the city accepts the system facility or other capital improvement for dedication or enters into a binding facilities agreement for the facility pursuant to the subdivision regulations;

(2) At the time the offset or credit is created, if no offset agreement exists or the existing agreement does not contain the terms identified herein on such date, the developer shall apply for an offset agreement, and the agreement thereafter shall be enforced in accordance with the following terms, providing:

a. Identification of the plat with which the offset or credit is to be associated, with the exception of school districts;

b. The amount of the capacity created by the capital improvement, expressed in dwelling unit equivalents;

c. A provision stating that the offset or credit may be used to reduce impact fees imposed on new developments contained within the land subject to the associated plat after the effective date of the agreement;

d. A provision that the amount of the offset or credit shall be determined by estimating the number of dwelling unit equivalents of capacity supplied by the capital improvement, reduced by:

1. The number of dwelling unit equivalents developed within the plat since the contribution of the water or wastewater facility, using the dwelling unit equivalency table set forth at table II-9 in the water and wastewater study at page II-12; by

2. The amount of the city's participation in the excess costs of the facility (expressed in dwelling unit equivalents); and by

3. The amount of any payments received from other new developments utilizing the facility (expressed in dwelling unit equivalents);

e. A provision for reimbursement of any unused offsets or credits consistent with subsection (b)(4) of this section; and

f. A provision stating that the city may elect to buy back outstanding offsets or credits in accordance with subsection (f) of this section;

The developer may assign the offset agreement with the city's consent, but in no event shall the offsets and credits provided for in the agreement be transferred to any development not subject to the plat associated with such offsets and credits with the exception of school districts which may transfer the credits to any future development by the school district;

(3) The developer may petition the city council for offsets for contribution of a water or wastewater capital improvement, which is not identified in the impact fee water and wastewater capital improvements plan, if the improvement will supply capacity to new developments other than to the development seeking the offset, at the time the facility is accepted by the city or a binding facilities agreement for the facility is executed pursuant to the subdivision regulations. In no event, however, may offsets attributable to such facility be used to reduce impact fees until the water or wastewater improvements plan has been amended to include all or a portion of the capital improvement. If the petition is granted, the terms shall be incorporated into

an offset agreement as provided in subsection (b)(2) of this section. The agreement also shall provide that the amount of the offset shall not exceed the capacity of the capital improvement that is included in the water or wastewater improvements plan;

(4) As provided in the offset agreement required by subsection (b)(2) of this section, the developer may apply for reimbursement of excess offsets or credits following either completion of all development subject to the plat with which the offsets or credits are associated or after ten years following execution of the offset agreement. The following rules apply to such reimbursement, and shall be incorporated into the offset agreement:

a. The developer must apply for reimbursement within six months following either:

1. Completion of all development subject to the plat with which the offsets or credits are associated; or

2. Ten years after the date of execution of the offset agreement.

b. The following terms shall be incorporated in the reimbursement agreement and the agreement shall be enforced in accordance with such terms:

1. A provision stating that the amount to be reimbursed shall be equal to the number of unused offsets (expressed as a number of dwelling unit equivalents) multiplied by a fraction equal to the impact fee per dwelling unit equivalent to be collected, as set forth in Schedule 2 in effect on the date of execution of the offset agreement, divided by the maximum impact fee per service unit, as set forth in Schedule 1 in effect on the date of execution of the offset agreement;

2. A provision stating that the amount to be reimbursed may be further equitably reduced, if fewer than 50 percent of the number of dwelling unit equivalents in the plat with which the capital improvement giving rise to the offset have been developed on the date of application for reimbursement;

3. A provision stating that repayment shall be made within five years from the date of execution of the reimbursement agreement, from water or wastewater impact fees, subject to the availability of such funds;

4. A provision that termination or reduction of the city's authority under state law to impose impact fees for water or wastewater facilities shall terminate or correspondingly reduce any obligation to make payments under the offset agreement; and

5. A provision stating that, in converting the offsets from dwelling unit equivalents to a dollar value, the number of dwelling unit equivalents shall be multiplied by the value of a dwelling unit equivalent expressed in dollars using Schedule 1 in effect at the time the offset agreement was executed.

c. Execution of a reimbursement agreement shall automatically terminate any offsets or credits associated with a plat pursuant to an offset agreement. Thereafter, new development within the area subject to the plat shall pay water and wastewater impact fees in accordance with Schedule 2 then in effect.

(c) This subsection applies only to offsets or credits associated with a capital improvement contributed to the city prior to September 19, 2005, and for which no development agreement exists providing for dedication or construction of system facilities and for offsets or credits against impact fees in proportion thereto. Any person who dedicated a system facility to the city or financed such facility prior to September 19, 2005, or any person who is subject to an impact fee for a new development in a plat associated with the system facility, may create offsets or credits for such facility by entering into an offset agreement within two years of September 19, 2005. The agreement shall be enforced in accordance with the following terms, providing:

(1) Identification of the plat with which the offset or credit is to be associated, with the exception of school districts;

(2) The amount of the capacity created by the capital improvement, expressed in dwelling unit equivalents;

(3) A provision stating that the offset or credit may be used to reduce impact fees imposed on new developments contained within the land subject to the associated plat after the effective date of the agreement;

(4) A provision stating that the amount of the offset or credit shall be determined by estimating the number of dwelling unit equivalents capacity supplied by the system facility, reduced by:

a. The number of dwelling unit equivalents developed within the plat since the contribution of the water or wastewater facility, using the dwelling unit equivalency table set forth at Table II-9 in the water and wastewater study at page II-12; by

b. The amount of the city's participation in the excess costs of the facility (expressed in dwelling unit equivalents); and by

c. The amount of any payments received from other new developments utilizing the facility (expressed in dwelling unit equivalents);

(5) A provision stating, that offsets or credits created pursuant to the offset agreement shall expire at the time that development subject to the associated plat is completed;

(6) A provision stating that once the offset or credit has expired, no reimbursement for unused offsets or credits shall be due;

(7) A provision stating that, in converting offsets from dwelling unit equivalents to a dollar value, the number of dwelling unit equivalents shall be multiplied by the value of a dwelling unit equivalent expressed in dollars using Schedule 1 in effect at the time the offset agreement was executed; and

(8) A provision stating that the city may elect to buy back outstanding offsets or credits in accordance with subsection (f) of this section;

The developer may assign the offset agreement with the city's consent, but in no event shall the offsets and credits provided for in the agreement be transferred to any development not subject to the plat associated with such offsets and credits, with the exception of school districts.

(d) All offsets and credits against water and wastewater impact fees shall be subject to the following limitations and shall be granted based on this article and additional standards promulgated by the city council, which may be adopted as council-approved administrative guidelines:

(1) No offset or credit shall be given for the dedication of land or easements for or the construction of site-related facilities;

(2) No offset or credit shall exceed the documented and city approved costs to the developer of the capital improvement which was dedicated to and accepted by the city, or the amount of the monetary contribution actually made;

(3) The costs or dwelling unit equivalents used to calculate the offsets shall not exceed those assumed for the specific capital improvement included in the impact fees capital improvements plan or the actual costs of that improvement, whichever is less.

(e) Offsets or credits shall be associated with the approved preliminary plat for the new development and shall apply to development of all land subject to such plat, with the exception of school districts. For new developments that are to be developed in phases, offsets or credits may be created sequentially and may be applied to any undeveloped portions of the plat with which the offset or credit is associated. The offset shall be expressed in service unit equivalents. The available offset or credit associated with the plat shall be applied against an impact fee in the following manner:

(1) For single-family residential lots which have received final plat approval, the offset or credit shall be applied to reduce the impact fee equally for all such lots within the final plat at the time of final plat recordation;

(2) For all other types of new developments, the offset or credit shall be applied to reduce the impact fee at the time of issuance of the first building permit, and thereafter to all subsequently issued building permits, for each new development within the associated plat, until the offset or credit has been exhausted.

(f) Notwithstanding any other provisions of this section relating to offsets and credits, the city in its sole discretion may choose to acquire all or a portion of any outstanding offsets or credits associated with a new development by giving the property owner 60 days' written notice of such intent and by tendering the dollar value of such offsets or credits using Schedule 1 in effect at the time the applicable offset agreement was executed.

(g) Notwithstanding any other provision of this article to the contrary, for new developments subject to a development agreement predating September 19, 2005, which agreement provides for dedication or construction of system facilities and for offsets or credits against water or wastewater impact fees in proportion thereto, offsets or credits shall apply to the amount of impact fees to be collected for each service unit pursuant to Schedule 2 then in effect in accordance with the terms of such development agreement.
(Code 1996, § 13.05.009; Ord. No. 800-05, 9-19-2005)

Sec. 34-70. Use of proceeds.

(a) The water and wastewater impact fees collected by the city may be used to finance, pay for or to recoup the costs of any water and wastewater facilities identified in the water and wastewater study, including the construction contract price, surveying and engineering fees, land acquisition costs (including land purchases, court awards and costs, attorney's fees, and expert witness fees), and amounts designated in any reimbursement agreements executed pursuant to section 34-69.

(b) Impact fees may be used to pay for the contract services of an independent qualified engineer or financial consultant preparing or updating the water and wastewater improvements plan who is not an employee of the political subdivision.

(c) Impact fees also may be used to pay the principal sum and interest and other finance costs on bonds, notes or other obligations issued by or on behalf of the city to finance such capital improvement.
(Code 1996, § 13.05.010; Ord. No. 800-05, 9-19-2005)

Sec. 34-71. Appeals.

(a) The property owner or applicant for development may appeal the following administrative decisions to the city council:

(1) The applicability of an impact fee to the development;

(2) The amount of the impact fee due;

(3) The availability of, the amount of, or the expiration of an offset or a credit;

(4) The application of an offset or credit against an impact fee due;

(5) The amount of the impact fee in proportion to the benefit received by the new development; or

(6) Amount of a refund due, if any.

(b) The appellant shall state the basis for the appeal in writing with particularity. The burden of proof shall be on the appellant to demonstrate that the amount of the fee or the amount of the offset or credit was not calculated according to the rules set forth in this article or by administrative guideline. The appellant shall submit any traffic study or other documents upon which the appellant relies to the city with the request for appeal.

(c) The appellant must file a notice of appeal with the city secretary within 30 days following the decision. If the notice of appeal is accompanied by a bond or other sufficient surety satisfactory to the city attorney in an amount equal to the original determination of the impact fee due, the development application may be processed while the appeal is pending.
(Code 1996, § 13.05.011; Ord. No. 800-05, 9-19-2005)

Sec. 34-72. Refunds.

(a) Any impact fee or portion thereof collected pursuant to this article which has not been expended for an authorized purpose within ten years from the date of payment shall be refunded, upon application, to the record owner of the property at the time the refund is paid or, if the impact fee, was paid by another governmental entity, to such governmental entity, together with interest calculated from the date of collection to the date of refund at the statutory rate as set forth in V.T.C.A., Finance Code § 302.002. The application for refund pursuant to this section shall be submitted in writing within 60 days after the expiration of the ten-year period for expenditure of the fee. An impact fee shall be considered expended on a first-in, first-out basis.

(b) An impact fee collected pursuant to this article shall be considered expended if the total expenditures for capital improvements authorized in section 34-70 within ten years following the date of payment exceed the total fees collected for such improvements during such period.

(c) If a refund is due pursuant to subsection (a) or (b) of this section, the city shall prorate the refund by dividing the difference between the amount of expenditures and the amount of the fees collected by the total number of dwelling unit equivalents for the period to determine the refund due per dwelling unit equivalents. The refund to the record owner shall be calculated by multiplying the refund due per dwelling unit equivalents by the number of dwelling unit equivalents for the development for which the fee was paid, and interest due shall be calculated upon that amount.

(d) Upon completion of all the capital improvements identified in the water and wastewater improvements plan, the city shall recalculate the maximum impact fee per dwelling unit equivalents using the actual costs for the improvements or expansions. If the maximum impact fee per dwelling unit equivalent based on actual cost is less than the impact fee per dwelling unit equivalent paid, the city shall refund the difference if such difference exceeds the impact fee paid by more than ten percent. The refund to the record owner shall be calculated by multiplying such difference by the number of dwelling unit equivalent for the development for which the fee was paid, and interest due shall be calculated upon that amount.

(e) If the building permit for a new development for which an impact fee has been paid has expired, and a modified or new application has not been filed within six months of such expiration, the city shall, upon written application, refund the amount of the impact fee to the applicant. The city may establish guidelines for refunding of impact fees collected for which construction plans have been abandoned.
(Code 1996, § 13.05.012; Ord. No. 800-05, 9-19-2005)

Sec. 34-73. Relief procedures.

(a) Any person who has paid an impact fee or an owner of land upon which an impact fee has been paid may petition the city council to determine whether any duty required by this article has not been performed within the time so prescribed. The petition shall be in writing and shall state the nature of the unperformed duty and request that the act be performed within 60 days of the request. If the city council determines that the duty is required pursuant to this article and is late in being performed, it shall cause the duty to commence within 60 days of the date of the request and to continue until completion.

(b) The city council may grant a variance or waiver from any requirement of this article, upon written request by a developer or owner of property subject to this article, following a public hearing, and only upon finding that a strict application of such requirement would when regarded as a whole result in confiscation of the property.

(c) If the city council grants a variance or waiver to the amount of the impact fee due for a new development under this section, it may cause to be appropriated from other city funds the amount of the reduction in the impact fee to the account for the water or wastewater benefit area in which the property is located.
(Code 1996, § 13.05.013; Ord. No. 800-05, 9-19-2005)

Sec. 34-74. Facilities land use assumptions and benefits area.

(a) The land use assumptions are adopted as the city's land use assumptions for water and wastewater facilities and system. The land use assumptions are set forth as Exhibit A to the impact fee study, a copy of which is attached to Ordinance No. 800-05 and on file in the office of the city secretary as Exhibit 1 and incorporated by reference herein.

(b) There is established one service area for water and wastewater impact fees, as depicted in Plates 1 and 2, respectively, of the land use assumptions.

(c) The boundaries of the water and wastewater impact fee service areas may be amended from time to time, or new water or wastewater impact fee service areas may be delineated.
(Code 1996, § 13.05.031; Ord. No. 800-05, 9-19-2005)

Sec. 34-75. Multiyear financial plan.

(a) The financial plan is adopted.

(b) The financial plan is set forth as Exhibit B to the impact fee study, a copy of which is attached to Ordinance No. 800-05 and on file in the office of the city secretary as Exhibit 1 and incorporated by reference herein.

(c) The financial plan may be amended from time to time.
(Code 1996, § 13.05.032; Ord. No. 800-05, 9-19-2005)

Sec. 34-76. Impact fee study.

(a) The water and wastewater study is adopted.

(b) The water and wastewater study is set forth as Exhibit C to the impact fee study, a copy of which is attached to Ordinance No. 800-05 and on file in the office of the city secretary as Exhibit 1 and incorporated by reference herein.

(c) The water and wastewater study may be amended from time to time.
(Code 1996, § 13.05.033; Ord. No. 800-05, 9-19-2005)

Sec. 34-77. Impact fee amounts.

(a) The maximum water and wastewater impact fees per dwelling unit equivalent are adopted and incorporated in Schedule 1 attached to Ordinance No. 800-05 and on file in the office of the city secretary and made a part hereof by reference.

(b) The water and wastewater impact fees per dwelling unit equivalent, which are to be paid by each new development, are adopted and incorporated in Schedule 2 attached to Ordinance No. 800-05 and on file in the office of the city secretary and made a part hereof by reference.

(c) The impact fees per dwelling unit equivalent for water and wastewater facilities may be amended from time to time.
(Code 1996, § 13.05.034; Ord. No. 800-05, 9-19-2005)

Secs. 34-78—34-97. Reserved.

ARTICLE IV. WATER CONSERVATION AND DROUGHT CONTINGENCY PLAN

Sec. 34-98. Purpose.

(a) The purpose of this article is to conserve the available city 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.

(b) Water uses restricted or prohibited under the drought contingency 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 to penalties as defined in in this article.

(c) The objectives of the drought contingency plan are to:

(1) Conserve the available water supply in times of drought and emergency;

(2) Maintain supplies for domestic water use, sanitation, and fire protection;

(3) Protect and preserve public health, welfare, and safety;

(4) Minimize the adverse impacts of water supply shortages; and

(5) Minimize the adverse impacts of emergency water supply conditions.

(Ord. No. O-10-24, exh. A(I), 6-4-2024)

Sec. 34-99. Public input.

Opportunity for the public to provide input into the preparation of the plan was provided by the city by means of providing a copy of the draft version of this plan to any person who requested it and convening a public meeting to accept input on the plan.

(Ord. No. O-10-24, exh. A(II), 6-4-2024)

Sec. 34-100. Plan information provided.

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 may be provided by means of, but not limited to, an appropriate combination of the following items:

(1) Newspaper and magazine articles and announcements;

(2) Press releases, media alerts and social media;

(3) Email and telephone notifications to customers;

(4) Mailed water bill inserts;

(5) Distribution of fact sheets, brochures, and pamphlets;

(6) Customer service representatives;

(7) Public meetings and hearings;

(8) Public education seminars.

(Ord. No. O-10-24, exh. A(III), 6-4-2024)

Sec. 34-101. Service area.

The service area of the city is located within the Region C Water Planning Group and the city will provide a copy of this article to the group.
(Ord. No. O-10-24, exh. A(IV), 6-4-2024)

Sec. 34-102. City manager authority.

The city manager or designee is authorized and directed to implement the applicable provisions of this article upon determination that such implementation is necessary to protect public health, safety, and welfare or in conjunction with and upon written notice by the supplier. The city manager or designee shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in this water conservation plan as set out in this article.
(Ord. No. O-10-24, exh. A(V), 6-4-2024)

Sec. 34-103. Applicability.

The provisions of the water conservation plan as set out in this article 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.
(Ord. No. O-10-24, exh. A(VI), 6-4-2024)

Sec. 34-104. 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:

Aesthetic water use means water use for ornamental or decorative purposes, such as fountains, reflecting pools, and water gardens.

Automatic irrigation system means a site-specific system of delivering water, generally for landscape irrigation, via a system of pipes or other conduits installed below ground that will automatically cycle water using landscape sprinklers according to a preset program, whether on a designated timer or through manual operation.

Commercial and institutional water use means water use which is integral to the operations of commercial and non-profit 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 city.

Domestic water use means water use for personal needs or for household or sanitary purposes, such as drinking, bathing, heating, cooking, sanitation, or for cleaning a residence, business, industry, or institution.

Even-numbered address means street addresses, box numbers, or rural postal route numbers ending in 0, 2, 4, 6, or 8 and locations without addresses.

Foundation watering means an application of water to the soils directly abutting (within two feet) the foundation of a building, structure.

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 public, health, safety, and welfare, including:

(1) Irrigation of landscape areas, including parks, athletic fields, and golf courses, except otherwise provided under this water conservation plan as set out in this article;

(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 controllable leaks within a reasonable period after having been given notice directing the repair of such leaks; and

(9) Use of water from hydrants for construction purposes or any other purposes other than firefighting.

Odd-numbered address means street addresses, box numbers, or rural postal route numbers ending in 1, 3, 5, 7, or 9.

Plan means the drought contingency plan adopted by the city.

Recreational water use means water used for leisure and entertainment purposes. Examples include, but are not limited to, swimming pools, Jacuzzi®-type pools, water theme parks, wading pools and water toys.

Retail customers means any water customer that receives water supply from the city water supply system.

Supplier means Dallas Water Utilities (DWU).

Trigger means a condition that would require certain operating conditions prescribed in this water conservation plan as set out in this article.
(Ord. No. O-10-24, exh. A(VII), 6-4-2024)

Sec. 34-105. Monitoring and initiation criteria.

(a) The city manager and designee shall monitor water supply or demand conditions on a daily basis, or in conjunction with and upon written notice by the supplier, and shall determine when conditions warrant initiation or termination of each stage of the plan. Public notification of the response stages shall be by means of signs and posters in public places, or handouts or local media.

(b) After implementation, the city manager shall immediately notify the mayor and city council. Public notification shall be made by handouts, website postings, local news media, and signs or posters in public places.

(c) Once the authorization has been given, operations shall continue under the drought contingency plan, with progression from one stage to another as determined by the appropriate trigger conditions as notified by the supplier and executed by the city manager or designee. Operations may be returned to normal procedures once the trigger conditions have dissipated and by authorization of the city manager. The mayor and city council will be notified immediately of the return to normal operations.

(d) The triggering criteria described in subsection (h) of this section are based on the following:

(1) Available water supplies from the supplier, Dallas Water Utilities (DWU):

a. DWU determines the total raw water supply in connected lakes (east and west); or the western lakes or the eastern lakes has dropped below 65 percent (35 percent depleted) of DWU's share of the total conservation storage of the lakes; or

b. Water demand has reached or exceeded 85 percent of delivery capacity for four consecutive days; or

c. Water demand approaches a reduced delivery capacity for all or part of the system, as determined by DWU; or

d. Natural or human-made contamination of the water supply sources occurs.

(2) Demand causes severe stress on water facilities;

(3) Equipment failure;

(4) Natural disaster; or

(5) Contamination of water supply.

(e) Initiation of drought response stage.

(1) The supplier or the city manager or designee may order the implementation of a drought response stage or water emergency when one or more of the trigger conditions for that stage is met. The following actions will be taken when a drought stage is initiated:

a. The public will be notified through mail-outs, newsletters, website postings, posters, or the local newspaper;

b. If any mandatory provisions of the drought contingency plan are activated, the city manager will notify the executive director of the TCEQ within five business days;

(2) The supplier or the city manager may decide not to order the implementation of a drought response stage or water emergency even though one or more of the trigger criteria for the stage are met. Factors which could influence such a decision include, but are not limited to, the time of the year, weather conditions, the anticipation of replenished water supplies, or the anticipation that additional facilities will become available to meet needs.

(f) Termination of drought stage.

(1) The supplier or the city manager or designee may order the termination of a drought response stage or water emergency when the conditions for termination are met or at the manager's discretion. The following actions will be taken when a drought stage is terminated:

a. The public will be notified through mail-outs, newsletters, website postings, posters or the local newspaper;

b. When any mandatory provisions of the drought contingency plan that have been activated or terminated, the city manager will notify the executive director of the TCEQ within five business days;

(2) The supplier or city manager may decide not to order the termination of a drought response stage or water emergency even though the conditions for termination of the stage are met. Factors which could influence such a decision include, but are not limited to, the time of the year, weather conditions, or the anticipation of potential changed conditions that warrant the continuation of the drought stage.

(g) The city does not have an alternative water source or delivery mechanism.

(h) Triggers.

(1) *Stage 1 Triggers.*

a. *Requirements for initiation.* Customers shall be requested to comply with the requirements and restrictions on certain non-essential water uses provided in section 34-106 when:

1. Water demand has reached or exceeded 85 percent of delivery capacity for four consecutive days; or

2. Water demand approaches a reduced delivery capacity for all or part of the system, as determined by the city; or

3. Water line breaks or pump or system failures, which impact the ability of the city to provide treated water service; or

4. Natural or human-made contamination of the water supply sources occurs; or

5. Notification by DWU that Stage 1 of its plan has been activated.

b. *Requirements for termination.* Stage 1 may be terminated when Stage 1 conditions no longer exist and would be unlikely to recur upon termination.

(2) *Stage 2 Triggers.*

a. *Requirements for initiation.* Customers shall be required to comply with requirements and restrictions on certain non-essential water uses provided in section 34-106 when:

1. Any conditions from Stage 1; or

2. Water demand has reached or exceeded 90 percent of delivery capacity for three consecutive days; or

3. Water demand equals a reduced delivery capacity for all or part of the system, as determined by the city; or

4. Water line breaks or pump or system failures occur, which impact the ability of the city to provide treated water service; or

5. Natural or human-made contamination of the water supply sources occurs; or

6. Notification by DWU that Stage 2 of its plan has been activated.

b. *Requirements for termination.* Stage 2 may be terminated when Stage 2 conditions no longer exist and would be unlikely to recur upon termination.

(3) *Stage 3 Triggers.*

a. *Requirements for initiation.* Customers shall be required to comply with the requirements and mandatory restrictions on certain non-essential water uses provided in section 34-106 when:

1. Any conditions from Stage 1 or 2; or

2. Water demand has reached or exceeded 95 percent of delivery capacity for two consecutive days; or
3. Water demand exceeds a reduced delivery capacity for all or part of the system, as determined by the city; or
4. Water line breaks or pump or system failures occur, which impact the ability of the city to provide treated water service; or
5. Natural or human-made contamination of the water supply sources occurs; or
6. Notification by DWU that Stage 3 of its plan has been activated.

b. *Requirements for termination.* Stage 3 of the plan may be terminated when the Stage 3 conditions no longer exist and would be unlikely to recur upon termination.

(Ord. No. O-10-24, exh. A(VIII), 6-4-2024)

Sec. 34-106. Determination and implementation of conservation requirements.

(a) *Monitoring for triggering conditions.* The city manager or designee shall monitor water supply or demand conditions on a weekly basis and, in accordance with the triggering criteria set forth in section 34-105, shall determine if conditions exist that would trigger any of the designated drought stages, and if so, shall implement the following actions:

(1) *Notification of executive director.* As required by the V.T.C.A., Administrative Code, any mandatory restrictions adopted in this drought contingency plan require notification of the executive director of the TCEQ. Upon initiation of these restrictions, the city manager shall notify the executive director within five business days.

(2) *Notification of the public.* The city manager or designee shall notify the public by means of:

a. Public service announcements;
b. Signs posted in public places;
c. City website;
d. Billing stuffers.

(3) *Additional notification.* The city manager or designee shall notify directly, or cause to be notified directly, the following individuals and entities:

a. Mayor and members of the city council;
b. Fire chief;
c. City or county emergency management coordinators;
d. State disaster district/department of public safety;
e. TCEQ (required when mandatory restrictions are imposed);
f. Critical water users, i.e., hospitals;

g. Parks/street superintendents and public facilities managers.

(b) *Stage 1 Response.* Upon written notification from DWU, that conditions exist and this level of the drought plan, including, but not limited to, the rationing of the water supply, has been initiated, the city shall implement the following:

(1) *Target.* Achieve a five percent reduction in total gallons per capita per day.

(2) *Water use restrictions for demand reduction.* Following is a menu of possible actions. Specific actions taken during any drought situation will be determined by the director of the water department or designee. The director of the water department or designee may also take other actions not listed, if deemed necessary.

a. *All water users.*

1. *Landscape uses.*

(i) All water customers are reminded to observe the mandatory maximum two days per week landscape watering schedule and require watering only during the allowed watering hours of 6:00 pm and 10:00 am as defined in section 34-104;

(ii) Encourage reduction of water use through voluntary maximum one day per week landscape watering schedule;

(iii) Discourage planting of new landscapes, including lawns, hydro-seeding and sod.

2. *Swimming pools and other recreational uses.*

(i) Encourage reduction in frequency in draining and refilling of swimming pools;

(ii) Prohibit recreational water usage, including the use of faucets, hoses or hydrants, which results in water runoff or other prohibited waste of water.

3. *Foundations.* Foundations may be watered on any day of the week and at any time. Foundations may be watered with a drip irrigation system, soaker hose or a hand-held hose equipped with a positive shutoff nozzle.

4. *Vehicle washing.*

(i) Restrict washing of any motor vehicle, motorbike, boat, trailer, airplane or other vehicle to the use of a hand-held bucket or a hand-held hose equipped with a positive shut-off nozzle for quick rinses;

(ii) Vehicle washing may be done at any time on the immediate premises of a commercial vehicle wash facility or commercial service station. Companies with an automated on-site vehicle washing facility may wash vehicles at any time.

b. *City government.*

1. Initiate public education campaign teaching and encouraging reduced water use practices;
2. Intensify normal leak detection and repair activities on water pipes and mains;
3. Require reduction of water use through mandatory maximum twice weekly landscape watering schedule for city parks;
4. Encourage reduction of water use in city-owned ornamental fountains;
5. Encourage additional reduction in landscape uses for parks;
6. Encourage 25 percent reduction in frequency of and city vehicle washing and rinsing;
7. Increase enforcement efforts through proactive code enforcement.

c. *Commercial customers.*

1. Identify and encourage voluntary reduction measures by high-volume water users through water use audits;
2. Require reduction of water use through mandatory maximum twice weekly landscape watering schedule for private parks;
3. Encourage additional reduction in landscape uses for parks;
4. Encourage reduction in water use for landscape nursery stock;
5. Encourage area restaurants to serve customers water by request only.

(c) *Stage 2 Response.* Upon written notification from DWU that conditions exist and this level of the drought plan, including, but not limited to, the rationing of the water supply, has been initiated, the city shall implement the following:

(1) *Target.* Achieve a 15 percent reduction in total gallons per capita per day.

(2) *Water use restrictions for demand reduction.* Following is a menu of possible actions. Specific actions taken during any drought situation will be determined by the director of the water department. The director of the water department may also take other actions not listed, if deemed necessary. All requirements of Stage 1 shall remain in effect during Stage 2, and the following additional measures will be required:

a. *All water users.*

1. *Landscape uses.* Irrigation of landscaped areas with hose-end or automatic sprinklers shall be limited to Monday, Wednesday and Friday with even-numbered houses and Tuesday, Thursday and Saturday with odd-numbered houses and further limited to the hours of 6:00 p.m. to 6:00 a.m. Watering is permitted at any time if it is by means of a hand-held hose or a faucet-filled bucket.

2. *Swimming pools and other recreational uses.*
   (i) Use of water to fill, refill or add to swimming pools or Jacuzzi®-type pools is prohibited except on watering days from 6:00 p.m. to 6:00 a.m.;
   (ii) Continue to prohibit recreational water usage, including the use of faucets, hoses or hydrants, which results in water runoff or other prohibited waste of water.
3. *Foundations.* Foundations may be watered on any day of the week and at any time. Foundations may be watered with a drip irrigation system, soaker hose or a hand-held hose equipped with a positive shut-off nozzle.
4. *Vehicle washing.* Restrict washing of any motor vehicle, motorbike, boat, trailer, airplane or other vehicle to the use of a hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle for quick rinses. Vehicle washing may be done at any time on the immediate premises of a commercial vehicle wash facility or commercial service station. Companies with an automated on-site vehicle washing facility may wash vehicles at any time.

b. *City government.*
1. Initiate engineering studies to evaluate alternatives to mitigate drought conditions should conditions worsen;
2. Accelerate public education campaign teaching and encouraging reduced water use practices;
3. Continue intensified leak detection and repair activities on water pipes and mains;
4. Prohibit flushing of new mains not immediately required to provide service;
5. City government restricted to mandatory maximum once weekly landscape watering schedule;
6. Require reduction of water use through mandatory once weekly landscape watering schedule for city parks;
7. Prohibit operation of city-owned ornamental fountains and water features;
8. Reduce frequency of city vehicle washing or rinsing by 50 percent;
9. Increase enforcement efforts through proactive code enforcement;

c. *Commercial customers.* Require reduction of water use through mandatory maximum once weekly landscape watering schedule for private parks.

(d) *Stage 3 Response.* Upon written notification from DWU, that conditions exist and this level of the drought plan, including, but not limited to, the rationing of the water supply, has been initiated, the city shall implement the following:

(1) *Target.* Achieve a 20 percent reduction in total gallons per capita per day.

(2) *Water use restrictions for reducing demand.* Following is a menu of possible actions. Specific actions taken during any drought situation will be determined by the director of the water department. The director of the water department may also take other actions not listed, if deemed necessary. All requirements of Stages 1 and 2 shall remain in effect during Stage 3, and the following additional measures will be required:

a. *All water users.*

1. *Landscape uses.*

(i) All water customers are reminded to observe all requirements of the water conservation ordinance, as established in this article, irrigation of landscaped areas shall be limited to one day every seven days between the hours of 6:00 a.m. to 10:00 a.m. and 6:00 p.m. to 12:00 midnight; hose-end or hand-held devices shall be limited to these same hours. Even-numbered houses shall be allowed to water on Tuesday and odd-numbered houses shall be allowed to water on Thursday. (Exceptions: foundations and new plantings (first year) of trees and shrubs may be watered for up to two hours during off-peak hours on the watering schedule by a hand-held hose or a soaker hose. Golf courses may water greens and tee boxes without restrictions. Restrictions do not apply to locations using treated wastewater effluents for irrigation.) Requires notification to TCEQ;

(ii) Installation of new landscapes or turf areas is prohibited;

(iii) Operation of any water feature, ornamental fountain or pond that uses potable water is prohibited except where supporting aquatic life or water quality.

2. *Swimming pools and other recreational uses.*

(i) Prohibit the filling, draining and refilling of existing swimming pools, wading pools, and hot tubs except to maintain structural integrity, proper operation and maintenance or alleviate a public safety risk. Existing pools may add water to replace losses from normal use and evaporation;

(ii) Permitting of new swimming pools, wading pools, water features, and hot tubs is prohibited;

(iii) Continue to prohibit recreational water usage, including the use of faucets, hoses or hydrants, which results in water runoff or other prohibited waste of water.

3. *Foundations.* Foundations may be watered one day per week on the Stage 2 watering schedule within the permitted watering hours. Foundations may be watered with a drip irrigation system, soaker hose or a hand-held hose equipped with a positive shutoff nozzle. Water runoff is absolutely prohibited.

4. *Vehicle washing.* Use of water to wash any motor vehicle, motorbike, boat, trailer or other vehicle not occurring on the premises of a commercial vehicle wash facility or commercial service stations is prohibited. Companies with an automated on-site vehicle washing facility may wash its vehicles at any time. Further, such washing may be exempt from these requirements if the health, safety and welfare of the public are contingent upon frequent vehicle cleansing, such as garbage trucks and commercial vehicles used to transport food and perishables.
5. *Impervious surface cleaning.* Hosing and washing of paved areas, buildings, structures, windows or other surfaces is prohibited except by variance.
6. *High demand surcharge.*
   (i) *Residential customers.* A 50 percent rate increase for high water demand users (greater than 15,000 gallons per month per account) shall be initiated to discourage non-essential use;
   (ii) *Commercial customers.* A 50 percent rate increase for high water demand users (greater than 10,000 gallons and 1.4 times annual average monthly usage per account) shall be initiated to discourage non-essential use.
7. *New service.* 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 suspended for such time as this drought response stage or a higher-numbered stage shall be in effect.

b. *City government.* City vehicle washing or rinsing is prohibited except for reasons of public health, safety and welfare.

c. *Commercial customers.* Watering of private parks is prohibited. Watering hours as defined in section 34-104; unless the private park uses a water source other than that provided by the city.

(Ord. No. O-10-24, exh. A(IX), 6-4-2024)

Sec. 34-107. Violation and penalty.

(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 article, or in an amount in excess of that permitted by the drought response stage in effect at the time pursuant to action taken by the city manager or designee, in accordance with provisions of this article.

(b) Any person who violates this article is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than $250.00 and not more than $2,000.00. Each day that one or more of the provisions in this article is violated shall constitute a separate offense. If a person is convicted of three or more distinct violations of this article, the city

manager or designee shall, upon due notice to the customer, be authorized to discontinue water service to the premises where such violations occur. Services discontinued under such circumstances shall be restored only upon payment of a reconnection charge, established at $150.00, and any other costs incurred by the city in discontinuing service. In addition, suitable assurance must be given to the city that the same action shall not be repeated while the plan is in effect.

(c) Any person, including a person classified as a water customer of the city, who is in apparent control of the property where a violation occurs or originates shall be presumed to be the violator, and proof that the violation occurred on the person's property shall constitute a rebuttable presumption that the person in apparent control of the property committed the violation, but any such person shall have the right to show that the person did not 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 the parent proves that the parent had previously directed the child not to use the water as it was used in violation of this article and that the parent could not have reasonably known of the violation.

(d) The police chief or designee or other city employees designated by the city manager or designee may issue a citation to a person the city managers reasonably believes to be in violation of this article. The citation shall be prepared in duplicate and shall contain the name and address of the alleged violator, if known, the offense charged and shall direct the alleged violator to appear in the city municipal court on the date shown on the citation for which the date shall not be less than three days nor more than 15 days from the date the citation was issued. The alleged violator shall be served a copy of the citation. Service of the citation shall be complete upon delivery of the citation to the alleged violator, to an agent or employee of a violator, or to a person over 14 years of age who is a member of the violator's immediate family or is a resident of the violator's residence. The alleged violator shall appear in city municipal court to enter a plea of guilty or not guilty for the violation of this article. If the alleged violator fails to appear in city municipal court, a warrant for the alleged violator's arrest may be issued. A summons to appear may be issued in lieu of an arrest warrant. These cases shall be expedited and given preferential setting in the city municipal court before all other cases.
(Ord. No. O-10-24, exh. A(X), 6-4-2024)

Sec. 34-108. Variances.

(a) The city manager or designee may, in writing, grant a temporary variance for existing water uses otherwise prohibited under this article if it is determined that failure to grant such variance would cause an emergency condition adversely affecting the health, sanitation, or fire protection for the public or of the person requesting such variance, and if one or more of the following conditions are met:

(1) Granting of a variance must not cause an immediate significant reduction in the city's water supply.

(2) The health, safety, or welfare of other persons will not be adversely affected by granting of the variance.

(3) The applicant must demonstrate that the extreme hardship or need is related to the health, safety, or welfare of the person requesting it.

(4) Compliance with this article cannot be technically accomplished for the duration of the water supply shortage or other condition for which the plan is in effect; or

(5) 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 written petition for variance with the city within five days after the plan or a particular drought response stage has been invoked. All petitions for variances shall be reviewed by the city manager or designee until such time that the matter can be considered by the city council. A decision by the city council shall be final.

(c) The petition for variance must be in writing and include the following information:

(1) The name and address of the petitioners;

(2) The purpose of water use;

(3) A specific provisions of the plan from which the petitioner is requesting relief;

(4) A 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 petitioner complies with this article;

(5) A description of the relief requested;

(6) The 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 article and the compliance date; and

(8) Other pertinent information.

(d) Variances granted by the city shall be subject to the following conditions, unless waived or modified by the city council:

(1) A timetable for compliance; or

(2) Expiration when this article is no longer in effect, unless the petitioner has failed to meet specified requirements.

(e) No variance shall be retroactive or otherwise justify a violation of this article occurring prior to the issuance of the variance.
(Ord. No. O-10-24, exh. A(XI), 6-4-2024)

Sec. 34-109. Plan review and update.

The city shall review and update, as appropriate, the drought contingency plan, at least every five years, based on new and updated information, such as the adoption and revision of the regional water plan.
(Ord. No. O-10-24, exh. A(XII), 6-4-2024)

Secs. 34-110—34-131. Reserved.

ARTICLE V. CROSS CONNECTION CONTROL

Sec. 34-132. Backflow prevention and service requirements.

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 state natural resource conservation commission rules and regulations for public water systems (TCEQ rules) and this article. Water service shall be discontinued by the water purveyor if a required backflow prevention assembly is not installed, maintained and tested in accordance with the TCEQ rules and this article.
(Code 1996, § 13.08.001)

Sec. 34-133. Backflow prevention assembly installation, testing and maintenance.

(a) All backflow prevention assemblies shall be tested upon installation by a recognized backflow prevention assembly tester and certified to be operating within specifications. Backflow prevention assemblies which are installed to provide protection against health hazards must also be tested and certified to be operating within specifications at least annually by a recognized backflow prevention assembly tester. A test report must be completed by a recognized backflow prevention assembly tester for each assembly tested. The signed and dated original form must be submitted to the city within five working days of the test.

(b) All backflow prevention assemblies shall be installed and tested in accordance with the manufacturer's instructions, the American Water Works Association's Recommended Practice for Backflow Prevention and Cross-Connection Control (Manual M14) or the University of Southern California Manual of Cross-Connection Control.

(c) Assemblies shall be repaired, overhauled, or replaced at the expense of the customer whenever said assemblies are found to be defective. Original forms of such tests, repairs, and overhauls shall be kept and submitted to the city within five working days of the test, repair or overhaul of each backflow prevention assembly.

(d) No backflow prevention assembly or device shall be removed from use, relocated, or other assembly or device substituted without the approval of the city. Whenever the existing assembly is moved from the present location or cannot be repaired, the backflow prevention assembly shall be replaced with a backflow prevention assembly or device that complies with

this article, the American Water Works Association Manual M14, current edition, University of Southern California Manual of Cross-Connection Control, current addition, or the current plumbing code of the city, whichever is most stringent.

(e) Test gauges used for backflow prevention assemblies testing shall be calibrated at least annually in accordance with the American Water Works Association's Recommended Practice for Backflow Prevention and Cross-Connection Control (Manual M14) or the University of Southern California's Manual of Cross-Connection Control. The original calibration form must be submitted to the city within five working days after calibration.

(f) A recognized backflow prevention assembly tester must hold a current endorsement from the state natural resource conservation commission.
(Code 1996, § 13.08.002)

Sec. 34-134. Customer service inspections.

(a) A customer service inspection shall be completed prior to providing continued 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 water distribution 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, who have completed a commission-approved course, passed an examination administered by the commission or its designated agent and hold current certification or endorsement as a customer service inspector issued by the commission.

(c) Customer service inspections must certify that:

(1) No direct connection between water supply and a potential source of contamination is permitted. Potential sources of contamination shall be isolated from the public water system by an air gap or an appropriate backflow prevention device;

(2) No cross connection between the public drinking water supply and a private water system is permitted. These potential threats to the public drinking water supply shall be eliminated at the service connection by the installation of an air gap or a reduced pressure zone backflow prevention device;

(3) No connection which allows water to be returned to the public drinking water supply is permitted;

(4) No pipe or pipe fitting which contains more than 8.0 percent lead may be used for the installation or repair of plumbing at any connection which provides water for human use;

(5) No solder or flux which contains more than 0.2 percent lead can be used for the installation or repair of plumbing at any connection which provides water for human use. A minimum of one lead test shall be performed for each inspection.

(Code 1996, § 13.08.003)

Sec. 34-135. Remedies nonexclusive.

The remedies provided for in this article are not exclusive of any other remedies that the city may have under state or federal law or other city ordinances. The city may take any, all, or any combination of these actions against a violator. The city may take more than one enforcement action against any violator. These actions may be taken concurrently.

(Code 1996, § 13.08.004)

Sec. 34-136. Penalty for violation.

Any person or entity violating this article shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by fine in accordance with the general penalty provision found in section 1-9. Every day such violation shall continue shall constitute a separate offense.

(Code 1996, § 13.08.005)

Secs. 34-137—34-155. Reserved.

ARTICLE VI. DRAINAGE UTILITY SYSTEM

Sec. 34-156. Definitions.

(a) In addition to the definitions set out in V.T.C.A., Local Government Code § 552.044, 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:

Developed means a parcel which has had improvements, structures, grading, or other construction which increased the natural impervious runoff value from an undeveloped or agricultural land.

Private means parts of a stormwater system located on land not owned by the city outside of public easements. These partial systems connect to the public stormwater utility but are separate and distinct by ownership and maintenance responsibilities. The term "private" includes other government-owned land in the city for the purposes of this article, e.g., Dallas County, Ellis County, state department of transportation, etc.

Service area means the municipal boundaries of the city as those municipal boundaries are altered from time to time in accordance with state law and the Charter and ordinances of the city.

Undeveloped means a parcel which has not had a building or structure located within its limits.

(b) Definitions not explicitly stated in this article shall be defined first as within the current TPDES general permit, then as within other sections of this Code. When differences exist, the most stringent of the definitions shall apply.
(Code 1996, § 13.12.001; Ord. No. O-08-09, § 2, 9-21-2009)

Sec. 34-157. Adoption and declaration of public utility.

(a) In the interest of public health and safety and a more efficient and economic operation of drainage facilities of the city, by adoption of this article by a majority vote of its governing body, the city council creates a municipal drainage utility system, which shall be a public utility. V.T.C.A., Local Government Code ch. 552, subch. C, which is adopted and incorporated into this article by reference, and any other provisions of this Code relating to drainage shall govern the operation of the utility.

(b) The city council hereby adopts the Drainage Design Manual of the City of Dallas, September 2019 edition, and subsequent amendments and editions thereto as may be promulgated by the City of Dallas (the Drainage Design Manual), establishing rules, standards, specifications and requirements for the design, construction, improvement, operation, maintenance and repair of drainage facilities within the city. A copy of the Drainage Design Manual shall be kept and maintained in the office of the city secretary and the office of planning and development services for permanent record and inspection. From the date on which this section shall take effect, the provisions thereof shall be controlling in the design, construction, improvement, operation, maintenance and repair of all drainage facilities within the corporate limits of the city.

(c) Provisions of the drainage design manual referencing or applicable to the City of Dallas shall refer to the City of Glenn Heights. The following amendments to the Drainage Design Manual shall apply:

(1) Where required by the Drainage Design Manual, Downstream Analysis, in lieu of detention/retention for projects greater than ten acres is not allowed without the approval of the city engineer or other designated city official;

(2) Proposed stormwater discharge from a site shall not exceed the calculated discharges from existing conditions for the one-, 25-, and 100-year design storm. On-site detention may be proposed to mitigate the impacts of increased discharges due to site development. In some instances, detention may be shown to exacerbate potential flooding conditions downstream;

(3) A freeboard of one foot will be required for all detention ponds;

(4) The finished floor elevation (FFE) of habitable structures shall be a minimum of 12 inches above the crown of the street. The FFE of properties adjacent to creeks with defined 100-year water surface elevation (WSEL)/base flood elevation (BFE) shall be a minimum of 18 inches above the BFE;

(5) In the design of the detention ponds, grassed side slopes shall be 4:1 or flatter and less than 20 feet in height. Slopes protected with concrete riprap shall be no steeper than 2:1. A detailed geotechnical investigation and slope stability analysis is required for grass and concrete slope pavement slopes greater than 12 feet in height. A concrete-lined or structural embankment may be steeper if approved by the city engineer or other designated city official;

(6) Dry detention basins are sized to temporarily store the volume of runoff required to provide flood protection up to the flood mitigation storm if required. Dry detention basin design should consider multiple uses, such as recreation. As such, pilot channels should follow the edges of the basin to the extent practical. The bottom of the basin shall have a minimum grade of one percent, although swales may have minimum grades of 0.5 percent. Concrete flumes shall be provided for slopes less than 0.5 percent and may have slopes as shallow as 0.2 percent and shall be at least six feet wide.

(d) The city council may adopt additional amendments, in addition to the amendments set forth in subsection (c) of this section, which amendments shall be effective upon adoption. True and correct copies of amendments shall be maintained on file in the offices of the city secretary and city manager or designee.
(Code 1996, § 13.12.002; Ord. No. O-08-09, § 3, 9-21-2009; Ord. No. O-03-25, § 2, 2-18-2025; Ord. No. O-13-25, § 1, 8-5-2025)

Sec. 34-158. Drainage service area.

The service area of the city's municipal utility drainage system shall be that area within the corporate boundaries of the city.
(Code 1996, § 13.12.003; Ord. No. O-08-09, § 4, 9-21-2009)

Sec. 34-159. Incorporation of existing facilities; no assumed liability.

(a) The city incorporates all of the existing drainage facilities with city easements or ownership, materials, and supplies owned and controlled by the city into the drainage utility system.

(b) All other private systems shall remain privately controlled.

(c) In order for a private system to be transferred to the public utility, the drainage structures shall meet current design standards, be inspected by the city engineer or designee and be found to be in acceptable condition according to the current standards. Only then may an easement be filed for approval and acceptance by the city council.

(d) Floods from drainage and stormwater runoff may occasionally occur which exceed the capacity of the drainage system maintained and financed with the drainage charges. In addition, surface water stagnation and pollution arising from non-point source runoff may occasionally occur which exceed the capacity of the drainage system maintained and financed with drainage charges. This article does not imply that properties subject to

charges shall always be free from flooding or flood damage, surface water stagnation or non-point source pollution or that all flood control and water treatment projects to control the quantity and quality of runoff can be constructed effectively.

(e) Nothing in this article should be construed as or be deemed to create additional duties on the part of the city to hold the city liable for any damages incurred in a flood or from adverse water quality due to drainage runoff. Nothing in this article shall be deemed to waive the city's immunity under state law or reduce the need or necessity for flood insurance by property owners within or without the city.
(Code 1996, § 13.12.004; Ord. No. O-08-09, § 5, 9-21-2009)

Sec. 34-160. Administration; adoption of rules.

(a) The city council must approve municipal drainage system fees and exception rules of section 34-163.

(b) The city manager or designees shall be responsible for the administration of this article, including, but not limited to, adopting rules for the administration of the drainage charge by the utility billing staff and for the drainage utility technical design and construction standards, policies, and permits and consideration of variances.
(Code 1996, § 13.12.005; Ord. No. O-08-09, § 6, 9-21-2009)

Sec. 34-161. Creation of drainage utility fund; drainage charges.

(a) A separate fund, within the city's fund structure, shall be created as of the effective date of the ordinance from which this article is derived, known as the drainage utility fund, for the purpose of identifying and controlling all revenues and expenses attributable to municipal drainage services.

(b) All drainage fees collected by the city after the effective date of the ordinance from which this article is derived and such other monies as may be available by or to the city for the purpose of drainage shall be deposited in the drainage utility fund. Such drainage revenues shall be used for the purpose of the creation, operation, planning, engineering, inspection, construction, repair, maintenance, improvement, reconstruction, administration and other reasonable and customary charges associated with the operation of drainage services of the city. The income derived from the operation of municipal drainage services must be segregated in one or more accounts and completely identifiable from other city accounts.

(c) The city shall charge all benefitted property, except those exempted in section 34-163, for drainage service based on area of land related to drainage and on classifications and individual calculations found to be nondiscriminatory, equitable, and reasonable. In accordance with state law, the city has based its methodology on data gathered from the Dallas County Appraisal District and the Ellis County Appraisal District as well as the city's own utility billing information.

(d) The city has adopted a schedule of drainage charges as provided in the city fee schedule. The most current drainage fee charges shall also be posted on the city website and available at the utility billing counter. Drainage charges shall be reasonably set in accordance with the capital improvement plan for the city and annual operating costs, including the addition of the new stormwater management program requirements.

(e) Billing, nonpayment and deposits. The municipal drainage system fee shall be included on the monthly utility bill, along with water, wastewater and garbage charges. Nonpayment of the municipal drainage utility system fee shall be treated the same as nonpayment of the water, wastewater and garbage bill with delinquent fees and current utility cutoff procedures applied as defined in this chapter. Water service may be cut off for nonpayment of municipal drainage system fees. The city shall not require a deposit for drainage service as a precondition to accepting surface flow in the drainage utility system.
(Code 1996, § 13.12.006; Ord. No. O-08-09, § 7, 9-21-2009)

Sec. 34-162. Appeals process.

(a) If an owner or a person legally authorized to represent a nonresidential property owner wishes to appeal a municipal drainage system fee amount, they may do so by filing a notice of appeal with the city engineer and paying an application fee in the amount provided in the city fee schedule. An appeal can be filed by completing a form that describes the basis for the claimant appealing the data, including the provision of independent engineering reports supporting a more accurate area calculation. The information submitted to the city must be complete in order to conduct an evaluation of the appeal. A response will be provided within ten days of the receipt of the completed appeal form and supporting material. Any utility billing adjustments made after adoption of the ordinance from which this article is derived shall be applied only to the next billing cycle following a decision made by the city.

(b) The city manager shall review and make determinations of area appeals. Further appeals may be heard by the city council.
(Code 1996, § 13.12.007; Ord. No. O-08-09, § 8, 9-21-2009)

Sec. 34-163. Exemptions.

(a) Exemptions shall be allowed as listed under the schedule of municipal drainage system fees as adopted herein.

(b) The following governmental entities and a lot or tract in which the governmental entity holds a freehold interest are exempt from the provisions in this article:

(1) State of Texas;

(2) Dallas and Ellis Counties;

(3) City of Glenn Heights.

(c) The following shall also be exempt from the provisions of this article:

(1) Property with proper construction and maintenance of a wholly sufficient and privately owned drainage system;

(2) Property held and maintained in its natural state, until such time that the property is developed and all of the public infrastructure constructed has been accepted by the city; and

(3) A subdivided lot, until a structure has been built on the lot and a certificate of occupancy has been issued by the city.

(Code 1996, § 13.12.008; Ord. No. O-08-09, § 9, 9-21-2009; Ord. No. O-19-10, 9-7-2010)

Chapters 35—49

RESERVED

PART III

LAND USE AND DEVELOPMENT

Chapter 50

BUILDINGS AND CONSTRUCTION

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Sec. 50-157. Administrator's powers and duties.
Sec. 50-158. Appeals.
Sec. 50-159. Enforcement; violations and penalties.

ARTICLE I. IN GENERAL

Sec. 50-1. Building inspector.

(a) *Position established; appointment; compensation.* The city council has created the position of building inspector. The building inspector shall be appointed by the city manager. The building inspector may receive such financial compensation as may be tendered by the city.

(b) *Duties and authority.* The building inspector is authorized and directed to administer the building code, plumbing code, electrical code, housing code, zoning regulations, and such other codes and ordinances as the council may from time to time specify. The building inspector shall have such powers as may be necessary in the interest of public health, safety, and general welfare to interpret and implement the provisions of city codes and ordinances and shall have the authority to enter any building or premises within the city for the purpose of inspection or for the prevention of violations thereof.

(c) *Liability.* The building inspector shall not be personally liable while acting for the city, and the inspector is relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of the inspector's official duties.
(Code 1996, §§ 3.02.001—3.02.005)

Sec. 50-2. Fees.

All fees authorized under this chapter shall be in the amount provided in the city fee schedule.
(Code 1996, § 3.03.001)

Sec. 50-3. Appeals.

The board of adjustment shall hear and determine all appeals arising under the construction codes adopted in this chapter.
(Code 1996, § 3.03.002)

Sec. 50-4. Building permits.

(a) *Conditions for issuance.* No building permit shall be issued under this chapter unless the improvements set forth and described in the application for a permit demonstrate that the improvements shall comply with all applicable regulations of the city, including, but not limited to, those regulating housing standards, zoning, building, plumbing, development of additions or subdivisions, and electrical installations.

(b) *Removal of buildings in violation.* Structures erected without first obtaining a building permit or erected in violation of this Code shall be removed.

(c) *Penalty.* In addition to any remedial action or abatement procedure contained in the building code adopted in this chapter, any person violating any provisions thereof shall be punished as provided for in section 1-9. Each day of continuance of a violation shall constitute a distinct and separate offense.
(Code 1996, §§ 3.04.003—3.04.005)

Secs. 50-5—6-26. Reserved.

ARTICLE II. CONSTRUCTION CODES

DIVISION 1. GENERALLY

Sec. 50-27. Technical codes adopted by reference.

(a) The city has adopted the following codes published by the International Code Council (ICC) and National Fire Protection Association (NFPA) subject to the local amendments and additions provided in this article:

(1) ICC International Building Code, 2021 edition;

(2) ICC International Residential Code, 2021 edition;

(3) ICC International Plumbing Code, 2021 edition;

(4) ICC International Mechanical Code, 2021 edition;

(5) ICC International Existing Building Code, 2021 edition;

(6) ICC International Fuel Gas Code, 2021 edition;

(7) ICC International Energy Conservation Code, 2021 edition;

(8) ICC International Swimming Pool and Spa Code, 2021 edition;

(9) ICC International Property Maintenance Code, 2021 edition, including Appendix A;

(10) ICC International Fire Code, 2021 edition;

(11) NFPA National Electrical Code, 2023 edition.

(b) Unless otherwise specifically provided in this article, the amendments to the adopted code approved and recommended by the North Central Texas Council of Governments are adopted by the city as local amendments to the adopted codes. Future updates and revisions to the adopted codes approved and recommended by the council shall be automatically incorporated into the codes adopted in this section.

(c) Copies of the adopted codes and amendments thereto shall be maintained on file in the office of the city secretary for permanent record and inspection.

(d) The adopted codes shall be controlling in the construction of all buildings and structures within the corporate limits of the city.
(Code 1996, arts. 3.04—3.08, § 3.13.002)

Sec. 50-28. Amendments to adopted codes.

(a) *International Building Code.* The recommended amendments of the North Central Texas Council of Governments adopted in section 50-27 shall be those in Option B.

(b) *International Residential Code.* Section M2005.1 shall prohibit all water heaters from being installed in any location except the ground floor or a basement.

(c) *International Plumbing Code.* Chapter 5, section 52.3, of the adopted code shall prohibit all water heaters from being installed in any location except the ground floor or a basement.

(d) *International Fire Code.* The recommended amendments of the North Central Texas Council of Governments adopted in section 50-27 shall be those in Option B.

(e) *National Electrical Code.* Local amendments are as provided in division 2 of this article.
(Code 1996, arts. 3.04—3.08)

Secs. 50-29—6-59. Reserved.

DIVISION 2. LOCAL ELECTRICAL CODE

Sec. 50-60. Conflicting provisions.

Except for specific amendments provided in this section, in the event of a conflict between the adopted electrical code and any other provision of this Code, the provisions of this Code shall prevail.
(Code 1996, § 3.06.002)

Sec. 50-61. Applicability.

This division shall apply to all installations of electrical conductors, fittings, devices, signs, fixtures, motors, generators, starters, controls, and raceways, hereinafter referred to as "electrical equipment," within or on public and private buildings and premises within the city.
(Code 1996, § 3.06.003)

Sec. 50-62. Amendments to adopted code.

(a) *Amended provisions.* The North Central Texas Council of Governments recommended amendments to the 2023 National Electrical Code herein are modified as follows:

(1) *Article 590.3(a), Permit required.* Temporary electrical power and lighting installations may be permitted during the period of construction, remodeling, maintenance, repair, or demotion of buildings, structures, equipment, or similar activities where, for good and sufficient causes, it is necessary to have electricity on any such installation before a final certificate can be issued, provided that all parts to which

the current is applied are in safe condition and meet all applicable requirements hereof. A permit will be required for any such temporary service. Application for a temporary service permit shall be made before such permit is issued; a fee as set forth in the city fee schedule shall be paid by the applicant.

(2) *Article 590.3(b), Permit valid for 120 days.* A temporary service permit shall expire after 120 days from the date issued. If, at the end of this 120 days, the installation is still incomplete, another permit must be taken out for the next 30 days and each succeeding 30 days while the installation is incomplete.

(b) *Additional provisions.* The National Electrical Code adopted herein is amended by the addition of the following provisions:

(1) *General standards.* All electrical equipment installed or used in the city shall be reasonably safe to persons and property in conformity with the standards provided in the codes adopted herein, applicable state statutes, and any rules and regulations issued by authority thereof.

(2) *Knob-and-tube wiring.* Knob-and-tube wiring shall not be permitted when installing or repairing electrical installations.

(3) *Electric power companies not to connect until authorized.* It is unlawful for any electric, light, heat, or power company to do any wiring of any nature in or on any building (except power houses and substations of electric, light, heat, and power companies operating under a franchise granted by the city) or to make any electrical connection to any building or electrical wiring or apparatus until a certificate, stating that electrical wiring has been approved, or a written permit authorizing connection, has been issued by the electrical inspector. All firms, corporations, or individuals, whether operating under a regular franchise granted by the city or not, shall, upon written notice by the electrical inspector, disconnect from any such circuit, including main service wires, branch feeder wires, or distribution as designated by the notice, and shall not reconnect to the installation except upon written notice from the electrical inspector.

(4) *When wires may be ordered disconnected.* Every company, firm, partnership, corporation, or individual owning or controlling electrical wires and apparatus for the transmission of light, heat, or power shall, in time of fire or in case of severe climatic conditions or any other emergency wherein lives or property of the citizens of the city may be endangered by the operation of such wires and apparatus, upon notice by the electrical inspector, the mayor, or the chief of the fire department or police chief, disconnect such dangerous wires from current or service as are designated by the electrical inspector.

(5) *Places where electrical metallic tubing required.* All electrical wiring installed in or on all metal buildings, public buildings with a seating capacity of 100 or more, churches, and schools located within the city limits shall be installed in electrical metallic tubing (EMT).

(Code 1996, §§ 3.06.008—3.06.012)

Sec. 50-63. Electrical permits.

(a) *Required.* No individual, firm, or corporation shall erect, construct, alter, or change any electrical installation, machinery, apparatus, work, or wiring in the city until a permit has been issued by the city. When required by the electrical inspector, plans and specifications for the proposed work must be filed before the permit is granted.

(b) *Exception to permit requirement.* No permit will be required for the installation of wires to operate electrical bells, gas lighting apparatus, house annunciators, burglar alarms, telephones, telegraphs, district messengers, watch clocks, fire alarms, or other similar instruments if the current operating them is of less than 25 volts potential.

(c) *Assumption with regard to use.* When any wiring or apparatus is installed in such a manner that the same could be used for electric light or power purposes under the provisions of this section, it shall be deemed that the wiring or apparatus is to be used for such purposes, and permit shall be required and inspection made as provided for such.
(Code 1996, § 3.06.006)

Sec. 50-64. Liability of city.

This division shall not be construed to affect the responsibility or liability of any party owning, operating, controlling, or installing any electrical equipment for damages to persons or property which were caused by any defect in such equipment or in the installation thereof, nor shall the city be held as assuming any liability by reason of the inspection, failure to inspect, or reinspection authorized herein or the certificates of conformance or nonconformance issued as herein provided, or by reason of the approval or disapproval of any equipment authorized herein.
(Code 1996, § 3.06.004)

Sec. 50-65. Electrical inspector office established; duties.

(a) *Office created.* The office of electrical inspector of the city is hereby created. Such electrical inspector shall be competent to perform the duties of this office and shall be appointed by the city manager and shall receive such compensation as fixed by the city council. The position of electrical inspector may be combined with any other position in the city at the discretion of the mayor.

(b) *General duties and authority.* The electrical inspector shall ensure that all provisions of this division are fully complied with and make inspections of electrical installations. The inspector shall also keep complete records of all permits issued, inspections made, and any other official work performed.

(c) *Enforcement; notice of violations.* The electrical inspector shall inspect all electrical wiring and apparatus in the city at any time in order to ascertain whether such electrical wiring or apparatus is in any respect dangerous to life or property and, if any part of the

electrical wiring or apparatus shall be found to be defective or in dangerous condition, the inspector shall notify in writing the owner of such wiring or equipment to have the defect corrected within a reasonable time.

(d) *Notice to electric current provider to disconnect service.* The electrical inspector shall notify the service company, firm, or individual furnishing electric current to defective wiring or equipment to cease to supply electricity to same. Upon receipt of such notice, the service company, firm, or individual furnishing electric current to such defective wiring or equipment shall immediately disconnect the service or feed wires and cease to supply current to the defective installation until the defects have been corrected.
(Code 1996, § 3.06.005)

Sec. 50-66. Registration of electricians.

(a) *Required.* No individual, firm, or corporation shall erect, construct, alter, or change any electrical installation, work, wiring, or setting of electrical machinery or equipment until such individual, firm, or corporation has registered with the city and obtained a registration license therefor. No electrical permit will be issued unless such person performing such work has first registered with the city. Such registration license shall expire on December 31 next following issuance thereof.

(b) *Application for registration license.* Any individual, firm, or corporation desiring a registration license shall make application to the city secretary. Such application shall contain the person's name, address, telephone number, and any other information that might seem pertinent or necessary. Any changes in address shall be immediately filed with the city secretary. When the holder of a registration license changes the firm name or where additional members are taken into the firm, or where the firm is incorporated, a notice of such change shall be forwarded to the city secretary; otherwise, such registration license is liable to be revoked because of its questionable ownership. Applicants must show evidence of being licensed in at least two other cities in order to be granted a license in this city.

(c) *Registration license is not transferable.* It is unlawful for any individual, firm, or corporation holding a registration license issued by the city to transfer same or to allow the use of the same, directly or indirectly, by any other person for the purpose of obtaining a permit to do any electrical work herein specified.

(d) *Revocation.* Any failure on the part of the holder of such registration license to comply with the provisions of any section hereof or any other applicable ordinance of the city regulating electrical work or to faithfully carry out the conditions of a contract for electrical work shall be deemed sufficient cause for revoking the registration license, together with all rights and privileges thereunder. The city may also refuse to issue a registration license to any person associated with such previous holder of a revoked registration license.
(Code 1996, § 3.06.007)

Secs. 50-67—6-90. Reserved.

ARTICLE III. ADDITIONAL LOCAL BUILDING REGULATIONS

Sec. 50-91. Fence construction.

(a) *Permit required.* It is unlawful for any person to construct a fence over 2½ feet in height on any lot without having first obtained a fence permit therefor from the building inspection department. Adequate plans and specifications, as determined by the building official, must accompany each application for a permit as described hereafter. This article shall apply to all persons constructing any such fence, regardless of whether acting as owner, agent, or contractor.

(b) *Permit application.* Any person desiring to obtain the issuance of a fence permit shall submit application to the city building inspection department together with the appropriate permit fee.

(c) *Location and height restrictions.* Fencing shall be in compliance with the following location and height restrictions:

(1) No fence shall exceed eight feet in height on any residential lot;

(2) No fence or any part of any fence shall be constructed upon or caused to protrude over public property. All fences must be maintained in a vertical plane so as not to overhang public property;

(3) No fence shall be constructed on any platted residential lot which shall obstruct the right-of-way of any public street within the city;

(4) No fence shall be constructed which will extend further than the front building line of any building on the right-of-way of any public road on any platted lot within the city;

(5) Any fence located within any public easement shall be subject to removal upon request of those agencies having an interest in such easement;

(6) No fences shall be constructed or maintained within such distances of the intersections of public streets or at such elevations as to obstruct a motorist's view of oncoming traffic within 50 feet of such intersection.

(d) *Materials.* Materials permitted for fence construction shall be wood, masonry, chain link or other metal suitable for the construction of fences as determined by the building inspector. The use of barbed wire, razor ribbon, sheet metal, plastics or similar material are prohibited, except that barbed wire is permitted in rear and side yards of industrial zoned districts if the barbed wire strands are at least six feet above ground level and located a minimum of 300 feet from any residential district.
(Code 1996, §§ 3.16.001—3.16.004)

Sec. 50-92. Green building program standards.

(a) *Program established.* The city has established within the city an energy conservation program to be known as the green building program. The green building program sets forth the minimum standards for energy efficiency, water conservation, indoor air quality, and waste recycling for all single-family residential buildings platted after November 30, 2001 (minimum standards), as provided in this section.

(b) *Energy efficiency standard.* The minimum standard for energy efficiency of single-family residential structures shall be the Environmental Protection Agency's Energy Star designation as it currently stands or may be amended.

(c) *Water conservation standard.* The minimum standards for water conservation are as follows:

(1) A drought-tolerant landscaping option for homebuyers (turf and plants) must be provided;

(2) Information in models concerning the benefits of xeriscaping and water conservation practices must be provided;

(3) If bedding areas are installed, they must be mulched (recycled-content mulch or compost);

(4) If an irrigation system is installed, it must include a rain and freeze sensor, installed to manufacturer's specifications;

(5) If an irrigation system is installed, it must be a zoned irrigation system.

(d) *Indoor air quality.* The minimum standards for indoor air quality are as follows:

(1) Mechanical room walls exposed to living areas must be insulated to R-11;

(2) Range hoods vented to the outside must be provided;

(3) Unvented fireplaces and gas logs having a fan that blows any portion of the combustion gases into living spaces are not allowed;

(4) One carbon monoxide (CO) detector, hardwired, shall be installed per 1,000 square feet of living space (minimum of one per floor) in all houses where an attached garage or any combustion appliance is used;

(5) All joints in the air distribution system shall be sealed with duct mastic or approved equivalent;

(6) Total duct leakage measured in CFI at 25 pascals pressure shall be less than or equal to five percent of the square footage served by each unit or equal to or less than ten percent of the fan flow at high speed for each system installed;

(7) Airflow to each room will match designed airflow calculations to within plus or minus ten percent;

(8) Exterior ventilation system installed per ASHRAE standards must perform at:

a. Kitchen—100 CFM;

b. Bathroom—20 CFM (continuous) or 50 CFM (spot);

c. Master bedroom—20 CFM;

d. Other bedrooms—10 CFM;

(9) A furnace or duct-mounted electronic/electrostatic air cleaner option for homebuyers must be provided;

(10) If a central vacuum system is installed, it must exhaust to the outside;

(11) HVAC plenums on the supply side must be constructed of sheet metal (no duct board) with external insulation (minimum R-6 if located in unconditioned space).

(e) *Waste recycling.* The minimum standards for waste recycling are as follows:

(1) Construction waste (brick and wood) hauled from the building site by the builder shall be taken to a site or facility legally empowered to accept it for recycling as approved by the county and state in which the facility is located;

(2) A construction waste reduction/reuse plan shall be written and followed by builder;

(3) Unwanted building materials shall be donated to a nonprofit building organization;

(4) A built-in recycling center option with two or more bins (minimum of five gallons each) shall be provided for homebuyers;

(5) A composting system option installed in the yard shall be provided for homebuyers (manufactured or made at site).

(Code 1996, §§ 3.18.001—3.18.005; Ord. No. 720-02, 3-4-2002)

Secs. 50-93—6-112. Reserved.

ARTICLE IV. MOVING OR DISMANTLING BUILDINGS

Sec. 50-113. Permit required.

(a) *Moving structures.* It is unlawful for any person, firm, or corporation to move or cause to be moved a house or building from one location to another within the city, or to move a house or building from without the city to a location within the city, or to move a house or building within the city to a point outside the city, or to move a house or building through or across the city, without giving the city secretary notice of such intent 72 hours prior to such move, and the securing of a permit therefor as provided in this article.

(b) *Wrecking or dismantling structures.* It is unlawful for any person, firm, or corporation to wreck or dismantle any house or building, the value of which exceeds $1,000.00 within the city, without securing a permit therefor as provided in this article.

(c) *Exception*. Nothing in this article will be applicable to buildings not exceeding 500 square feet used for storage, hobby, or workshop purposes.
(Code 1996, § 3.11.001)

Sec. 50-114. Bond required.

(a) Any person, firm, or organization who desires to dismantle a building within the city or move a building or house into, within, or through the city is hereby required to post a bond with the office of the city secretary as a guarantee that the following conditions will be met:

(1) That the building moved into or within the city will be restored within 180 days to meet city building, plumbing, housing, and electrical codes, and that the grounds will be completely cleared and cleaned;

(2) That any damage done to the streets belonging to the city or privately owned property within the city shall be repaired and restored to its original condition before the damage was incurred. Such repairs must be made within a period of 30 days from the date of the moving of the building;

(3) That any structure being torn down will be completely dismantled, and the grounds cleared, within 90 days after permit is issued.

(b) The amount of the bond for a house mover shall be $20,000.00. In addition, a performance bond in the amount of $5,000.00 shall be required of any person moving a building into the city or within the city which does not meet city construction codes. Such performance bond shall guarantee that the building will be restored in a manner that meets all city construction codes within 180 days.
(Code 1996, § 3.11.003)

Sec. 50-115. Route to be disclosed.

Prior to the securing of a permit to move a structure through or within the city, the proposed route of movement must be disclosed to the city secretary at least 24 hours prior to the move. The city secretary shall inform the police department of the proposed route, and the city secretary and the police chief shall set the time of the move through the city and approve the route.
(Code 1996, § 3.11.004)

Sec. 50-116. Construction codes applicable.

Any structure moved from one place to another within the city or any structure moved into the city limits shall be set on a concrete slab or a pier and beam foundation and shall comply with the city building, plumbing, housing, and electrical code specifications.
(Code 1996, § 3.11.005)

Sec. 50-117. Damages.

(a) If within a 30-day period after the building has been moved it shall appear to the city secretary that any damage has been done to the streets, wires, trees, or any other public or private property within the city, the city secretary shall assess the amount of such damage suffered by the city or the owner of such property damaged.

(b) The party who secured the permit to move the building shall be held responsible for any and all damages, and written notice shall be given to the party by certified mail notifying the permit holder that the same has 30 days to compensate the city or private property owners for damage or repair, to the satisfaction of the city council, for any damage suffered as a result of the move.

(c) Should compensation or repairs not be made within 30 days, the city shall file suit in the appropriate court to collect damages brought about by the city's loss. In addition, the bond posted for the security of a permit as provided for in this article shall be ordered forfeited, and the sureties on the bond shall be immediately notified of the damages suffered and demand shall be made on the principal and surety of the bond for immediate payment.
(Code 1996, § 3.11.006)

Sec. 50-118. Conflicting provisions.

Nothing in this article shall be construed to overcome, modify, or in any way affect city zoning regulations. In the event of ambiguity or conflict arising of the comparison of this article and the zoning regulations, the zoning regulations shall be controlling.
(Code 1996, § 3.11.007)

Secs. 50-119—6-149. Reserved.

ARTICLE V. RENTAL REGISTRATION PROGRAM

Sec. 50-150. Purpose, findings, and intent.

The city recognizes a need for a residential rental property registration and inspection program within the city to ensure compliance with city and state life safety, health, fire, and zoning codes and to further provide a means to encourage both absentee and local landlords to correct violations and to maintain their residential rental property in a safe and habitable condition for tenants.
(Ord. No. O-22-25, § 1(3.20.001), 11-12-2025)

Sec. 50-151. 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:

Administrator means the departments or divisions of the city designated by the city manager to administer and enforce the provisions of this article and any person designated by such a department or division to represent the department or division for said purpose.

Building means any structure having a roof that is built, maintained, or intended for use for the shelter or enclosure of persons, animals, or property of any kind.

Dwelling means any enclosed space wholly or partly used or intended to be used for human habitation, living, sleeping, cooking, eating, and sanitation and shall include any outhouse or appurtenance belonging thereto.

Dwelling unit means a room or group of rooms located within a dwelling forming a single habitable unit with facilities used or intended to be used by a single-family for human occupancy, such as living, sleeping, cooking, and eating purposes.

Landlord means any person who leases, barters, or rents a rental unit to another.

Owner means any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including a property manager, the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

Property manager means the owner or the person appointed or hired by the owner to be responsible for the daily operation of a rental unit.

Rent means the offering, holding out or actual leasing of a rental unit to a person other than the owner and generally involves the payment of an amount of money as consideration for the right to occupy the rental unit, although other forms of consideration or no consideration at all may be involved.

Residential rental unit or *rental unit* means a single-family dwelling, two-family dwelling (duplex) or townhouse, or any portion thereof, that is rented or offered for rent for periods of 30 days or more.

RRCO means a rental registration certificate of occupancy.

Single-family dwelling means a freestanding building or manufactured home on one lot, occupied by not more than one family.

Tenant means any person who rents or leases a rental unit for living or dwelling purposes.

Townhouse means a single-family unit constructed in a group of three or more attached units separated by property lines in which each unit extends from foundation to roof and with a yard or public way on at least two sides.

Two-family dwelling (duplex) means a freestanding building or manufactured home on one lot, having separate accommodations for and occupied by not more than two families, one family in each dwelling unit.
(Ord. No. O-22-25, § 1(3.20.002), 11-12-2025)

Sec. 50-152. Registration required.

(a) In addition to an RRCO as a prerequisite to occupancy of a rental unit, each owner of a rental unit within the city shall register each such rental unit with the city in accordance with procedures contained in this article. A separate registration shall be required for each separate rental unit. Every owner of an unregistered rental unit as of the date of adoption of the ordinance from which this article is derived shall complete an initial registration application and pay an initial registration fee within 30 days of the effective date of the ordinance from which this article is derived.

(b) Unless otherwise provided in this section, each owner of a rental unit within the city shall make application for registration with the city and schedule an inspection of said rental unit with the administrator within 30 days after the date of acquiring ownership of a rental unit or within 30 days after the date an owner of a dwelling unit converts the dwelling unit into a rental unit.

(c) Application for rental unit registration shall be made upon a form provided by the city for such purpose, and shall include, at a minimum, the following information:

(1) The owner's name, address, and work and home telephone number, driver's license number, or identification card number and state of issuance of the owner;

(2) If the owner is a partnership, the names of all partners, the principal business address, and telephone number of each partner;

(3) If the owner is a corporation, the person registering must state whether the corporation is organized under the laws of this state or is a foreign corporation, and must show the mailing address, business location, telephone number, name of the main individual in charge of the local office of such corporation, if any, and the names of all officers and directors or trustees of such corporation and, if a foreign corporation, the place of incorporation;

(4) The name, address and telephone number of the property manager or person having the authority to act on behalf of the owner;

(5) The name, address, and telephone number of mortgagee (if there is a mortgage against property);

(6) The street address of the rental unit;

(7) The maximum number of persons that the unit is designed to occupy as determined by the current adopted International Residential Code and current adopted International Property Maintenance Code, as amended; and

(8) The signature of the owner or agent.

(d) The city shall, within 30 days after receipt of the registration application, either issue a certificate of registration or notify the owner that the application does not comply with the requirements of this article.

(e) Unless otherwise provided in this article, a certificate of registration shall be valid for each rental unit until such time as there is a change in ownership for that unit. A change in ownership shall be deemed to have occurred upon any of the following:

(1) Any change in the individual ownership of the unit;

(2) Any change in the ownership of any entity in whose name the current registration for the unit is issued;

(3) Where the residential rental unit is managed by a property manager, upon any change in the individual property manager and/or the property manager's ownership; or

(4) Upon the dissolution of any entity having ownership over the unit or upon said entity:

a. Petitioning for reorganization under the federal bankruptcy code;

b. Being adjudged bankrupt; or

c. Becoming insolvent or having a receiver appointed due to the insolvency.

(f) The initial, renewal, and annual registration fees for all registration applications shall be as set forth in the city's fee schedule. Registration fees are nonrefundable. Registration applications must be renewed annually.

(g) Any registration fee required to be paid under this article shall be deemed late if received by the city after the due date established by this article, and the owner shall be required to submit a nonrefundable late registration fee in an amount set forth in the city's fee schedule.

(h) No rental unit may be occupied by a tenant without first having a valid certificate of registration. It is an offense for an owner of a rental unit within the city to permit or allow a tenant to occupy any rental unit without first being issued a valid certificate of registration for the rental unit in accordance with this article. If an owner is required to register more than one rental unit, the owner's failure to register any individual rental unit shall constitute a separate offense. Each and every day that the owner continues to fail to register a rental unit within the city shall also constitute a separate offense.

(i) It shall further be unlawful for any person to file a false rental registration application with the city.
(Ord. No. O-22-25, § 1(3.20.003), 11-12-2025)

Sec. 50-153. Change of ownership registration.

(a) Registration under this article shall remain in effect until the earlier of:

(1) A change of ownership of the residential rental unit; or

(2) The RRCO or registration is revoked or suspended for any reason.

(b) Upon a change of ownership, the new owner of each residential rental unit shall complete a change of ownership registration application for each unit in the manner provided by this article and deliver the same, together with all applicable registration and inspection fees, to the building official's office within 30 days of the change in ownership.

(c) The city shall not be required to send notice to an owner for a change of ownership registration required under this section.

(d) No person shall make connections from a utility, source of energy, power, or water to any residential rental unit regulated by this article until the owner and unit are in full compliance with this article.

(e) This section does not apply to owner-occupied residential rental units.
(Ord. No. O-22-25, § 1(3.20.004), 11-12-2025)

Sec. 50-154. Residential rental certificate of occupancy standards.

(a) *Required.* A residential rental certificate of occupancy (RRCO) is required for all residential rental units prior to occupancy by a tenant. An RRCO shall expire one year after issuance and must be renewed annually or upon a change in tenants. It shall be unlawful for any person to own, operate, manage, or maintain a residential rental unit or portion thereof, or to offer for occupancy thereof, without a current and valid RRCO having been issued for said property by the city, or to violate any other requirement of this article. Any person owning, operating, managing, or maintaining a residential rental unit shall obtain an RRCO for each separate unit prior to offering that unit for rent.

(b) *RRCO issuance, renewal, and expiration.* An RRCO shall be required for each residential rental property under lease and/or occupancy on the effective date of the ordinance from which this article is derived and shall be in full compliance on or before one year of and from the effective date of the ordinance from which this article is derived. For residential rental properties offered leased or occupied for rent after the effective date, an RRCO shall be obtained prior to occupancy.

(1) All RRCOs shall expire with a change of tenant;

(2) An applicant for an RRCO shall be a written application submitted to the city on a form provided for that purpose. The application shall be signed by the owner or designated and authorized representative. Should an applicant own more than one residential rental property at more than one location, a separate application shall be filed for each rental unit. The following information shall be required in the application:

   a. The address of property;

   b. The name of tenant and all other residents of the rental property; and

   c. An acknowledgment by property owner (or property manager) and tenant of receipt of copy of the residential rental property ordinance codified in this article as a condition to receiving and maintaining an RRCO;

(3) The administrator may at any time require additional relevant information of the owner or property manager to clarify items on the application and to ensure compliance with this article.

Upon a change of tenant of residential property, a new RRCO shall be obtained before the new tenant may occupy the property. An RRCO fee shall be charged for the issuance of an RRCO.

(c) *RRCO fees.* The fee for an RRCO, or for the reinstatement or renewal of an RRCO, shall be as set forth in the city's fee schedule.

(d) *Replacement and transferability.* A replacement RRCO may be issued for one lost, destroyed, or mutilated upon application on a form provided by the city. A replacement RRCO shall have the word "Replacement" stamped across its face and shall bear the same number as the one it replaces:

(1) A residential rental property RRCO is not assignable or transferable;

(2) The form of the RRCO shall be prepared by the administrator;

(3) The RRCO shall be held by the owner, and a second copy shall be kept on the premises.

(e) *Standards of maintenance.* In addition to the requirements set forth in this article, all exterior and interior residential rental properties, whether occupied or vacant, shall be maintained as set forth in this section.

(f) *Maintenance responsibility.*

(1) The owner of any property in the city, whether vacant or occupied, shall be responsible for the maintenance of all structures, equipment, appliances, and accessories to the property in compliance with all applicable laws, ordinances and permit requirements in force in the city;

(2) No owner shall permit the occupancy of property that is not in a safe and sanitary condition, or that does not comply with all laws, ordinances and permit requirements in force in the city;

(3) The owner shall be responsible for paying all abatement fees, taxes, and liens assessed on the property;

(4) The owner shall notify the city of any eviction notice issued to a tenant. Furthermore, the owner shall provide, to the city, a plan for the cleanup and removal of personal items from the property 24 hours after the eviction and shall be responsible for such cleanup and removal. Upon eviction, the owner or person in control shall not place or leave personal items of the evicted tenant on the street or the exterior of the premises for a period of more than 24 hours after eviction;

(5) Tenants of any property shall be responsible for keeping the interior and exterior of the property in a clean, orderly, and sanitary condition as provided in this article and other applicable city ordinances and adopted codes;

(6) No tenant or owner shall willfully or wantonly, or by neglect or negligence, damage, deface, or destroy any part of the property or cause or allow to exist any condition detrimental to safety or sanitation or in violation of any ordinance;

(7) In the event of any dispute between owner and tenant, or when the tenant is absent, unwilling, or unable to correct the violations, the property owner shall be held responsible for compliance with all ordinances that affect the property;

(8) All exterior areas of residential rental units and the interior of every structure shall be kept clean and free from any accumulation of rubbish, trash, debris, filth, or garbage.

(g) *Inspections during occupancy.* Upon the request of a tenant, the administrator may inspect a property for structural, electrical, mechanical, or plumbing problems, ceiling leaks, smoke detector checks, and insect or rodent infestation. The owner has 30 days to correct or repair any inspection failures or deficiencies.
(Ord. No. O-22-25, § 1(3.20.005), 11-12-2025)

Sec. 50-155. Inspection required upon change in occupancy.

(a) The owner shall provide written notice to the building official upon each and every change in occupancy. A change in occupancy shall mean a change in all tenants occupying a rental unit. The notice required by this section shall clearly indicate whether there was a change in tenant or whether the rental unit was vacated by the previous tenants and is presently unoccupied.

(b) An inspection of the rental unit shall be required upon the city's receipt of written notice of a change in occupancy required to be submitted pursuant to subsection (a) of this section. Inspections required under this section shall be performed in the same manner as and in accordance with the applicable inspection procedures established by this article for the rental unit.
(Ord. No. O-22-25, § 1(3.20.006), 11-12-2025)

Sec. 50-156. Single-family and two-family (duplex) dwellings and townhouse inspections.

(a) The administrator, in addition to any other applicable requirement of this article, may inspect the interior and exterior of a residential rental unit to determine compliance with applicable state and local laws, including, but not limited to, the current adopted International Residential Code, the International Property Maintenance Code, and any substandard building codes of the city, as amended. The administrator may provide written notice of the date and time that the inspection will be conducted. Upon request and/or consent of the owner if the residential rental unit is vacant, or tenant if the unit is occupied, the administrator may conduct an inspection of the interior of a residential rental unit.

(b) The administrator shall enforce the provisions of this article upon presentation of proper identification to the owner or tenant in charge of any residential rental unit and, with the owner or tenant in charge of any residential unit and, with permission of the same, may inspect the rental unit in accordance with this section between the hours of 8:00 a.m. and 5:00 p.m. The administrator's authority to conduct both exterior and interior inspections is subject to all limitations provided in state and federal law. If entry is refused by the owner or any occupant, or if consent to enter the rental unit could not be obtained, the administrator is authorized to seek a warrant permitting the administrator's entry pursuant to state law, as the same may be amended from time to time. Any warrant issued will constitute authority for the administrator to enter upon and inspect the premises described therein. A failure to permit an inspection shall further be grounds for the suspension or revocation of an RRCO or registration.
(Ord. No. O-22-25, § 1(3.20.007), 11-12-2025)

Sec. 50-157. Administrator's powers and duties.

The administrator shall have the authority to:

(1) Administer and enforce all provisions of this article;

(2) Keep records of all licenses issued;

(3) Adopt rules and regulations, not inconsistent with the provisions of this article, with respect to the form and content of application for registration, the investigation of applicants, and other matters incidental or appropriate to his powers and duties as may be necessary for the proper administration and enforcement of the provisions of this article;

(4) Conduct periodic inspections of residential rental properties throughout the city to ensure compliance with this article and all other city ordinances and state laws related to the purpose and/or enforcement of this article.

(Ord. No. O-22-25, § 1(3.20.008), 11-12-2025)

Sec. 50-158. Appeals.

An owner, tenant, or other person or entity affected by the enforcement of this article may appeal a decision of the administrator, including, but not limited to, the denial, suspension or revocation of a residential rental registration or RRCO, to the board of adjustment, which shall have the authority to act as a board of appeals under this article. Any such appeal must be made in writing and within 15 calendar days following the date of the enforcement action or decision of the administrator. The decision of the board shall be final.
(Ord. No. O-22-25, § 1(3.20.009), 11-12-2025)

Sec. 50-159. Enforcement; violations and penalties.

(a) Any person who violates any provision of this article shall be guilty of a misdemeanor which, upon conviction, shall be punishable by a fine not to exceed $500.00. However, a fine for the violation of a provision of this article that governs fire safety, zoning, or public health

and sanitation shall be punishable by a fine not to exceed $2,000.00. Each day that an unmitigated violation of this article is committed, continued, or permitted shall constitute a separate, punishable offense. Property owners found to be guilty of a misdemeanor violation as described above may have their RRCO suspended or revoked for the units affected until all violations are resolved to the satisfaction of the administrator.

(b) Nothing in this article shall preclude the city's pursuit of any and all other remedies allowed under civil and criminal statutes, and in equity, to address situations and conditions which are treated in this article, under the theory of public nuisance or public health and safety. Neither shall the city be required, nor prohibited, to issue criminal citations before, after, or during any proceeding prescribed in this article. Specifically, in addition to provisions of this article, the city asserts full authority to exercise its right to remedies under all provisions of the Texas Local Government Code, including, but not limited to, V.T.C.A., Local Government Code §§ 54.012 through 54.020, in prosecution of civil suits for enforcement, injunctive relief, and civil penalties to remedy conditions of public concern described in this article.

(c) In addition to any other remedy, if registration or an RRCO is revoked, the administrator may cause the termination of utility services to a residential unit.

(d) The owner, agent, property manager, lessee, and any other person in control of a residential rental unit shall be jointly and severally liable and responsible in a criminal proceeding for a violation of this article.

(e) Unless otherwise specified in this article, no culpable mental state is required for the commission of an offense under this article.

(Ord. No. O-22-25, § 1(3.20.010), 11-12-2025)

Chapter 51

RESERVED

Chapter 52

DESIGN AND CONSTRUCTION STANDARDS

Article I. In General

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Sec. 52-62. Building façade plans (elevations).
Sec. 52-63. Specific on-site storage prohibited.
Sec. 52-64. Signs.

ARTICLE I. IN GENERAL

Sec. 52-1. Building materials.

(a) Notwithstanding any other law, any building product or material may be used in the construction, renovation, maintenance, or other alteration of a residential or commercial building if:

(1) The building product or material is approved for use by a national model code published within the last three code cycles that applies to the construction, renovation, maintenance, or other alteration of the building; or

(2) The standard for a building product, material, or aesthetic method in construction, renovation, maintenance, or other alteration of a residential or commercial building is more stringent than a standard for the product material or aesthetic method under a national model code published within the last three code cycles that applies to the construction, renovation, maintenance, or other alteration of the building.

(b) The provisions of subsection (a) of this section are subject to the exceptions set out in V.T.C.A., Government Code § 3000.002(b).
(Code 1996, § 15.04.001; Ord. No. O-11-19, 11-12-2019)

Sec. 52-2. Variance and special exceptions.

A person seeking a variance or special exception to any of the requirements of this chapter shall submit a written application for such variance or special exception to the board of adjustment as provided in city zoning regulations. The city zoning board of adjustment is granted authority to determine such applications for variance or special exception.
(Code 1996, § 15.05.001; Ord. No. O-03-20, 5-5-2020)

Secs. 52-3—52-22. Reserved.

ARTICLE II. RESIDENTIAL DISTRICT STANDARDS

Sec. 52-23. Mailboxes.

Location, height and distance from the roadway of all mailboxes must be approved by the U.S. Postal Service:

(1) *Single-unit mailbox.* The exterior veneer of the support structure for mailboxes installed to serve a single lot or tract must be constructed of like and similar natural or human-made masonry material to that of the majority of the primary structure located on the lot or tract served by said mailbox;

(2) *Multi-unit mailboxes.* The exterior veneer of the pedestal and exterior cabinet for each multi-unit mailbox must be 100 percent brick or other such human-made masonry material as approved in this article;

(3) *Concrete foundation required.* Each single-family or multi-unit mailbox must be constructed with a concrete foundation of not less than three inches in thickness and in conformance with the city's adopted standard construction details.

(Code 1996, § 15.04.002; Ord. No. O-03-09, 4-20-2009; Ord. No. O-19-11, § 4(3), 12-5-2011)

Sec. 52-24. Accessory buildings.

Accessory buildings, other than agricultural structures, with a floor area of 250 square feet or larger must be site-built and conform to the following conditions:

(1) The exterior must be constructed of like and similar materials to those of the primary structure;

(2) In single-family residential districts A, SF-E and SF-1, the accessory building, including any item attached to its roof, shall not exceed a maximum height of 15 feet at its tallest point. In SF-2, SF-3, SF-4 and MH districts, the maximum height shall be ten feet at its tallest point;

(3) The accessory building shall be constructed with a roof pitch matching that of the primary structure;

(4) Accessory buildings located closer than ten feet from a side or rear lot line of a corner lot must be screened from the side and rear with an opaque fence a minimum of six feet in height.

(Code 1996, § 15.04.003; Ord. No. O-03-09, 4-20-2009; Ord. No. O-19-11, § 4(3), 12-5-2011)

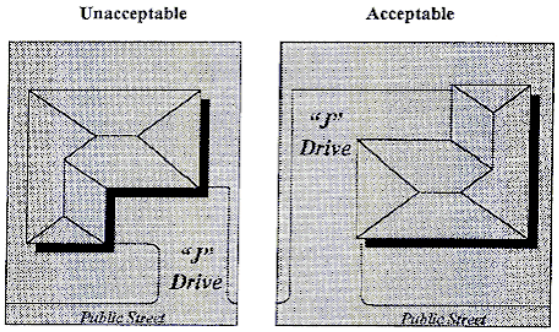
Sec. 52-25. Driveways.

(a) Driveways must contain a minimum concrete paved width of 12 feet from the curb to the required driveway apron.

(b) No garage shall open to the road frontage giving public view into the interior. Front-entry, J-lot garages must be side-loaded and not swing-loaded (i.e., the garage entrance is located away from the front door of the home such that a vehicle entering the garage, or parking in front of it, does not pass/park in front of the front door, the garage door faces a side lot line rather than the front door of the residence).

(c) A concrete paved area (driveway apron) must be constructed immediately adjacent to the entry of each garage. Each driveway apron must have a minimum concrete paved width of 25 feet as measured parallel to the garage door opening and a minimum concrete paved depth of 25 feet as measured perpendicular to the garage door opening. Driveway apron construction must meet or exceed the city's adopted building regulations for paving of residential driveways.

(d) A minimum distance of 27 feet as measured from the side lot line to the garage door opening is required in addition to an adequate, paved turnaround (e.g., hammerhead) for on-site maneuvering.



(Code 1996, § 15.04.004; Ord. No. O-03-09, 4-20-2009; Ord. No. O-19-11, § 4(3), 12-5-2011)

Sec. 52-26. Sidewalks.

(a) In all single-family residential districts, except A districts and the provisional SF-4 and MH districts, an uninterrupted concrete sidewalk, a minimum width of four feet, shall be constructed parallel with the residential street connecting one property with the next for a continuous pedestrian walking path. In the provisional MF district, the sidewalk paralleling the parking lot shall be a minimum of six feet wide allowing for head-in parking and a two-foot bumper overhang.

(b) In all single-family residential and provisional districts, a concrete walkway with a minimum paved width of four feet shall either be constructed from the front sidewalk to the front door of each primary structure or may be constructed to attach to the driveway if the driveway is increased in width by an additional three feet in concrete paved width.
(Code 1996, § 15.04.005; Ord. No. O-03-09, 4-20-2009; Ord. No. O-19-11, § 4(3), 12-5-2011)

Sec. 52-27. Special requirements.

(a) Recreational vehicles, travel trailers, camper trailers, campers, trailers, boats, boat trailers, motor homes or other recreational vehicles or equipment may not be used for on-site dwelling purposes and shall be parked and stored on an improved surface and behind the rear building façade of the main structure (i.e., the house) and screened from public view at all times of the year by a fence or perennial vegetation.

(b) Electrical fencing and barbed wire allowed in the A Agricultural District on parcels of three acres or larger for containment of farm animals and is prohibited in any other zoning district.

(c) Open storage is prohibited (except for usable materials for the resident's personal use or consumption, such as firewood, garden materials, farm equipment, that is in usable and running condition, etc., which cannot be stored in any required setback and which shall be screened from view of public streets and neighboring properties).

(d) The elimination of any required garage space by enclosing the garage with a stationary building wall shall be prohibited unless another garage of the then-required size (i.e., that has the same number of parking spaces) is built elsewhere, simultaneously with the garage enclosure, on the same lot as the primary structure within the proper setbacks, not exceeding the maximum lot coverage, etc.

(e) Swimming pools, spas and hot tubs shall comply with the International Swimming Pool and Spa Code adopted by the city and provisions of this Code pertaining to the same. All swimming pools shall be enclosed behind the main structure.

(f) Site plan approval shall be required for any nonresidential use (e.g., school, church, childcare center, private recreation facility, etc.) within a residential district. Any nonresidential land use which may be permitted in this district shall conform to the NS Neighborhood Service District standards with respect to building setbacks, landscaping, exterior building construction, screening requirements, lighting, signage, etc.

(g) All utility service lines shall be constructed underground.
(Code 1996, § 15.04.007; Ord. No. O-03-09, 4-20-2009; Ord. No. O-19-11, § 4(3), 12-5-2011)

Secs. 52-28—52-57. Reserved.

ARTICLE III. NONRESIDENTIAL DISTRICT STANDARDS

Sec. 52-58. Driveway spacing.

(a) The following standards shall apply to driveway spacing in nonresidential districts:

(1) Arterial street: one driveway per 200 linear feet of frontage;

(2) Collector street: one driveway per 100 linear feet of frontage;

(3) Local street: one driveway per 50 linear feet of frontage, unless a platted lot's frontage is less than 50 feet but is in conformance with the minimum lot frontage, in which case one driveway shall be allowed per platted lot;

(4) Minimum distance from driveway to street corner: 200 linear feet for arterial or collector streets or 75 linear feet local/residential streets as measured from the street corner radius point of tangency.

(b) Anything less than the minimum distances provided in this section may be permitted via site plan approval by city council, upon recommendation by the planning and zoning commission, provided that the lesser distance is subject to generally established engineering practices and is approved in writing by the city manager or designee (such as the city's police chief) or, if located on a state roadway, it is approved in writing by the local representative of the state department of transportation.

(c) In the event lots are too narrow to accommodate the required driveway spacing, the city will require shared driveways between projects and encourages shared parking lots.
(Code 1996, § 15.04.031; Ord. No. O-03-09, 4-20-2009; Ord. No. O-19-11, § 4(3), 12-5-2011)

Sec. 52-59. Sidewalks.

In all nonresidential districts, including all planned developments, an uninterrupted concrete sidewalk with a minimum width of six feet shall be constructed parallel with all streets and thoroughfares.
(Code 1996, § 15.04.032; Ord. No. O-03-09, 4-20-2009; Ord. No. O-19-11, § 4(3), 12-5-2011)

Sec. 52-60. Swimming pools, spas, and hot tubs.

Swimming pools, spas and hot tubs shall comply with the International Swimming Pool and Spa Code adopted by the city and the provisions of this Code pertaining to the same. All swimming pools shall be enclosed behind the main structure.
(Code 1996, § 15.04.034; Ord. No. O-03-09, 4-20-2009; Ord. No. O-19-11, § 4(3), 12-5-2011)

Sec. 52-61. Site plan review.

Review and approval of a site plan by the planning and zoning commission and the city council (in accordance with section 74-263) shall be required for any tract/lot within the nonresidential district. No certificate of occupancy shall be issued unless all construction and development conforms to the site plan as approved by the city council.
(Code 1996, § 15.04.035; Ord. No. O-03-09, 4-20-2009; Ord. No. O-19-11, § 4(3), 12-5-2011)

Sec. 52-62. Building façade plans (elevations).

Building façade (i.e., elevation) plans shall be submitted for review and approval along with the site plan. Façade plans shall clearly show how the buildings will look from all sides, with particular detail given as viewed from the major thoroughfare upon which the property faces or sides, and will portray a reasonably accurate depiction of the materials and colors to be used. The city manager or designee may, as deemed appropriate, require submission of additional information and materials (possibly actual samples of materials to be used) during the site plan review process. Building façade plans (elevations) shall be acted upon by the planning and zoning commission and require approval of the city council. The plans shall be made an exhibit to the ordinance approving the zoning or project.
(Code 1996, § 15.04.036; Ord. No. O-03-09, 4-20-2009; Ord. No. O-19-11, § 4(3), 12-5-2011)

Sec. 52-63. Specific on-site storage prohibited.

Recreational vehicles, travel trailers, motor homes or storage units may not be used for on-site dwellings, residential, or nonresidential purposes and shall not be stored on premises. In C Commercial and I Industrial Districts, the storage of any of these items require a specific use permit (SUP).
(Code 1996, § 15.04.037; Ord. No. O-03-09, 4-20-2009; Ord. No. O-19-11, § 4(3), 12-5-2011)

Sec. 52-64. Signs.

All signs shall comply with the city's sign regulations set out in chapter 66.
(Code 1996, § 15.04.038; Ord. No. O-03-09, 4-20-2009; Ord. No. O-19-11, § 4(3), 12-5-2011)

Chapter 53

RESERVED

Chapter 54

FLOODPLAIN MANAGEMENT

Article I. In General

Sec. 54-1. Findings and purpose.
Sec. 54-2. Definitions.
Sec. 54-3. Filling in the floodplain.
Sec. 54-4. Setback from natural channel required.
Sec. 54-5. Lands to which chapter applies.
Sec. 54-6. Basis for establishing the areas of special flood hazard.
Sec. 54-7. Establishment of development permit.
Sec. 54-8. Compliance.
Sec. 54-9. Abrogation and greater restrictions.
Sec. 54-10. Interpretation.
Sec. 54-11. Warning and disclaimer of liability.
Sec. 54-12. Designation of the floodplain administrator.
Sec. 54-13. Duties and responsibilities of the floodplain administrator.
Sec. 54-14. Permit procedures.
Sec. 54-15. Variance procedures.
Secs. 54-16—54-33. Reserved.

Article II. Standards and Specifications

Sec. 54-34. General standards for flood hazard reduction.
Sec. 54-35. Specific standards for flood hazard reduction.
Sec. 54-36. Standards for subdivision proposals.
Sec. 54-37. Flood hazard reduction standards for areas of shallow flooding (AO/AH zones).
Sec. 54-38. Floodways.

ARTICLE I. IN GENERAL

Sec. 54-1. Findings and purpose.

(a) *Purpose.* The Flood Control and Insurance Act, V.T.C.A., Water Code § 16.311 et seq., requires local governmental units to adopt regulations designed to minimize flood losses.

(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 chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(1) Protect human life and health;

(2) Minimize expenditure of public money for costly flood control projects;

(3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) Minimize prolonged business interruptions;

(5) Minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone and sewer lines, streets and bridges, located in floodplains;

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

(7) Ensure that potential buyers are notified that property is in a flood area.

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

(1) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;

(2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;

(4) Control filling, grading, dredging and other development which may increase flood damage;

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

(Code 1996, § 3.12.001; Ord. No. O-05-13, 3-19-2013)

Sec. 54-2. Definitions.

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

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

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

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

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

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

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

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

Base flood elevation (BFE) means the elevation shown on the flood insurance rate map (FIRM) and found in the accompanying flood insurance study (FIS) for Zone A, AE, AH, A1-30, AR, V1-30, or VE that indicates the water surface elevation resulting from the flood that has a one percent chance of equaling or exceeding that level in any given year; also called the base flood.

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

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

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

Design flood (city's design standard) means the 100-year frequency (one percent chance of being equaled or exceeded in any given year) flood discharge as calculated for fully developed watershed conditions.

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

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

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

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

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

Fill permit means the permit needed to initiate the process of reclaiming a portion of land in the floodplain to create a developable area that may include, but not be limited to, a habitable structure or parking area, raising any area of land out of a floodplain area or fill, or creating an area that can be developed in the future. The fill permit process removes the floodplain (FP) designation and is applicable in areas with an upstream drainage area greater than 100 acres, even if the land has not been formally designated as an FP area.

Flood or *flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters or the unusual and rapid accumulation or runoff of surface waters from any source.

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

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

Flood insurance study (FIS). See *Flood elevation study.*

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

Floodplain or *floodprone area* means any land area susceptible to inundation by the design flood, even if the land has not been formally designated as an FP area on the regulatory floodplain maps.

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

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

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

Floodway. See *Regulatory floodway.*

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

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

Historic structure means any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

Letter of map change means a letter that reflects an official change in an effective flood insurance rate map (FIRM). LOMCs are issued in response to a request to FEMA to revise or amend its effective flood map to remove a property or reflect changed flooding conditions on the effective map and can include letter of map revisions (LOMRs), letter of map amendments (LOMAs), and letter of map revisions based on fill (LOMR-Fs) as amended by FEMA.

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

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

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking 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 nonelevation design requirement of section 60.3 of the National Flood Insurance Program regulations.

Manufactured home means a HUD-code manufactured home, which is a structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections which, in the traveling mode, is eight body feet or more in width, 40 body feet or more in length, or, when erected on site, 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when

connected to the required utilities, and includes plumbing, heating, air conditioning, and electrical systems. The term "manufactured home" does not include a recreational vehicle as that term is defined by 24 CFR 3282.8(9).

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

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

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

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

Recreational vehicle means a vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projections, designed to be self-propelled or permanently towable by a light-duty truck, and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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

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

Special flood hazard area. See *Area of special flood hazard.*

Start of construction, for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the

placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets or walkways; nor does it include excavation for basements, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

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

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

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to ensure safe living conditions; or

(2) Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

Valley storage refers to the measure of a stream's ability to store water within its 100-year floodplain area as it moves downstream.

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

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

Water surface elevation means the height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.
(Code 1996, § 3.12.002; Ord. No. O-05-13, 3-19-2013; O-17-25, § 1, 10-7-2025)

Sec. 54-3. Filling in the floodplain.

(a) A person shall not deposit or store fill, place a structure, excavate, or engage in any other development activities in a floodplain (FP) area without first obtaining a floodplain development permit.

(b) Except for detention basins and ponds, alterations of the FP area may not increase the water surface elevation of the design flood of the creek upstream, downstream, or through the project area. Detention basins and ponds may increase the water surface elevation of the design flood provided the increase is within the detention basin or pond's boundaries as approved by the floodplain administrator.

(c) Alterations of the FP area may not create or increase an erosive water velocity on- or off-site. The mean velocity of stream flow at the downstream end of the site after fill may not exceed the mean velocity of the stream flow under existing conditions.

(d) The effects of the existing and proposed public and private improvements will be used in determining water surface elevations and velocities. Any alteration of the FP area necessary to obtain a removal of an FP prefix may not cause any additional expense in any current or projected public improvements.

(e) The FP area may be altered only to the extent permitted by equal conveyance reduction on both sides of the natural channel.

(f) FP areas governed by an adopted management plan that contains valley storage regulations must comply with the valley storage regulations contained in the plan. For all other FP areas, a valley storage maintenance agreement on a form provided by the city and approved as to form by the city attorney is required, and the following requirements apply:

(1) No loss of valley storage is permitted along a stream in which the upstream drainage area is three square miles or more;

(2) Valley storage losses along streams in which the upstream drainage area is between 100 acres and three square miles may not exceed 15 percent, as calculated on a site-by-site basis; and

(3) Valley storage losses along streams in which the upstream drainage area is less than 100 acres may not exceed 25 percent, as calculated on a site-by-site basis.
(Ord. No. O-17-25, § 4(3.12.019), 10-7-2025)

Sec. 54-4. Setback from natural channel required.

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

Crest means that line at the top of the bank where the slope becomes less than 4:1.

Designated slope means:

(1) 4:1 if the channel contains clay or shale soil; and

(2) 3:1 in all other cases.

Natural channel setback line means that setback line described below located the farthest beyond the crest:

(1) That line formed by the intersection of the surface of the land and the vertical plane located a horizontal distance of 20 feet beyond the crest;

(2) That line formed by the intersection of the surface of the land beyond the crest and a plane passing through the toe and extending upward and outward from the channel at the designated slope.

Toe means that line at the bottom of the bank where the slope becomes less than 4:1.

(b) Except as otherwise provided in subsection (c) of this section, all development must be located behind the natural channel setback line.

(c) A structurally engineered retention system approved by the floodplain administrator may be substituted for the setback required in subsection (b) of this section.
(Ord. No. O-17-25, § 4(3.12.020), 10-7-2025)

Sec. 54-5. Lands to which chapter applies.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the city.
(Code 1996, § 3.12.003; Ord. No. O-05-13, 3-19-2013)

Sec. 54-6. Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering report entitled, "The Flood Insurance Study (FIS) for Ellis County, Texas and Incorporated Areas," dated June 3, 2013, with accompanying flood insurance rate maps (FIRM) dated June 3, 2013, and "The Flood Insurance Study (FIS) for Dallas County, Texas and Incorporated Areas," dated August 23, 2001, with accompanying flood insurance rate maps (FIRM) dated August 23, 2001, and any revisions thereto, are hereby adopted by reference and declared to be a part of this chapter.
(Code 1996, § 3.12.004; Ord. No. O-05-13, 3-19-2013)

Sec. 54-7. Establishment of development permit.

A floodplain development permit shall be required to ensure conformance with the provisions of this chapter.
(Code 1996, § 3.12.005; Ord. No. O-05-13, 3-19-2013)

Sec. 54-8. Compliance.

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this chapter and other applicable regulations.
(Code 1996, § 3.12.006; Ord. No. O-05-13, 3-19-2013)

Sec. 54-9. Abrogation and greater restrictions.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
(Code 1996, § 3.12.007; Ord. No. O-05-13, 3-19-2013)

Sec. 54-10. Interpretation.

The intent of this chapter is to equal or exceed the minimum federal criteria for participation in the National Flood Insurance Program, 44 CFR, ch. I, pt. 60.3, as amended, and FEMA 480, as amended. All higher applicable standards and FEMA minimum standards apply. In the interpretation and application of this chapter, 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.
(Code 1996, § 3.12.008; Ord. No. O-05-13, 3-19-2013; Ord. No. O-17-25, § 2, 10-7-2025)

Sec. 54-11. Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions, greater floods can and will occur, and flood heights may be increased by human-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.
(Code 1996, § 3.12.009; Ord. No. O-05-13, 3-19-2013)

Sec. 54-12. Designation of the floodplain administrator.

The director of public works is appointed as the floodplain administrator to administer and implement the provisions of this chapter and other appropriate sections of 44 CFR (Emergency Management and Assistance—National Flood Insurance Program regulations) pertaining to floodplain management.
(Code 1996, § 3.12.010; Ord. No. O-05-13, 3-19-2013)

Sec. 54-13. Duties and responsibilities of the floodplain administrator.

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

(1) Maintain and hold open for public inspection all records pertaining to the provisions of this chapter;

(2) Review permit applications to determine whether to ensure that the proposed building site project, including the placement of manufactured homes, will be reasonably safe from flooding;

(3) Review, approve or deny all applications for development permits required by adoption of this chapter;

(4) Review permits for proposed development to ensure that all necessary permits have been obtained from those federal, state or local governmental agencies (including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1344) from which prior approval is required;

(5) Make the necessary interpretation 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);

(6) Notify, in riverine situations, adjacent communities and the state coordinating agency, which is the Texas Water Development Board (TWDB), prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency;

(7) Ensure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained;

(8) When base flood elevation data has not been provided in accordance with section 54-6, obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, in order to administer the provisions of article II of this chapter;

(9) a. When a regulatory floodway has not been designated, 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 develop-

ment, 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;

b. Under the provisions of 44 CFR ch. 1, § 65.12 of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, and AH on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community first completes all of the provisions required by 44 CFR ch. 1, § 65.12.

(Code 1996, § 3.12.011; Ord. No. O-05-13, 3-19-2013)

Sec. 54-14. Permit procedures.

(a) Application for a floodplain development permit shall be presented to the floodplain administrator on forms furnished by the administrator and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

(1) Elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures;

(2) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;

(3) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of section 54-14(2);

(4) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;

(5) Maintain a record of all such information in accordance with section 54-13(1).

(b) Approval or denial of a floodplain development permit by the floodplain administrator shall be based on all of the provisions of this chapter and the following relevant factors:

(1) The danger to life and property due to flooding or erosion damage;

(2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(3) The danger that materials may be swept onto other lands to the injury of others;

(4) The compatibility of the proposed use with existing and anticipated development;

(5) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(6) The costs of providing governmental services during and after flood conditions, including maintenance and repair of streets and bridges, and public utilities and facilities, such as sewer, gas, electrical and water systems;

(7) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;

(8) The necessity to the facility of a waterfront location, where applicable;

(9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.

(Code 1996, § 3.12.012; Ord. No. O-05-13, 3-19-2013)

Sec. 54-15. Variance procedures.

(a) The appeal board, as established by the community, shall hear and render judgment on requests for variances from the requirements of this chapter.

(b) The appeal board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this chapter.

(c) Any person aggrieved by the decision of the appeal board may appeal such decision in the courts of competent jurisdiction.

(d) The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

(e) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this chapter.

(f) Variances may be issued for new construction and substantial improvements to be erected on a lot of half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in section 54-14(b) have been fully considered. As the lot size increases beyond the half-acre, the technical justification required for issuing the variance increases.

(g) Upon consideration of the factors noted above and the intent of this chapter, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this chapter (section 54-1(c)).

(h) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(i) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(j) Prerequisites for granting variances.

(1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;

(2) Variances shall only be issued upon:

a. Showing a good and sufficient cause;

b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense; create nuisances; cause fraud on or victimization of the public; or conflict with existing local laws or ordinances;

(3) Any application to which a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(k) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:

(1) The criteria outlined in subsections (a) through (i) of this section are met; and

(2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety:

a. The board of adjustment is hereby authorized and empowered to:

1. Hear and decide requests for variances from the requirements of this chapter; and

2. Hear and decide appeals when it is alleged there is an error in any requirement, decision, order, or determination made by the floodplain administrator in the enforcement or administration of this chapter;

b. Any person aggrieved by the decision of the board may appeal such decision to the city council, which shall promptly hear and decide the appeal. The city council's decision shall be final and binding;

c. 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.

(3) Variances:

a. Are authorized to be issued by the board to the literal application of the terms of this chapter upon consideration of the purpose and intent of, and the standards and requirements imposed by, this chapter. The granting or issuance of a variance is discretionary. Upon consideration of the factors noted in this section and the requirements and intent of this chapter, the board may attach such conditions to the granting of a variance as it deems necessary to further the purpose and objectives of this chapter;

b. 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 this chapter;

c. May be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure, and the variance is the minimum necessary to preserve the historic character and design of the structure;

d. May be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in section 54-14(b) have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases;

e. May be issued by the board for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:

1. The criteria outlined in this section are met; and

2. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety;

f. Shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(4) Prerequisites for granting variances are as follows:

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:

1. Showing of a good and sufficient cause;

2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

3. 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.

(5) Any applicant for which a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(Code 1996, § 3.12.013; Ord. No. O-05-13, 3-19-2013; Ord. No. O-17-25, § 3, 10-7-2025)

Secs. 54-16—54-33. Reserved.

ARTICLE II. STANDARDS AND SPECIFICATIONS

Sec. 54-34. General standards for flood hazard reduction.

In all areas of special flood hazard, 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 or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

(6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters; and

(7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(Code 1996, § 3.12.014; Ord. No. O-05-13, 3-19-2013)

Sec. 54-35. Specific standards for flood hazard reduction.

In all areas of special flood hazard where base flood elevation data has been provided as set forth in section 54-6, 54-13(8), or 54-36(c), the following provisions are required:

(1) *Residential construction.* New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to or above the base flood elevation. A registered professional engineer or land surveyor shall submit a certification to the floodplain administrator that the standard of this subsection as proposed in section 54-14(a)(1) is satisfied;

(2) *Nonresidential construction.* New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to 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 or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the floodplain administrator;

(3) *Enclosures.* New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

a. A minimum of two openings on separate walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;

b. The bottom of all openings shall be no higher than one foot above grade;

c. Openings may be equipped with screens, louvers, valves, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters;

(4) *Manufactured homes.*

a. Manufactured homes shall be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces;

b. Manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites:

1. Outside of a manufactured home park or subdivision;

2. In a new manufactured home park or subdivision;

3. In an expansion to an existing manufactured home park or subdivision; or

4. In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of a flood;

be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement;

c. Manufactured homes shall be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of this subsection (4) be elevated so that either:

1. The lowest floor of the manufactured home is at or above the base flood elevation; or

2. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement;

(5) *Recreational vehicles.*

a. Recreational vehicles shall be placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:

1. Be on the site for fewer than 180 consecutive days;

2. Be fully licensed and ready for highway use; or

3. Meet the permit requirements of section 54-14(a) and the elevation and anchoring requirements for manufactured homes in subsection (4) of this section;

b. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

(Code 1996, § 3.12.0152; Ord. No. O-05-13, 3-19-2013)

Sec. 54-36. Standards for subdivision proposals.

(a) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall be consistent with section 54-1(b), (c), and (d).

(b) All proposals for the development of subdivisions, including the placement of manufactured home parks and subdivisions, shall meet floodplain development permit requirements of sections 54-7 and 54-14 and the provisions of this article.

(c) Base flood elevation data shall be generated for subdivision proposals and other proposed development, including the placement of manufactured home parks and subdivisions, which is greater than 50 lots or five acres, whichever is lesser, if not otherwise provided pursuant to section 54-6 or 54-13(8).

(d) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have adequate drainage provided to reduce exposure to flood hazards.

(e) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have public utilities and facilities, such as sewer, gas, electrical and water systems, located and constructed to minimize or eliminate flood damage.
(Code 1996, § 3.12.016; Ord. No. O-05-13, 3-19-2013)

Sec. 54-37. Flood hazard reduction standards for areas of shallow flooding (AO/AH zones).

Located within the areas of special flood hazard established in section 54-6 are areas designated as shallow flooding. These areas have special flood hazards associated with flood depths of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

(1) All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified);

(2) All new construction and substantial improvements of nonresidential structures shall:

a. Have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified); or

b. Together with attendant utility and sanitary facilities, be designed so that below the base specified flood depth in an AO zone, or below the base flood elevation in an AH zone, level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy;

(3) A registered professional engineer or architect shall submit a certification to the floodplain administrator that the standards of this section, as proposed in section 54-14, are satisfied;

(4) Require within Zone AH or AO adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.
(Code 1996, § 3.12.017; Ord. No. O-05-13, 3-19-2013)

Sec. 54-38. Floodways.

Located within areas of special flood hazard established in section 54-6 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

(1) Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge;

(2) If subsection (1) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of sections 54-34 through 54-37;

(3) Under the provisions of 44 CFR ch. 1, § 65.12 of the National Flood Insurance Program regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first completes all of the provisions required by 44 CFR ch. 1, § 65.12.

(Code 1996, § 3.12.018; Ord. No. O-05-13, 3-19-2013)

Chapter 55

RESERVED

Chapter 56

GAS AND WELL DRILLING

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ARTICLE I. IN GENERAL

Sec. 56-1. Purpose.

The exploration, development and production of gas in the city are activities which necessitate reasonable regulation to ensure that all property owners, mineral and otherwise, have the right to enjoy their property and its benefits and revenues. It is hereby declared to be the purpose of this chapter to establish reasonable and uniform limitations, safeguards and regulations for operations related to the exploring, drilling, developing, producing, transporting and storing of gas and other substances produced in association with gas within the city to protect the health, safety and general welfare of the public, minimize the potential impact to property and mineral rights owners, protect the quality of the environment and encourage the orderly production of available mineral and gas resources.
(Code 1996, § 4.09.001; Ord. No. O-18-08, 6-16-2008)

Sec. 56-2. Definitions.

All technical industry words or phrases related to the drilling and production of gas wells not specifically defined in this section shall have the meanings customarily attributable thereto by prudent and reasonable gas industry operators. In addition, the following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandonment means as defined by the state railroad commission and includes the plugging of the well and the restoration of any well site as required by this chapter and applicable state law.

All-weather hard surface means a permanent surface that, as a minimum, is a base course constructed such that it meets the requirements of the International Fire Code to be at least 20 feet wide, has an overhead clearance of 14 feet, drains appropriately, remains water-resistant, is free of litter, debris, weeds, grass or other objectionable materials or objects and is visibly dust-free.

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

Berm means a mound of soil, either natural or human-made, used to obstruct a view. The side slope shall not exceed a three-foot horizontal and a one-foot vertical slope.

Blowout preventer means a mechanical, hydraulic, pneumatic or other device or combination of such devices secured to the top of a well casing, including valves, fittings and control mechanisms connected therewith, which can be closed around the drill pipe, or other tubular goods which completely close the top of the casing and are designed for preventing blowouts.

Building means any primary structure used or intended for supporting or sheltering any use or occupancy. The term "building" shall be construed as if followed by the words "or portions thereof."

Cathodic protection means an electrochemical corrosion control technique accomplished by applying a direct current to the structure that causes the structure potential to change from the corrosion potential to a protective potential in the immunity region. The required cathodic protection current is supplied by sacrificial anode materials or by an impressed current system.

Closed loop system means a series of tanks, including filters, separators and shakers on the discharge side of the drilling process, that contains byproducts of drilling, such as cuttings and earthen materials; the means to contain the byproducts and recycle usable materials for reuse in the drilling process.

Commission means the state railroad commission.

Community development department means the community development department of the city.

Completion means the date the work is completed for the drilling, redrilling or reworking of a well and the crew is released by completing its work or contract or by its employer, once all phases have been completed and natural gas is put into the pipeline.

Day means a calendar day.

Derrick means any portable framework, tower, mast or structure which is required or used in connection with drilling or reworking a well for the production of gas.

Development review committee (DRC) means an internal staff review committee that includes, but is not limited to, representatives of the community development department, inspections, municipal services, fire, police, parks and recreation, neighborhood services, economic development, and the gas inspector.

Drilling means digging or boring a new well for the purpose of exploring for, developing or producing gas or for the purpose of injecting gas, water or any other fluid or substance into the earth.

Drilling equipment means the derrick, together with all parts of and appurtenances to such structure, and every piece of apparatus, machinery or equipment used or erected or maintained for use in connection with drilling.

Drill site means the immediate area used during the drilling, redrilling or reworking of a well.

Emergency response plan means a plan put in place to deal with emergency situations that may occur at the site during all stages of the drilling and production process.

Exploration means geologic or geophysical activities, including seismic surveys, related to the search for gas or other subsurface hydrocarbons.

Filed means administratively complete and all technical requirements have been met for purposes of review by the appropriate authority as stated herein, including the payment of all required fees.

Flaring means the burning of unwanted gas through a pipe (also called a flare). Flaring is a means of disposal used when there is no way to transport the gas to market and the operator cannot use the gas for a another purpose.

Flowback operation means to include work over and means necessary to expel water from the drilling hole in order to facilitate the production of gas.

Frac tank means a human-made water storage tank designed using earthen berms to contain approximately four million gallons of water. These can be from existing ponds or other water storage tanks. Human-made tanks shall be lined with plastic with an appropriate mil spec rating.

Fracturing means the injecting of a fluid into a well to cause pressure that cracks or opens up fractures already present in the formation.

Gas means any fluid, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarefied state at standard temperature and pressure conditions or the gaseous components or vapors occurring in or derived from petroleum or natural gas.

Gas inspector means an individual designated by the city manager or any other person or entity so designated as an inspector by the city manager. The gas inspector shall report to the office of the fire marshal.

Gas well means any well drilled, to be drilled, or used for the intended or actual production of natural gas.

Generator plant means the electrical service generated on site servicing the drilling rig and all associated equipment, including personal living quarters.

Grounding and bonding means the means to ground all power and equipment on the drilling site to prevent electrical discharges and lighting protection.

Hazardous material means as that term is defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1988, as enacted and as may be amended.

Operation site means the area used for development and production and all operational activities associated with gas after drilling activities are complete.

Operator means, for each well, the person listed on the commission's Form W-1 or Form P-4 for a gas well that is, or will be, actually in charge and in control of drilling, maintaining, funding, operating, pumping or controlling any well, including, without limitation, a unit operator; provided, however, any such person, whether listed on the commission's Form W-1 or Form P-4, that provides funding, drilling or operation of the well, at any time, shall be identified and considered an operator for all purposes under this chapter. If the operator, as herein defined, is not the lessee under a gas lease of any premises affected by the provisions of this chapter, then such lessee shall also be deemed to be an operator. In the event that there is no gas lease relating to any premises affected by this chapter, the owner of the fee mineral estate in the premises shall be deemed an operator.

Permit means any written license granted by the city for the exploration, development, and production of gas wells issued pursuant to rules and regulations of this chapter, including, but not limited to, a special use permit or specific use permit, as defined herein.

Production means the period between completion of drilling and the abandonment of the well, after the fracturing and flowback operations have been completed and natural gas has been run through a series of separators and tank batteries to metering devices and into the pipeline.

Public building means all buildings used or designed to and intended to be used for the purpose of assembly of persons for such purposes as deliberation, entertainment, amusement, or health care. The term "public building" includes, but shall not be limited to, theaters, assembly halls, auditoriums, armories, mortuary chapels, dance halls, exhibition halls, museums, gymnasiums, bowling lanes, libraries, skating rinks, courtrooms, restaurants, and hospitals.

Public park means any land area dedicated to or maintained by the city for traditional park-like recreational purposes, but shall not include privately owned amusement parks or privately owned golf courses or HOA community parks.

Redrill means re-completion of an existing well by deepening or sidetrack operations extending more than 150 feet from the existing well bore.

Religious institution means any building in which persons regularly assemble for religious worship and activities intended primarily for purposes connected with such worship or for propagating a particular form of religious belief.

Residence means a house, duplex, apartment, townhouse, condominium, HUD-code manufactured home or other building designed for dwelling purposes, including those for which a building permit has been issued on the date the application for a gas well permit is filed and accepted by the community development department.

Reworking means re-completion or re-entry of an existing well within the existing bore hole or by deepening or sidetrack operations which do not extend more than 150 feet from the existing well bore, or replacement of well liners or casings.

Rig-down means the day drilling has been completed and the rig is disassembled and all equipment prepared from movement from the pad site.

Rig-up means the process of setting up equipment and the drilling rig in order to start the drilling process.

Right-of-way means any area of land within the city that is acquired by, dedicated to, or claimed by the city in fee simple, by easement, by prescriptive right or other interest and that is expressly or impliedly accepted or used in fact or by operation of law as public roadway, sidewalk, alley, utility, drainage, or public access easement or used for the provision of governmental services or functions. The term "right-of-way" includes the area on, below, and above the surface of the public right-of-way. The term "right-of-way" applies regardless of whether the public right-of-way is paved or unpaved.

Right-of-way maintenance agreement means a written agreement obligating the operator to repair damage, excluding ordinary wear and tear, if any, including, but not limited to, public streets, sidewalks, pathways, trails, and bridges, caused by the operator or its employees, agents, contractors, subcontractors, or representatives in the performance of drilling or production of gas wells authorized by the city.

School means any public or private primary and secondary educational facilities providing education up through and including the 12th grade level and any licensed day care centers, meaning a facility licensed by the state or by the city that provides care, training, education, custody, treatment or supervision for more than six children under 14 years of age, and for less than 24 hours per day.

Special use permit means a permit issued from the office of the fire marshal for specific uses, such as perforating operations, wire line logging and welding.

Specific use permit means the use permit recommended by the planning and zoning commission, and approved by council, subject to situational suitability as provided by chapter 60, as approved and as it may be amended.

Street means any street, highway, sidewalk, alley, avenue, recessed parking area or other public right-of-way, including the entire right-of-way.

Tank means a container, covered or uncovered, used in connection with the drilling or production of gas or other hydrocarbons for holding or storing fluids.

Technical advisor means such persons familiar with and educated in the gas industry or the law as it relates to gas matters who may be retained from time to time by the city, as provided in section 56-64.

Thoroughfare plan means the thoroughfare plan approved by the city.

Well means any single hole or bore to any horizon, formation, or strata, for the purpose of producing gas, liquid hydrocarbons, brine water or sulphur water, or for use as an injection well for secondary recovery, disposal or production of gas, or other hydrocarbons from the earth. For each separate new hole, a gas well permit is required.

Wire line logging means the use of radioactive isotopes which are used when measuring formations within the immediate vicinity of the drilling hole.
(Code 1996, § 4.09.002; Ord. No. O-18-08, 6-16-2008)

Sec. 56-3. City oversight.

(a) The city council shall retain the services of a gas inspector who shall enforce the provisions of this chapter. The gas inspector may have a degree in petroleum engineering with a background in drilling and production or demonstrate a proven background in the drilling, production, and operation of gas wells; provided, however, said gas inspector shall possess all required state law certifications and licenses. The gas inspector and other city officials shall have the authority to issue any orders or directives required to carry out the

intent and purpose of this chapter and its particular provisions. Failure of any person to comply with any such order or directive shall constitute a violation of this chapter. The gas inspector shall report to the office of the fire marshal.

(b) The gas inspector shall have the authority to enter and inspect any premises covered by the provisions of this chapter to determine compliance with the provisions of this chapter and all applicable laws, rules, regulations, standards or directives of the city or state. Failure of any person to permit access to the gas inspector shall constitute a violation of this chapter.

(c) The gas inspector shall have the authority to request and receive any records, including any records sent to the commission, logs, reports and the like, relating to the status or condition of any permitted well necessary to establish and determine compliance with the applicable permit. Failure of any person to provide any such requested material shall be deemed a violation of this chapter.

(d) The gas inspector shall conduct periodic inspections at least once a year of all permitted wells in the city to determine that the wells are operating in accordance with proper safety regulations as set out in this chapter and in regulations of the commission.

(e) The gas inspector and other city officials authorized to enforce the provisions of this chapter or other ordinances and codes adopted by the city council shall have the authority to issue any orders, citations, notices of violation or directives required to carry out the intent and purpose of this chapter and its provisions.

(f) The gas inspector shall ensure that the drilling site meets all site plan conditions as approved in the drilling permit. The gas inspector shall have the authority to recommend changes to any site plan in order to preserve and protect the health, safety and welfare of the citizens of the city, including, but not limited to, public infrastructures, such as roads and utilities.

(Code 1996, § 4.09.003; Ord. No. O-18-08, 6-16-2008)

Sec. 56-4. Operator's agent.

Every operator of any well shall designate an agent, who is a resident of the state, upon whom all orders and notices provided in this chapter may be served in person or by registered or certified mail. Every operator designating such agent shall, within ten days, notify the city manager or designee, in writing, of any change in such agent or such mailing address unless operations within the city are discontinued. Failure to do so shall be deemed a violation of this chapter.

(Code 1996, § 4.09.004; Ord. No. O-18-08, 6-16-2008)

Secs. 56-5—56-26. Reserved.

ARTICLE II. PERMITS

Sec. 56-27. Seismic survey permit requirements.

(a) A permit shall be required for seismic surveys. No seismic survey permit shall be granted unless the applicant shows proof of lease of mineral property within 200 feet of the right-of-way on which the survey is to be conducted. All seismic survey permit applications

shall be submitted to the city manager or designee for approval. The seismic survey shall not begin prior to the issuance of a seismic survey permit from the city. Failure to obtain a permit consistent with this section, or commencing work without a permit, shall be deemed a violation of this article. A permit shall include, but is not limited to, the following information:

(1) The operator/applicant's name, phone number, fax number, physical address, and, if possible, e-mail address; if the operator is a corporation, the state of the incorporation and, if the operator is a partnership, the names and addresses of the general partners shall be provided;

(2) Detailed mapping of location and extent of seismic survey;

(3) The date and time the seismic survey will be conducted and completed;

(4) Detailed explanation of the seismic survey method to be used on site.

(b) If the seismic survey is conducted in any city right-of-way, then the operator must reimburse all costs to the city for any damages associated with the seismic survey.

(c) The permit fee for a seismic survey on city property shall be set by the city council on a case-by-case basis, calculated based upon a minimum $0.25 per linear foot, plus the costs of barricade rental and personnel required to direct and divert traffic if city forces and materials are used.

(d) An operator must submit a traffic safety and management plan with the application for a specific use permit with all seismic surveys that are conducted within the right-of-way.

(e) Under no circumstances may explosive charges, including, but not limited to, dynamite, be used in any way related to the preparation or operation of conducting a seismic survey.
(Code 1996, § 4.09.005; Ord. No. O-18-08, 6-16-2008)

Sec. 56-28. Gas well permit requirements.

(a) A person wanting to engage in or operate gas production activities shall apply for and obtain a gas well permit under this article and shall indicate what type of well permit is requested. It is unlawful for any person acting either for the person or acting as an agent, employee, independent contractor, or servant for any person to drill any well, assist in any way in the site preparation, reworking, fracturing or operation of any such well or to conduct any activity related to the production of gas without first obtaining a gas well permit issued by the city in accordance with this article. Such activities include, but are not limited to, reworking, initial site preparation, drilling, operation, construction of rigs or tank batteries, fracturing and pressurizing.

(b) The operator must apply for and obtain a gas well permit for the drilling of each well. The operator shall neither apply nor obtain a blanket permit for more than one well if multiple wells are located on the same tract of land. Each new well established at the ground surface will be considered and require a new gas well permit.

(c) An existing gas well permit shall not constitute authority for the re-entering and drilling of an abandoned well. An operator shall obtain a new well permit in accordance with the provisions of this article if the operator is re-entering and drilling an abandoned well.

(d) When a gas well permit has been issued to the operator for the drilling, reentering, activating or converting of a well, such gas well permit shall constitute sufficient authority for drilling, operation, production gathering or production maintenance, repair, reworking, testing, plugging and abandonment of the well or any other activity associated with mineral exploration at the site of such well. An amended gas well permit shall be obtained before such well may be modified for purposes of redrilling, deepening or converting such well to a depth or use other than that set forth in the then-current permit for such well.

(e) Any person who intends to rework a permitted well using a drilling rig to fracture stimulate (fracturing) a permitted well after initial completion or to conduct seismic surveys or other exploration activities shall give written notice to the gas inspector no less than ten days before the activities begin. The notice must identify where the activities will be conducted and must describe the activities in detail, including, but not limited to, whether explosive charges will be used, the duration of the activities and the time the activities will be conducted. The notice must also provide the address and 24-hour telephone number of the person conducting the activities. The person conducting the activities shall post a sign on the property giving the public notice 48 hours in advance of the fracturing activities. The sign shall comply with the requirements of section 56-60(z)(1).

(f) Well setbacks for gas well permits.

(1) It is unlawful to drill, redrill, deepen, re-enter, activate or convert any well, the center of which, at the surface of the ground, is located:

a. Within 600 feet from any playgrounds, competition athletic fields, swimming pools, water slides and playgrounds, concession stands, pavilions or picnic areas within a public park;

b. Within 600 feet from any residence, religious institution, public building, retail or commercial building, hospital building or school for which a building permit has been issued on the date of the application for a gas well permit is filed with the community development department;

c. Within 75 feet of any public street, road, highway, or right-of-way line;

d. Within 200 feet of any existing potable water well;

e. Within 150 feet of any property line;

The measurement of all distances shall be calculated from the proposed well bore, in a straight line, without regard to intervening structures or objects, to the closest exterior point of the object listed in subsections (f)(1)a through e of this section. The above calculations shall be prepared by a registered professional land surveyor and contain the surveyor's professional seal;

(2) Tank batteries, separators and compressors shall be located at least 300 feet to 600 feet from any public playground, competition athletic field, picnic area within a public park, or from any residence, religious institution, public building, hospital building or school, or any other building used or designed and intended to be used for human occupancy for which a building permit has been issued on the date of the application for a gas well permit is filed. The distance shall be calculated from the closest tank batteries, separators or compressors, in a straight line, without regard to intervening structures or objects, to the closest part of the playground, competition athletic field, picnic area, residence, religious institution, public building, hospital building or school, or any other building used or designed and intended to be used for human occupancy;

(3) The distances set out in subsection (f)(1) and (2) of this section may be reduced at the discretion of the city council pursuant to section 56-87, but never less than 300 feet except as provided by subsection (f)(4) of this section. All distance reductions shall be documented as exceptions to the requested permit prior to issuance;

(4) Notwithstanding the provisions of this section, wells may be drilled no closer than 150 feet from existing residences that are occupied by persons who, in writing, consent to the request to drill the well if approved by a majority vote of the city council pursuant to section 56-87. Said written consent is required from all residences occupied by persons within 300 feet of a proposed well bore prior to an application for a well permit being processed by city staff. Wells may be redrilled, deepened, re-entered, activated or converted if no closer than 150 feet from any residence constructed after the well was originally drilled without such consent. For purposes of the consent required by this subsection, the term "consent" means the written consent of every adult claiming an ownership or leasehold interest in such residence;

(5) Notwithstanding the provisions of this section, new residences may be built no closer than 150 feet from an existing well.

(g) A gas well permit shall automatically terminate, unless extended, if drilling is not commenced within 90 days from the date of the issuance of the permit. A well permit may be extended by the gas inspector for an additional 90 days upon written request by the operator and proof that the regulatory standards of the requested permit for such location have not changed.

(h) Permits required by this article are in addition to and are not in lieu of any permit which may be required by any other provision of this Code or by any other governmental agency.

(i) No gas well permit shall be issued for any well to be drilled within the floodway identified by the Federal Emergency Management Agency (FEMA) on the most current Federal Flood Insurance Rate Map (FIRM). Gas wells proposed in the floodplain outside of the floodway shall comply with the requirements for development in chapter 54.

(j) No gas well permit shall be issued for any well to be drilled that is not in compliance with any standard, provision, procedure, or recommendation as described in the city's public works design manual as adopted and as may be amended.

(k) By acceptance of any permit issued pursuant to this article, the operator expressly stipulates and agrees to be bound by and comply with the provisions of this article. The terms of this article shall be deemed to be incorporated in any permit issued pursuant to this article with the same force and effect as if this article was set forth verbatim in such permit. (Code 1996, § 4.09.006; Ord. No. O-18-08, 6-16-2008)

Sec. 56-29. Gas well permit application; specific use permit.

(a) Every application for a gas well permit issued pursuant to this article shall be in writing, signed by the operator or some person duly authorized to sign on the operator's behalf, and filed with the city manager, or designee, and shall be processed consistent with chapter 60 for specific use permits, as adopted and as may be amended, and incorporated therein for all purposes.

(b) Every application shall be accompanied by a permit fee in the amount established in section 56-88. The application shall include the following information:

(1) The date of the application and type of permit requested;

(2) An accurate legal description of the lease property to be used for the operation site, the parcel and the production unit and name of the geologic formation as used by the commission. Property recorded by plat shall reference subdivision, block and lot numbers;

(3) A map showing proposed transportation route and roads for equipment, chemicals or waste products used or produced by the gas operation. This proposed truck route shall include a traffic management plan and identify all on- and off-site city thoroughfares and infrastructure;

(4) The proposed well name and well depth;

(5) The surface owners' names, telephone numbers, fax numbers, physical addresses, and, if possible, e-mail addresses, of the lease property;

(6) The mineral lessee's name, telephone number, fax number, physical address, and, if possible, e-mail address;

(7) The operator/applicant's name, telephone number, fax number, physical address, and, if possible, e-mail address, and, if the operator is a corporation, the state of incorporation, and, if the operator is a partnership, the names and addresses of the general partners;

(8) The name, telephone number, fax number, physical address of individual designated to receive notice, or registered agent, and, if possible, e-mail address;

(9) The names and addresses of representatives or the operator's agent with supervisory authority over all gas operation site activities and a 24-hour telephone number;

(10) The location and description of all improvements and structures within 800 feet of the well; the name of the owner and address of each parcel of property within 600 feet of the proposed site. Such locations and descriptions shall be prepared by a registered professional land surveyor and shall contain the surveyor's professional seal;

(11) A site plan of the proposed operation site showing the location of all improvements and equipment, including the location of the proposed wells and other facilities, including, but not limited to, tanks, pipelines, compressors, separators and storage tanks or storage sheds. All site plans must include the following criteria and shall be submitted for approval as part of the specific use permit:

a. Property boundaries with dimensions and setback lines;

b. The location of proposed buildings and structures indicating sizes in square feet;

c. The location and intensity of exterior lighting fixtures;

d. The location of mechanical equipment;

e. Outside storage areas;

f. Curb cut locations;

g. Parking, loading, and maneuvering areas;

h. The location, materials and dimensions of screening improvements as required by section 56-61(a)(2);

i. A separate plan sheet showing the location, materials and dimension of all screening improvements as required by section 56-61(a)(2);

j. Waste disposal locations with screening;

k. Adjacent property lines, streets, and easements immediately adjacent to the operation site;

l. The names of owners of property immediately adjacent to the operation site;

m. The names of subdivisions immediately adjacent to the operation;

n. Site plans shall be submitted on a sheet size of 24 inches by 36 inches, minimum;

o. City boundaries, where applicable;

p. The date the drawing was prepared, with the name, address, and phone number of preparer;

q. The location, width, and purpose of all existing easements;

r. North arrow, at a maximum scale of 1:50, immediately adjacent to the operation site;

s. All existing street names immediately adjacent to the operation site;

t. Dimensions of all existing rights-of-way as specified on the city's thoroughfare plan;

u. A title block identifying the gas well site location;

v. A vicinity location map at one inches equals 2,000 feet;

w. Zoning classifications of all properties shown on the site plan;

x. The location of 100-year flood limits, where applicable;

y. Texas NAD83 state plane coordinates for at least two corners;

z. As a minimum, a preliminary drainage study as identified in the public works design manual;

(12) The name, address and 24-hour phone number of the person to be notified in case of emergency;

(13) Exact acreage and number of wells, if applicable, included in the gas well permit application;

(14) Copies of all reports required by the commission, specifically including a copy of the approved commission Form W-1 or P-4;

(15) A signed right-of-way maintenance agreement supplied by the city that provides that the operator shall repair, at the operator's own expense, any damage caused by any activity associated with the preparation, drilling, production, and operation of wells;

(16) A description of public utilities required during drilling and site operations;

(17) A description of the water source to be used during drilling;

(18) A copy of the stormwater pollution prevention plan (SWPPP) as required by the commission, the Texas Commission on Environmental Quality (TCEQ), the United States Environmental Protection Agency (USEPA) or the city. A copy of the notice of intent (NOI) shall be submitted to the municipal services department at least three days prior to the commencement of any on-site activity;

(19) A copy of the determination by the TCEQ of the depth of usable quality groundwater;

(20) Evidence of insurance and security requirements under this article;

(21) A statement, under oath, signed by the operator or designated representative, that the information submitted with the application is, to the best knowledge and belief of the operator or designated representative, true and correct, and as such, is a government record;

(22) All required application and permit fees;

(23) A tree preservation plan that conforms to the city's ordinance;

(24) A copy of a hazardous materials management plan and additionally, all material safety data sheets (MSDSs) for all hazardous materials that will be located, stored, transported or temporarily used on the drilling site shall be provided to the gas inspector and the fire department.

(Code 1996, § 4.09.007; Ord. No. O-18-08, 6-16-2008)

Sec. 56-30. Building permit required.

(a) No building or structure regulated by this Code shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted, or demolished unless a separate permit for each building or structure has first been obtained from the director of the community development department or designee. No subdivision plat will be required.

(b) It shall be the responsibility of any person, firm, or corporation, upon submittal of an application for a building permit for work regulated by this Code, to register as a general contractor with the city. Work regulated includes, but is not limited to, construction of gates, fencing, plumbing, irrigation, electricity, roadways, entrances, compressors, flow lines, pipelines, gathering lines, tank batteries, and buildings. Such registration shall be upon forms supplied by the director of the community development department, or designee, and shall become null and void on December 31 of each year. An appropriate fee for registration shall be assessed in accordance with the city fee schedule. Copies of any and all state licenses required for the performance of any activity to be conducted shall be submitted with the application.

(Code 1996, § 4.09.007; Ord. No. O-18-08, 6-16-2008)

Sec. 56-31. Gas well permit conditions; notice.

(a) *Required.* A gas well permit shall be required in accordance with the provisions of this section.

(b) *Notice for a gas well permit.*

(1) At least ten days prior to the date of filing of an application for a gas well permit with the gas inspector under this article, the operator shall notify, at the expense of the operator, each surface owner of property, as shown by the current tax roll, within 600 feet of the proposed well not owned by or under lease to the operator. Such notice, as outlined below, shall be by depositing the same, properly addressed and postage paid, in the United States mail. The operator shall file with the application an affidavit showing the name and last known address, as identified by the current tax roll, of each owner of property to whom notice was mailed and the names of each owner of property to whom notice is required to be given, but whose address is unknown. Notice shall be sent to all registered neighborhood associations within one-half mile of the proposed drill site;

(2) At least ten days prior to the date of filing of an application for a gas well permit under this article with the gas inspector, the operator shall publish a copy of the notice as outlined below, at the expense of the operator, in one issue of a daily

newspaper of the city for ten consecutive days. An affidavit by the printer or publisher of the newspaper indicating publication of the notice shall be filed with the application and will be prima facie evidence of such publication. The notice shall read as follows:

Notice is hereby given that, acting under and pursuant to the Ordinances of the City of Glenn Heights, Texas, on the _____ day of _____, 20____, _____ will file with the gas inspector of the City of Glenn Heights, an application to drill, complete and operate a well for gas upon property located at _____, Glenn Heights, Dallas and Ellis County, Texas, more particularly shown on the map of record in Volume ____, Page ____, Plat records of _____ County, Texas or per Tax Tract Number ____, Dallas and Ellis County, Texas;

(3) At least 20 days prior to the date of filing of an application for a gas well permit under this article with the gas inspector, the operator, at the operator's expense, shall erect at least one sign, no less than three feet by three feet, upon the premises upon which a gas well permit has been requested. Where possible, the sign shall be located in a conspicuous place or places upon the property at a point nearest any right-of-way, street, roadway or public thoroughfare adjacent to such property:

a. The signs shall substantially indicate that a gas well permit to drill for gas has been requested and shall further set forth that additional information can be acquired by telephoning the operator at the number indicated on the sign;

b. The continued maintenance of any such signs shall not be deemed a condition precedent to the holding of a public hearing or to any other official action concerning this article;

c. Any signs shall be removed subsequent to final action by the gas inspector;

(4) All notice provisions contained herein shall be deemed sufficient upon substantial compliance with this section.

(c) *Vehicle routes for gas well permit.* Vehicles associated with drilling or production in excess of three tons shall be restricted to such streets designated as either truck routes or commercial delivery routes by this Code wherever capable of being used. All vehicles shall be operated on a truck route wherever capable of being used; they shall be operated on a commercial delivery route only when it is not possible to use a truck route to fulfill the purpose for which such vehicle is then being operated. In the event that an approved route is unavailable, the operator shall propose an alternative route that may be approved by the city manager or designee, if temporary. Any permanent alternative route must be approved by the city council as an amendment to the specific use permit. The term "commercial delivery route " means any street or highway so designated by the city council for the use by any commercial motor vehicle, truck-tractor, trailer, semitrailer, or any combination thereof.

(d) *Processing of gas well permit.* The gas inspector shall not be required to accept or process a gas well permit application until the applicant can demonstrate that the proposed activities are in compliance with the provisions of chapter 60.

(e) *Compliance with article.* Compliance with all other provisions of this article shall be required.
(Code 1996, § 4.09.008; Ord. No. O-18-08, 6-16-2008)

Sec. 56-32. Gas well permitting procedure.

(a) All gas well permit applications will be filed with the city manager or designee. The city manager, or designee, shall refer such applications to the fire department and other city departments which the city manager deems appropriate.

(b) It is the responsibility of the city manager, or designee, to review and approve or disapprove all applications for gas well drilling permits based on the criteria established by this article and in accordance with the specific use permit.

(c) The city manager, or designee, shall, within 45 days after the filing of a completed application and remittance of all fees, insurance, bond, and security per the requirements of this article for a gas well permit, determine whether the permit application shall be approved or denied.

(d) The provisions of this article shall apply to any dwellings or buildings for which an application for a building permit has been submitted on the date the application for a gas well permit is filed with the city manager or designee:

(1) All new or proposed construction of any buildings, structures, streets, roads, or applicable improvements to the property upon which any gas well is located must be in compliance with all applicable setback requirements enumerated in this article;

(2) If all the requirements of this article and the specific use permit are met, the city manager, or designee, shall issue a permit for the drilling of the well or the installation of the facilities for which a permit application was made consistent with the terms and conditions of the specific use permit;

(3) If the city council denies a permit application for the requested gas well permit, the city manager, or designee, shall notify the operator in writing of such denial stating the reasons for the denial. Within 30 days of the date of the written decision to deny the permit, the operator may cure those conditions that caused the denial and resubmit the application to the city manager, or designee, for reconsideration of approval and issuance of the permit. Additionally, the operator may file an appeal to the city council under the provisions outlined in this article pursuant to section 56-87;

(4) The failure of the city manager, or designee, to review and issue a permit within the time limits specified above shall not cause the application to be deemed approved. The failure of the city manager, or designee, to act within the time limit shall be deemed a disapproval. The operator may file an appeal to the city council under the provisions outlined in this article pursuant to section 56-87.

(e) If an application for a permit is denied by the city, nothing herein contained shall prevent a new permit application from being submitted to the city manager, or designee, for the same well.
(Code 1996, § 4.09.009; Ord. No. O-18-08, 6-16-2008)

Sec. 56-33. Amended permits.

(a) An amended permit may be issued for, but not limited to, the following changes in drill or operational site activities:

(1) Redrilling;

(2) Deepening beyond 150 feet of the permitted depth;

(3) Site access;

(4) Locations or quantities of equipment as determined by the gas inspector;

(5) Locations or number of drilling fluid or other types of pits; and

(6) Locations or number of buildings and structures.

(b) Applications for amended permits shall be in writing, shall be signed by the operator, and shall include the following:

(1) An application fee in the amount as established in section 56-88;

(2) A description of the proposed amendments;

(3) Any changes to the information submitted with the application for existing permit (if such information has not previously been provided to the city);

(4) Such additional information as is reasonably required by the gas inspector to demonstrate compliance with the applicable permit;

(5) Such additional information as is reasonably required by the gas inspector to prevent imminent destruction of property or injury to persons; and

(6) An amended site plan will be required.

(c) All applications for amended permits shall be filed with city manager, or designee, for review by the city. Incomplete applications may be returned to the applicant, in which case the city shall provide a written explanation of the deficiencies; however, the city shall retain the application fee. The city may return any application as incomplete if there is a dispute pending before the commission regarding the determination of the operator.

(d) If the activities proposed by the amendment are not materially different from the activities covered by the existing permit, then the city manager, or designee, shall approve or disapprove the amendment within 15 days after the application is filed.

(e) If the activities proposed by the amendment are materially different from the activities covered by the existing permit, and do not create a risk of destruction of property or injury to persons, then the city manager, or designee, shall approve or disapprove the amendment within 45 days after the application is filed. If, however, the activities proposed

by the amendment are materially different and, in the judgment of the gas inspector, the city manager, or designee, might create a risk of destruction of property or injury to persons that were not associated with the activities covered by the existing permit or that were not otherwise taken into consideration by the existing permit, the city manager, or designee, may require the amendment to be processed as a new permit application.

(f) The failure of the city manager, or designee, to review and issue an amended permit within the time limits specified above shall not cause the application for the amended permit to be deemed approved. Further, the decision of the city manager, or designee, to deny an amendment to a permit shall be provided to the operator in writing within the time period indicated in subsections (d) and (e) of this section, including an explanation of the basis for the decision. The operator may appeal any such denial to the city council, if such an appeal is filed within ten days after such denial, as provided by section 56-87.
(Code 1996, § 4.09.010; Ord. No. O-18-08, 6-16-2008)

Sec. 56-34. Suspension or revocation of permits.

(a) If an operator (or its officers, employees, agents, contractors, or representatives) fails to comply with any requirement of a permit (including any requirement incorporated by reference as part of the permit), the gas inspector shall give written notice to the operator specifying the nature of the failure and giving the operator a reasonable time to cure, taking into consideration the nature and extent of the failure, the extent of the efforts required to cure, and the potential impact on the health, safety, and welfare of the community. In no event, however, shall the cure period be less than ten days unless the failure presents a risk of imminent danger of property or injury to persons or unless the failure involves the operator's failure to provide periodic reports as required by this article.

(b) If the operator fails to correct the noncompliance, the city may suspend or revoke the permit pursuant to the provisions of this article.

(c) No person shall carry on any operations performed under the terms of the permit issued under this article during any period of any permit suspension or revocation or pending a review of the decision or order of the city in suspending or revoking the permit. Nothing contained herein shall be construed to prevent the necessary, diligent and bona fide efforts to cure and remedy the default or violation for which the suspension or revocation of the permit was ordered for the safety of persons or as required by the commission.

(d) If the operator does not cure the noncompliance within the time specified in this article, the city, upon written notice to the operator, may notify the commission and request that the commission take any appropriate action.

(e) An operator may, within ten days of the date of the decision of the city in writing to suspend or revoke a permit, file an appeal to the city council under the provisions outlined in this article pursuant to section 56-87.
(Code 1996, § 4.09.011; Ord. No. O-18-08, 6-16-2008)

Sec. 56-35. Bond; letters of credit; indemnity; insurance.

(a) *General requirements.* The operator shall be required to:

(1) Comply with the terms and conditions of this article and the permit issued hereunder;

(2) Promptly clear drill and operation sites of all litter, trash, waste and other substances used, allowed, or occurring in the operations and, after abandonment or completion, grade, level and restore such property to the same surface conditions as nearly as possible as existed before operations;

(3) Sign each permit and the city shall retain a signed original. Each such permit issued by the city shall include the following language:

"The operator does hereby expressly release and discharge all claims, demands, actions, judgments, and executions which it ever had, or now has or may have, or assigns may have, or claim to have, against the City of Glenn Heights, or its departments, agents, officers, servants, successors, assigns, sponsors, volunteers, or employees, created by, or arising out of personal injuries, known or unknown, and injuries to property, real or personal, or in any way incidental to or in connection with the performance of the work performed by the operator under a permit. The operator shall fully defend, protect, indemnify, and hold harmless the City of Glenn Heights, Texas, its departments, agents, officers, servants, employees, successors, assigns, sponsors, or volunteers from and against every claim, demand, or cause of action and any and all liability, damages, obligations, judgments, losses, fines, penalties, costs, fees, and expenses incurred in defense of the city, its departments, agents, officers, servants, or employees, including, without limitation, personal injuries and death in connection therewith which may be made or asserted by operator, its agents, assigns, or any third parties on account of, arising out of, or in any way incidental to or in connection with the performance of the work performed by the operator under a permit. The operator agrees to indemnify and hold harmless the City of Glenn Heights, Texas, its departments, its officers, agents, servants, employees, successors, assigns, sponsors, or volunteers from any liabilities or damages suffered as a result of claims, demands, costs, or judgments against the city, its departments, its officers, agents, servants, or employees, created by, or arising out of the acts or omissions of the City of Glenn Heights occurring on the drill site or operation site in the course and scope of inspecting and permitting the wells, including, but not limited to, claims and damages arising in whole or in part from the negligence of the City of Glenn Heights occurring on the drill site or operation site in the course and scope of inspecting and permitting gas wells. "IT IS UNDERSTOOD AND AGREED THAT THE INDEMNITY PROVIDED FOR IN THIS SECTION IS AN INDEMNITY EXTENDED BY THE OPERATOR TO INDEMNIFY AND PROTECT THE CITY OF GLENN HEIGHTS, TEXAS AND/OR ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS OR EMPLOYEES FROM THE CONSEQUENCES OF THE NEGLIGENCE OF THE CITY OF GLENN HEIGHTS, TEXAS AND/OR ITS

DEPARTMENTS, AGENTS, OFFICERS, SERVANTS, OR EMPLOYEES, WHETHER THAT NEGLIGENCE IS THE SOLE OR CONTRIBUTING CAUSE OF THE RESULTANT INJURY, DEATH AND/OR DAMAGE";

(4) Promptly pay all fines, penalties and other assessments imposed due to breach of any terms of the permit;

(5) Promptly restore to its former condition any public property damaged by the gas operation.

An operator may not commence or continue with drilling operations unless and until all requirements relative to the bond, letter of credit or insurance are satisfied. Any permit will be suspended, consistent with provisions herein, for failure to maintain in full force and effect any such requirements as stated herein or in the specific use permit and it shall be a specific element of default for such failure.

(b) *Bond; irrevocable letter of credit.* Prior to the issuance of a gas well permit, the operator shall provide the city manager, or designee, with a security instrument in the form of a bond or an irrevocable letter of credit as follows:

(1) A bond shall be executed by a reliable surety, bonding or insurance institution authorized to do business in the state, acceptable to the city. The bond shall become effective on or before the date the gas well permit is issued and shall remain in force and effect for at least a period of six months after the expiration of the permit term or until the well is plugged and abandoned and the site is restored, whichever occurs last. The operator shall be listed as principal and the instrument shall run to the city, as obligee, and shall be conditioned that the operator will comply with the terms and regulations of this article, the specific use permit and all applicable city ordinances. The original bond shall be submitted to the city manager, or designee, with a copy of the same provided to the city secretary;

(2) An irrevocable letter of credit shall be issued by a reliable bank authorized to do business in Texas and shall become effective on or before the date the permit is issued. The letter of credit shall remain in force and effect for at least a period of six months after the expiration of the permit term or until the well is plugged and abandoned and the site is restored, whichever occurs last. The city shall be authorized to draw upon such letter of credit to recover any fines, penalties or costs assessed under this article or for purposes stated herein. Evidence of the execution of a letter of credit shall be submitted to the city by submitting an original signed letter of credit from the banking institution, to the city manager, or designee, with a copy of the same provided to the city secretary;

(3) The principal amount of any security instrument shall be $50,000.00 for any single well. If, after completion of a well, the applicant/operator, who initially posted a $50,000.00 bond or letter of credit, has complied with all of the provisions of this article and whose well in the producing stage and all drilling operations have ceased, may submit a request to the city manager or designee to reduce the existing bond or

letter of credit to $10,000.00 for the remainder of the time the well produces without reworking. During reworking operations, the amount of the bond or letter of credit shall be maintained at $50,000.00. If at any time after no less than a 15-day written notice to the operator and a public hearing, the city council shall deem any operator's bond or letter of credit to be insufficient, it may require the operator to increase the amount of the bond or letter of credit up to a maximum of $250,000.00 per well;

(4) When the city manager, or designee, finds that a default has occurred in the performance of any requirement or condition imposed by this article, the specific use permit, or applicable city ordinance a written notice shall be given to the operator and in accordance with the requirements of the bond or letter of credit. Such notice shall specify the work to be done, the estimated cost and the period of time deemed by the city manager, or designee, to be reasonably necessary for the completion of such work. After receipt of such notice, the operator shall, within the time therein specified, either cause or require the work to be performed, or failing to do so, shall pay over to the city 125 percent of the estimated cost of doing the work as set forth in the notice. In no event, however, shall the cure period be less than 30 days unless the failure presents a risk of imminent destruction of property or injury to persons or unless the failure involves the operator's failure to provide periodic reports as required by this article. The city shall be authorized to draw against any irrevocable letter of credit or bond to recover such amount due from the operator. Upon receipt of such monies, the city shall proceed by such mode as deemed convenient to cause the required work to be performed and completed, but no liability shall be incurred other than for the expenditure of said sum in hand. In the event that the well has not been properly abandoned under the regulations of the commission, such additional money may be demanded from the operator as is necessary to properly plug and abandon the well and restore the drill site in conformity with the regulations of this article;

(5) In the event the operator does not cause the work to be performed and fails or refuses to pay over to the city the estimated cost of the work to be done as set forth in the notice, or the issuer of the security instrument refuses to honor any draft by the city against the applicable irrevocable letter of credit or bond, the city may proceed to obtain compliance and abate the default by way of civil action against the operator, or by criminal action against the operator, or by both such methods. Notwithstanding the foregoing, the city shall avail itself of all available legal remedies against all potential parties, including, but not limited to, persons with an interest in the property, the operator, surety and financial institution;

(6) When the wells covered by said irrevocable letters of credit or bond have been properly abandoned in conformity with all regulations of this article, and in conformity with all regulations of the commission and notice to that effect has been received by the city, or upon receipt of a satisfactory substitute, the irrevocable letter of credit or bond issued in compliance with these regulations shall be terminated and cancelled;

(7) Notwithstanding anything herein to the contrary, the bond or letter of credit may be used for the following non-exhaustive purposes in conjunction with other purposes stated herein, to mitigate public losses suffered by the city associated with a well-based operation emergency, road repair or other infrastructure damages, or sales tax losses.

(c) *Insurance.* In addition to the bond or letter of credit required pursuant to this article, the operator shall carry policies of insurance issued by an insurance company or companies authorized to do business in the state. In the event such insurance policies are cancelled, the permit shall be suspended on such date of cancellation and the operator's right to operate under such permit shall immediately cease until the operator files additional insurance as provided herein:

(1) *General requirements applicable to all policies.*

a. The city, its officials, employees, agents and officers shall be endorsed as an additional insured to all policies except employer's liability coverage under the operator's workers' compensation policy;

b. All policies shall be written on an occurrence basis, except for environmental pollution liability (seepage and pollution coverage) and excess or umbrella liability, which may be on a claims-made basis;

c. All policies shall be written by an insurer with an A- or better rating by the most current version of the A.M. Best Key Rating Guide or with such other financially sound insurance carriers acceptable to the city;

d. Deductibles shall be listed on the certificate of insurance and shall be on a "per occurrence" basis unless otherwise stipulated herein;

e. Certificates of insurance shall be delivered to the City Manager, City of Glenn Heights, 1938 South Hampton Road, Glenn Heights, Texas 75154, evidencing all the required coverages, including endorsements, prior to the issuance of a permit;

f. All policies shall be endorsed with a waiver of subrogation providing rights of recovery in favor of the city;

g. Any failure on the part of the city to request required insurance documentation shall not constitute a waiver of the insurance requirement specified herein;

h. Each policy shall be endorsed to provide the city a minimum 30-day notice of cancellation, non-renewal, or material change in policy terms or coverage;

i. During the term of the permit, the operator shall report, in a timely manner, to the city manager, or designee, any known loss occurrence which could give rise to a liability claim or lawsuit or which could result in a property loss;

j. Upon request, certified copies of all insurance policies shall be furnished to the city;

(2) *Standard commercial general liability policy.* This coverage must include premises, operations, blowout or explosion, products, completed operation, sudden and accidental pollution, blanket contractual liability, underground resources damage, broad form property damage, independent contractors protective liability and personal injury. This coverage shall be a minimum combined single limit of $1,000,000.00 per occurrence location for bodily injury and property damage;

(3) *Excess or umbrella liability.* In an amount of $5,000,000.00 excess, if the operator has a standalone environmental pollution liability (EPL) policy; $10,000,000.00 excess, if the operator does not have a standalone EPL policy. Coverage must include an endorsement for sudden or accidental pollution. If seepage and pollution coverage is written on a claims-made basis, the operator must maintain continuous coverage and purchase extended coverage period insurance when necessary;

(4) *Environmental pollution liability coverage.* The operator shall purchase and maintain in force for the duration of the permit, insurance for environmental pollution liability applicable to bodily injury, property damage, including loss of use of damaged property or of property that has not been physically injured or destroyed; cleanup costs; and defense, including costs and expenses incurred in the investigation, defense or settlement of claims; all in connection with any loss arising from the insured site. Coverage shall be maintained in an amount of at least $1,000,000.00 per loss, with an annual aggregate of at least $10,000,000.00:

a. Coverage shall apply to sudden and accidental pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste material or other irritants, contaminants or pollutants;

b. The operator shall maintain continuous coverage and shall purchase extended coverage period insurance when necessary. The extended coverage period insurance must provide that any retroactive date applicable to coverage under the policy precedes the effective date of the issuance of the permit by the city;

(5) *Control of well.* The policy should cover the cost of controlling a well that is out of control, redrilling or restoration expenses, seepage and pollution damage as first party recovery for the operator and related expenses, including, but not limited to, loss of equipment, experts and evacuation of residents. In an amount of $5,000,000.00 per occurrence/no aggregate, if available, otherwise an aggregate of $10,000,000.00. An amount of $500,000.00 sub-limit endorsement may be added for damage to property for which the operator has care, custody and control;

(6) *Workers' compensation and employers liability insurance.* Workers' compensation benefits shall be Texas statutory limits. Employers' liability shall be a minimum of $500,000.00 per accident. Such coverage shall include a waiver of subrogation in favor of the city and provide coverage in accordance with applicable state and federal laws;

(7) *Automobile liability insurance.* There shall be a combined single limit of $1,000,000.00 per occurrence for bodily injury and property damage. Coverage must include all owned, hired and not-owned automobiles;

(8) *Certificates of insurance.* The company must be admitted or approved to do business in the state, unless the coverage is written by a surplus lines insurer. The insurance set forth by the insurance company must be underwritten on forms that have been approved by the state board of insurance or ISO (insurance services office), or an equivalent policy form acceptable to the city, with the exception of environmental pollution liability and control of well coverage, and set forth all endorsements and insurance coverage according to requirements and instructions contained herein. The notice of cancellation, termination, or change in coverage provisions to the city shall be specifically set forth. All policies shall be endorsed to read: "This policy will not be cancelled or non-renewed without 30 days' advance written notice to the owner and the city except when this policy is being cancelled for nonpayment of premium, in which case, ten days' advance." Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance;

(9) *Notice.* The individual designated to receive notice shall be a resident of the state upon whom all orders and notices provided in this article may be served in person or by registered or certified mail. Every operator shall, within ten days, notify the city manager, or designee, in writing of any change in such agent or mailing address unless operations in the city are discontinued and abandonment is complete.

(Code 1996, § 4.09.013; Ord. No. O-18-08, 6-16-2008)

Secs. 56-36—56-58. Reserved.

ARTICLE III. STANDARDS AND SPECIFICATIONS

Sec. 56-59. Periodic reports.

(a) The operator shall notify the gas inspector of any changes to the following information within ten days after the change occurs:

(1) The name, physical address, telephone number, and fax number, of the operator;

(2) The name, address, and telephone number of the person designated to receive notices from the city (which person must be a resident of the state that can be served in person or by registered or certified mail) or its registered agent; and

(3) The operator's emergency action response plan (including drive-to maps from public rights-of-way to each drill site).

(b) The operator shall notify in writing the gas inspector and the city manager, or designee, of any change to the name, address, and 24-hour phone number of the persons with supervisory authority over drilling or operations activities within one business day of said change.

(c) The operator shall provide a copy of any incident reports or written complaints submitted to the commission and a copy to the city within 15 days after the operator has notice of the existence of such reports or complaints.

(d) Beginning December 31 after each well is completed, and continuing on each December 31 thereafter until the operator notifies the gas inspector and the city manager, or designee, in writing, that the well has been abandoned and the site restored, the operator shall submit a written report to the city manager, or designee, identifying any changes to the information that was included in the application for the applicable permit that have not been previously reported to the city.

(Code 1996, § 4.09.012; Ord. No. O-18-08, 6-16-2008)

Sec. 56-60. On-site and technical regulations.

(a) *Abandoned wells.* All wells shall be abandoned in accordance with the rules of the commission; however, all well casings shall be cut and removed to a depth of at least ten feet below the surface unless the surface owner submits a written agreement otherwise. No structures shall be built over an abandoned well.

(b) *Blowout prevention.* In all cases, blowout prevention equipment shall be used on all wells being drilled, worked-over or in which tubing is being changed. Protection shall be provided to prevent blowout during gas operations as required by and in conformance with the requirements of the commission and the recommendations of the American Petroleum Institute (API). The operator must equip all drilling wells with adequate blowout preventers, flow lines and valves commensurate with the working pressures involved as required by the commission. The operator must conduct daily testing of the operation and pressure, providing a copy of the results of said testing to the city on a weekly basis.

(c) *Chemical and materials storage.* All chemicals or hazardous materials shall be stored in such a manner as to prevent, contain, and facilitate rapid remediation and cleanup of any accidental spill, leak, or discharge of a hazardous material. The operator shall have all material safety data sheets (MSDSs) for all hazardous materials on-site. All applicable federal and state regulatory requirements for the proper labeling of containers shall be followed. Appropriate pollution prevention actions shall be required, and include, but are not limited to, chemical and materials raised from the ground (e.g., wooden pallets), bulk storage, installation and maintenance of secondary containment systems, and protection from stormwater and weather elements.

(d) *Fracture stimulation requirements.* The following requirements shall apply to all fracture stimulation (fracturing) operations performed on a well:

(1) At least 48 hours before operations are commenced, the operator shall post a sign, which complies with subsection (z)(1) of this section, at the entrance of the well site advising the public of the date the operations will commence and an anticipated completion date;

(2) Flowback operations to recover fluids used during fracture stimulation shall be performed during daylight hours only unless the gas inspector approves in writing such operations during non-daylight hours and be continued until completed to prevent damage to formation;

(3) A watchperson shall be required at all times during such operations; and

(4) At no time shall the well be allowed to flow or vent directly to the atmosphere without first directing the flow through separation equipment or into a portable tank.

(e) *Compliance.* The operator shall comply at all times with all applicable federal, state and city requirements.

(f) *Discharge.* No person shall place, deposit, discharge, or cause or permit to be placed, deposited or discharged, any oil, naphtha, petroleum, asphalt, tar, hydrocarbon substances or any refuse, including wastewater or brine from any gas operation or the contents of any container used in connection with any gas operation in, into, or upon any public rights-of-way, alleys, streets, lots, storm drains, ditches or sewers, sanitary drains or any body of water or any private or public property in the city.

(g) *Drilling fluids.* Low toxicity glycols, synthetic hydrocarbons, polymers, and esters shall be substituted for conventional oil-based drilling fluids.

(h) *Drill stem testing.* All open hole formation or drill stem testing shall be done during daylight hours. Drill stem tests may be conducted only if the well effluent during the test is produced through an adequate gas separator to storage tanks and the effluent remaining in the drill pipe at the time the tool is closed is flushed to the surface by circulating drilling fluid down the annulus and up the drill pipe.

(i) *Drip pans and other containment devices.* Drip pans and other containment devices shall be placed or installed underneath all tanks, containers, pumps, lubricating oil systems, engines, fuel and chemical storage tanks, system valves, connections, and any other areas or structures that could potentially leak, discharge, or spill hazardous liquids, semi-liquids, or solid waste materials.

(j) *Dust, vibration, and odors.* All drilling and production operations shall be conducted in such a manner as to minimize, so far as practicable, dust, vibration, or noxious odors, and shall be in accordance with the best accepted practices incident to drilling for the production of gas and other hydrocarbon substances. All equipment used shall be so constructed and operated so that vibrations, dust, odor or other harmful or annoying substances or effects will be minimized by the operations carried on at any drilling or production site or from anything incident thereto, to the injury or annoyance of persons living in the vicinity; nor shall the site or structures thereon be permitted to become dilapidated, unsightly or unsafe. Proven technological improvements as identified by the gas inspector in industry standards of drilling and production in this area may be adopted as they become available if capable of reducing factors of dust, vibration and odor.

(k) *Electric lines.* All electric lines to production facilities shall be located in a manner compatible to those already installed in the surrounding area or subdivision.

(l) *Electric motors.* Only electric prime movers or motors shall be permitted for the purpose of pumping wells. No electric power shall be generated on location. All electrical installations and equipment shall conform to the city's ordinances and the appropriate national codes.

(m) *Emergency response plan.* Prior to the commencement of any gas or other hydrocarbons production activities, the operator shall submit to the city manager or designee an emergency response plan establishing written procedures to minimize any hazard resulting from drilling, completion or producing of gas wells. Said plan shall use existing guidelines established by the commission, Texas Commission on Environmental Quality (TCEQ), state department of transportation or the U.S. Environmental Protection Agency (USEPA). The emergency response plan shall be kept current with any additions, modifications, or amendments concerning all construction-related activities, natural gas operations and/or natural gas production. Updated plans shall be submitted to the gas inspector within two business days. A copy of the emergency response plan shall be kept on site.

(n) *Explosive charges.* Under no circumstances shall explosives of any type be used during any phase of drilling, redrilling, deepening, re-entering, activating, converting, fracturing, or completing a gas well without the prior consent of the fire department. The operator shall provide notice to the gas inspector at least ten days prior to such activities. The notice shall identify the date that the explosive charges will be used, the date and means of transporting the explosive charges, and the transportation route to and from the drill or operation site that will be used for the delivery of the explosive charges. A special use permit shall be issued from the fire marshal.

(o) *Fire prevention; sources of ignition.* Firefighting apparatus and supplies as approved by the fire department and required by any applicable federal, state, or local law shall be provided by the operator, at the operator's cost, and shall be maintained on the drilling site at all times during drilling and production operations. The operator shall be responsible for the maintenance and upkeep of such equipment. Each well shall be equipped with an automated valve that closes the well in the event of an abnormal change in operating pressure. All well heads shall contain an emergency shut-off valve to the well distribution line.

(p) *Flaring operations.* The agent must notify the gas inspector, fire marshal, and city's dispatch no later than 48 hours before flaring will commence. Flaring must be located at a safe distance, with piping secured. The on-site supervisor or responsible party must be on site once flaring has commenced and until flaring is completed. A separate watchperson shall be posted at the gate and be responsible for accountability during these operations.

(q) *Gas emission or burning restricted.* No person shall allow, cause or permit gases to be vented into the atmosphere or to be burned by open flame except as provided by law or as permitted by the commission. If the venting of gases into the atmosphere or the burning of

gases by open flame is authorized as provided by law or as permitted by the commission, then such vent or open flame shall not be located closer than 500 feet from any building not used in operations on the drilling site, and such vent or open flame shall be screened in such a way as to minimize detrimental effects to adjacent property owners.

(r) *Grass, weeds, and trash.* All drill and operation sites shall be kept clear of high grass, weeds, and combustible trash.

(s) *Lights.* No person shall permit any lights located on any drill or operation site to be directed in such a manner so that they shine directly on public roads, adjacent property or property in the general vicinity of the operation site. To the extent practicable, and taking into account safety considerations, site lighting shall be directed downward and shielded so as to both prevent direct illumination of and minimize glare on public roads and adjacent dwellings and buildings within 600 feet.

(t) *Muffling exhaust.* Exhaust from any internal combustion engine, stationary or mounted on wheels, used in connection with the drilling of any well or for use on any production equipment shall not be discharged into the open air unless it is equipped with an exhaust muffler or an exhaust muffler box constructed of noncombustible materials sufficient to suppress noise and prevent the escape of obnoxious gases, fumes or ignited carbon or soot. All formation fracturing operations shall be conducted during daylight hours unless the operator has notified the gas inspector that fracturing will occur before or after daylight hours to meet safety requirements.

(u) *Organic solvents.* Organic solvents, such as trichloroethylene and carbon tetrachloride, shall not be used for cleaning any element, structure, or component of the drilling rig, platform, or associated equipment, tools, or pipes. To the maximum extent practicable, high flash point Varsol™ shall be used.

(v) *Pipe dope.* Lead-free, biodegradable pipe dope shall be substituted for API specified pipe dope.

(w) *Pits.* All reserve pits, completion/workover pits, drilling fluid disposal pits, fresh makeup water pits, gas plant evaporation/retention pits, mud circulation pits, or water condensate pits shall be lined with plastic or stored above ground in tanks. The water surface elevation of the pit may not exceed 12 inches above the existing ground elevation prior to any on-site construction of the pit. One foot of freeboard is required between the surface elevation and on top of berm. Such pits and contents shall be removed from the premises and the drilling site within 40 days after completion of the well, unless otherwise authorized by the gas inspector. No wash-out pits shall be located within the city unless all fluid, sludge, solid waste materials, drilling fluids, waste oil, spent completion fluids, all other liquids, semi-liquids, mud, including hazardous waste inseparable by simple mechanical removal processes, and is made up primarily of natural material, is immediately captured within a fully enclosed, aboveground containment tank.

(x) *Private roads and drill sites.* Prior to the commencement of any drilling operations, all private roads used for access to the drill site and the operation site itself shall be at least 26 feet wide, have an overhead clearance of 14 feet and be an all-weather hard surface and maintained to prevent dust, mud and rutting. In particular cases these requirements governing surfacing of private roads may be altered at the discretion of the municipal services department after consideration of all circumstances, including, but not limited to, the following: distances from public streets and highways; distances from adjoining and nearby property owners whose surface rights are not leased by the operation; the purpose for which the property of such owners is or may be used; topographical features; nature of the soil; and exposure to wind. The minimum approach shall be concrete for 50 feet and have a minimum turn radius of 12 feet on the approach.

(y) *Saltwater wells.* No saltwater disposal wells shall be located within the city.

(z) *Signs.*

(1) A sign shall be immediately and prominently displayed at the gate on the temporary and permanent site fencing erected pursuant to this article. Such sign shall be durable material, be maintained in good condition and, unless otherwise required by the commission, have a surface area of not less than 16 square feet with contrasting lettering not less than four inches tall, and be lettered with the following:

a. The well name and number;

b. The name of the operator;

c. The emergency 911 number; and

d. 24-hour telephone numbers of two persons responsible for the well who may be contacted in case of emergency;

(2) Permanent weatherproof signs reading "DANGER NO SMOKING ALLOWED" in both English and Spanish shall be posted immediately upon completion of the well site fencing at the entrance of each well site and tank battery or in any other location approved or designated by the fire department. Sign lettering shall be four inches in height and shall be red on a white background or white on a red background. Each sign shall include the emergency notification numbers of the fire department and the operator, well and lease designations required by the commission.

(aa) *Storage of equipment.* On-site storage is prohibited on the operation site. No equipment shall be stored on the drilling or production operation site, unless it is necessary to the everyday operation of the well. Lumber, pipes, tubing and casing shall not be left on the operation site except when drilling or well servicing operations are being conducted on the site. No vehicle or item of machinery shall be parked or stored on any street, right-of-way or in any driveway, alley or upon any operation site which constitutes a fire hazard or an obstruction to or interference with fighting or controlling fires. The fire department shall be the entity that determines whether equipment on the site shall constitute a fire hazard. No

refinery, processing, treating, dehydrating or absorption plant of any kind shall be constructed, established or maintained on the premises. This shall not be deemed to exclude a conventional gas separator or dehydrator.

(bb) *Storage tanks.* All tanks and permanent structures shall conform to the API specifications unless other or additional specifications are approved by the fire department. All storage tanks shall be equipped with a secondary containment system, including lining with an impervious material. The secondary containment system shall be a minimum of three feet in height and 1½ times the contents of the largest tank in accordance with the fire code and buried at least one foot below the surface. Drip pots shall be provided at the pump-out connection to contain the liquids from the storage tank. All tanks shall be set back pursuant to the standards of the commission and the National Fire Protection Association. Each storage tank shall be equipped with a level control device that will automatically activate a valve to close the well in the event of excess liquid accumulation in the tank. No meters, storage tanks, separation facilities, or other aboveground facilities, other than the well head and flow lines, shall be placed in a floodway identified by FEMA on the most current FIRM. Meters, storage tanks, separation facilities, or other aboveground facilities proposed in the floodplain shall be outside of the floodway and shall comply with the requirements for development in the city Code

(cc) *Tank battery facilities.* Tank battery facilities shall be equipped with a remote foam line and a lightning arrestor system.

(dd) *Surface casing.* Surface casing shall be run and set in full compliance with the applicable rules and regulations of the commission.

(ee) *Valves.* Each well must have a shut-off valve to terminate the well's production. The fire department shall have access to the well site to enable it to close the shut-off valve in an emergency.

(ff) *Waste disposal.* Unless otherwise directed by the commission, all tanks used for storage shall conform to the following: The operator must use portable closed steel storage tanks for storing liquid hydrocarbons. Tanks must meet the API standards. All tanks must have a vent line, flame arrester and pressure relief valve. All tanks must be enclosed by a fence applicable to the issued permit classification. Drilling mud, cuttings, liquid hydrocarbons and all other field waste derived or resulting from or connected with the drilling, reworking or deepening of any well shall be discharged into an aboveground self-contained tank or, after authorization by the city manager or designee, a lined pit. All disposals must be in accordance with the rules of the commission and any other appropriate local, state or federal agency. Unless otherwise directed by the commission and approved by the gas inspector, waste materials shall be removed from the site and transported to an off-site disposal facility not less often than every 30 days. Water stored in on-site tanks shall be removed as necessary. All waste shall be disposed of in such a manner as to comply with the applicable federal and state air and water pollution control regulations, this article and any other applicable ordinance of the city.

(gg) *Watchperson.* The operator must keep a watchperson or security personnel on site during the drilling or reworking of a well when other workers are not on the premises.

(hh) *Installation of pipelines on, under or across public property.* The operator shall apply to the city for a right-of-way use agreement on, over, under, along or across the city streets, sidewalks, alleys and other city property for the purpose of constructing, laying, maintaining, operating, repairing, replacing and removing pipelines. The operator shall:

(1) Not interfere with or damage existing water, sewer or gas lines or the facilities of public utilities located on, under or across the course of such rights-of way. The operator shall be responsible for the repair of any existing water, sewer or gas lines damaged as a result of use of the right-of-way;

(2) Furnish to the city manager, or designee, a site plan showing the location of such pipelines;

(3) Construct such lines out of pipe in accordance with the city codes and regulations;

(4) Grade, level and restore such property to the same surface condition, as nearly as practicable, as existed prior to the laying of the pipeline.

(ii) *Public streets.* No permit shall be issued for any well to be drilled within any of the streets or alleys of the city or projected streets or alleys shown by the city's current comprehensive plan, and no street or alley shall be blocked or encumbered or closed due to any exploration, drilling or production operations unless prior written consent is obtained from the city manager or designee. Any consent from the city manager or designee shall be temporary in nature and state the number of hours or days that any street or alley may be blocked, encumbered or closed. The site must not conflict with the city's thoroughfare plan.

(jj) *Vehicle routes for gas well permits.* Vehicles associated with drilling or production in excess of three tons shall be restricted to state arterials and, where local access is required, to those arterials, collectors or commercial routes designated on the city's thoroughfare plan and shall be identified on the site plan submitted as part of the specific use permit.

(kk) *Work hours for gas well permits.* Site development, other than drilling or fracturing, shall be conducted only between 7:00 a.m. and 7:00 p.m. Monday through Saturday. Truck deliveries of equipment and materials associated with drilling or production, well servicing, site preparation and other related work conducted on the well site shall be limited to between the same work-hour restrictions as above except in cases of fires, blowouts, explosions, and any other emergencies or where the delivery of equipment is necessary to prevent the cessation of drilling or production. The operator may request an exception from work hours and days from the city council, pursuant to section 56-87, or be set forth in the specific use permit as a condition of approval.

(ll) *Noise restrictions for gas well permits.* A noise management plan shall be submitted with the specific use permit and shall constitute a condition of approval. In addition to any restrictions or requirements set forth in the specific use permit, the following restrictions shall apply:

(1) During drilling, redrilling or reworking, and flaring no on-site activity shall produce a sound level greater than 78 dB(A) when measured at a distance of 300 feet from the drilling equipment in question;

(2) During fracturing, no on-site activity shall produce a sound level greater than 85 dB(A) when measured at a distance of 300 feet from the drilling equipment in question;

(3) During production, no on-site activity shall produce a sound level greater than 65 dB(A) when measured at a distance of 300 feet from any on-site equipment in question;

(4) Sound level measurements shall be made with a sound level meter conforming as a minimum, to the requirements of the American National Standards Institute (ANSI);

(5) If sound levels exceed the dB(A) levels referenced in this subsection (ll), the gas inspector may require additional sound reducing techniques and devices, including, but not limited to, sound-reducing mufflers, including, but not limited to, hospital grade mufflers on equipment.

(mm) *Tank specifications for gas well permit.* All tanks and permanent structures shall conform to the API specifications unless other specifications are approved by the fire department. The top of the tanks shall be no higher than 12 feet above the terrain surrounding the tanks.
(Code 1996, § 4.09.014; Ord. No. O-18-08, 6-16-2008)

Sec. 56-61. Fences; screening.

(a) Throughout the entire exploration, drilling, and production process, there shall be screening improvements (fences, walls, berms and landscaping) required during each phase of the process, including, but not limited to, the following; provided, however, additional landscaping, buffers and noise barriers may be included as conditions of approval of the specific use permit:

(1) *Rig-up exploration through completion (drilling phase) to production.* Once the pad site is prepared, a temporary chain link fence with all-weather screening fabric at least six feet in height shall be established around the entire operation site to obscure view of the gas drilling activities. The temporary fence shall remain standing and in a serviceable condition throughout this phase. A secured entrance gate shall be required. All gates are to be kept locked when the operator or employees are not within the enclosure. A Knox Padlock or Knox Box with a key shall be provided to access the well site to be used only in case of an emergency. Once drilling of the hole is complete, the operator shall install a permanent masonry wall within 90 days if no further work is to be accomplished;

(2) *Completion through abandonment (production phase).* Once gas has entered the pipeline, the production phase begins and a masonry wall with landscaping shall be required to enclose and visually screen the well and all associated equipment. An

earthen berm may also be required. The masonry walls, berms, and landscaping shall be in compliance with standard engineering and design practices and shall meet the following minimum requirements:

a. The masonry wall material and design shall be generally compatible with the design of similar facilities, buildings and structures on or adjacent to the site;

b. Masonry walls shall be at least eight feet in height;

c. Masonry walls shall be placed upon earthen berms in order to prevent viewing of the well and associated equipment from a public street, playground, competition athletic field or picnic area within a public park, existing residences and residentially zoned undeveloped property contiguous to the well site where practicable as determined by the city manager or designee. However, the above-mentioned berms shall not be required unless needed to augment the height of an eight-foot masonry wall in order to prevent the viewing of the well or any associated equipment from the above items;

d. All landscape improvements shall be maintained in an attractive and healthy state by the applicant or operator so as to ensure the effective visual screening of the site throughout its use for gas production and associated activities;

e. Screening shrubs and trees shall be evergreen species and shall be installed in conjunction with the required masonry walls or berms in order to supplement both the visual screening and noise mitigation of the well site and associated equipment. Screening shrubs shall be a minimum of five feet in height at planting, having the potential to grow to a mature height of at least eight feet, be planted on four-foot centers and must have an irrigation system that provides total water coverage to all plant materials. Screening trees shall be planted on 20-foot centers. Trees must be a minimum of three-inch caliper at time of planting and be irrigated as above. All screening shrubs and trees will comply with a list of shrubs and trees approved by the city council. Plans for landscape and irrigation shall be submitted to the planning and development department for approval.

(b) All temporary fences and masonry walls shall be equipped with at least one gate. The gate shall meet the following specifications:

(1) Each gate shall be not less than 12 feet wide and be composed of two gates, each of which is not less than six feet wide, or one sliding gate not less than 12 feet wide. If two gates are used, gates shall latch and lock in the center of the span;

(2) The gates shall be of chain-link construction, with all-weather screening fabric, that meets the applicable specifications, or of other approved material that, for safety reasons, shall be at least as secure as a chain-link fence;

(3) The gates shall be provided with a combination catch and locking attachment device for a padlock and shall be kept locked except when being used for access to the site;

(4) The operator must provide the fire department with a Knox Padlock or a Knox Box with a key to access the well site to be used only in case of an emergency;

(5) At each gate there shall be a sign that reads "no trespassing."

(Code 1996, § 4.09.015; Ord. No. O-18-08, 6-16-2008)

Sec. 56-62. Cleanup and maintenance.

(a) *Cleanup after well servicing.* After the well has been completed or plugged and abandoned, the operator shall clean the drill site or operation site, complete restoration activities and repair all damage to public property caused by such operations within 60 days.

(b) *Cleanup after spills, leaks and malfunctions.* After any spill, leak or malfunction, the operator shall remove or cause to be removed to the satisfaction of the fire department and the gas inspector all waste materials from any public or private property affected by such spill, leak or malfunction. Cleanup operations must begin immediately. If the owner fails to begin site cleanup within 24 hours, the city shall have the right to contact the commission in order to facilitate the removal of all waste materials from the property affected by such spill, leak or malfunction.

(c) *Painting.* All production equipment shall be painted and maintained at all times, including well heads, pumping units, tanks, and buildings or structures. When requiring painting of such facilities, the gas inspector shall consider the deterioration of the quality of the material of which such facility or structure is constructed, the degree of rust, and its appearance. Paint shall be of a neutral color, compatible with surrounding uses. Neutral colors shall include sand, gray and unobtrusive shades of green, blue and brown, or other neutral colors approved by the planning and development department.

(d) *Blowouts.* In the event of the loss of control of any well, the operator shall immediately take all reasonable steps to regain control regardless of any other provision of this article and shall notify the gas inspector and fire department as soon as practicable. The gas inspector shall certify in writing, briefly describing the same, to the city manager. If the city manager, in the city manager's opinion, believes that danger to persons and property exists because of such loss of well control and that the operator is not taking or is unable to take all reasonable and necessary steps to regain control of such well, the city may then employ any well control experts or other contractors or suppliers of special services, or may incur any other expenses for labor and material which the city deems necessary to regain control of such well. The city shall then have a valid priority lien against the interest in the well of all working interest owners to secure payment of any expenditure made by the city pursuant to such action of the gas inspector in gaining control of said well.

(Code 1996, § 4.09.016; Ord. No. O-18-08, 6-16-2008)

Sec. 56-63. Plugged and abandoned wells.

(a) *Surface requirements for plugged and abandoned wells.* Whenever abandonment occurs pursuant to the requirements of the commission, the operator so abandoning shall be responsible for the restoration of the well site to its original condition as nearly as practicable, in conformity with the regulations of this article.

(b) *Restoration requirements.* Abandonment shall be approved by the city manager or designee after restoration of the drill or operation site has been accomplished in conformity with the following requirements at the discretion of the city manager or designee:

(1) The derrick and all appurtenant equipment thereto shall be removed from the site;

(2) All tanks, towers, and other surface installations shall be removed from the site;

(3) All concrete foundations, piping, wood, guy anchors and other foreign materials, regardless of depth, except surface casing, shall be removed from the site, unless otherwise directed by the commission;

(4) If any soil was contaminated, it shall be removed from the site in accordance with city, state and federal regulations;

(5) All holes and depressions shall be filled with clean, compactible soil;

(6) All waste, refuse or waste material shall be removed from the site; and

(7) During abandonment, the operator shall comply with all applicable sections in this article.

(c) *Abandoned well requirements.* The operator shall furnish the following to the gas inspector:

(1) A copy of the approval of the commission confirming compliance with all abandonment proceedings under the state law; and

(2) A notice of intention to abandon under the provisions of this section and stating the date such work will be commenced. Abandonment may then be commenced on or subsequent to the dates so stated.

(d) *Abandonment requirements prior to new construction.* All abandoned or deserted wells or drill sites shall meet the most current abandonment requirements of the commission prior to the issuance of any building permit for development of the property. No structure shall be built over an abandoned well.

(e) *Approval required.* The operator can only abandon a well if the city manager or designee has reviewed and approved the abandonment.
(Code 1996, § 4.09.017; Ord. No. O-18-08, 6-16-2008)

Sec. 56-64. Technical advisor.

The city may from time to time employ technical advisors who are experienced and educated in the gas industry or the law as it pertains to gas matters. The function of such advisors shall be to advise, counsel or represent the city on such matters relating to gas operations within the city as the city may want or require and the effect thereof, both present and future, on the health, welfare, comfort and safety of the citizens of the city. In the event such technical advisors are employed for the purpose of advising, counseling or representing the city relative to an operator's unique and particular set of circumstances, case or request relating to this article, then the cost for such services of such technical advisors shall be

assessed against and paid for by such operator in addition to any fees or charges assessed pursuant to this article. Prior to the employment of a technical advisor, the city shall inform the operator of the intended scope of work and the estimated costs and expenses. The employment of a technical advisor shall be approved by the city council.
(Code 1996, § 4.09.018; Ord. No. O-18-08, 6-16-2008)

Secs. 56-65—56-86. Reserved.

ARTICLE IV. APPEALS, FEES, AND PENALTIES

Sec. 56-87. Appeals.

(a) The city council shall hear and decide appeals of orders, decisions, or determinations made by the city manager, or designee, relative to the application and interpretation of this article.

(b) The city council shall decide by majority vote requests for deviations specifically authorized by this article, such as distance of drilling sites from certain structures and improvements, and hours of operation. The city council is likewise authorized to decide, by majority vote, requests for deviations from landscape and screening requirements. Relevant considerations in determining whether such requests should be granted include the nature and remoteness of the site, the wishes of the owners of the immediately adjacent property impacted by the request, and any proposed measures to offset the impact of the request. The city council may impose restrictions to offset the impact of the requests. Requests shall be in writing stating the rationale for the deviation and shall be accompanied by a filing fee in the amount established in section 56-88.

(c) (1) The city council shall have and exercise the authority to hear and determine appeals where it is alleged there is error or abuse of discretion regarding the issuance of a gas well permit or the revocation or suspension of any permit issued hereunder, and as provided by this article. Any person or entity whose application is denied by the city manager or designee, or whose permit is suspended or revoked, may file an appeal to the city council. Such appeal shall be in writing, specifying the error or abuse of discretion and shall be accompanied by a filing fee in the amount established in section 56-88. The city council may request additional information and take testimony from fact and expert witnesses;

(2) The city council shall review the appeal and any other related information. The city council in deciding appeals regarding the issuance of a gas well permit or its revocation or suspension shall consider the grounds for the action appealed from and whether an error of fact or in interpretation of these regulations occurred. The city council may reverse or modify the action appealed from by a majority vote. The only basis for a reversal or modification shall be error in applying these regulations; hardship shall be irrelevant;

(3) Appeals of any condition of the specific use permit shall be in accordance with the provisions of chapter 60 as it exists and as it may be amended.

(d) Notice shall be provided of the date, time and place of a hearing for each request for a deviation and appeal by mailing such notice to the owner of record of each parcel of property located within 600 feet of the well within the city and to the city secretary of each city within such distance. Such notice shall be mailed at least ten days prior to such hearing.

(e) Judicial review of council decisions on appeals.

(1) Any of the following persons may present to a district court of Dallas and Ellis Counties a verified petition requesting that a writ of certiorari be issued stating that the decision of the city council is illegal in whole or in part and specifying the grounds of the illegality:

a. The person whose appeal was denied; or

b. A city taxpayer;

(2) The petition must be received for filing by the clerk of the district court within ten days after the date the decision is made by the city council;

(3) On the presentation of a verified petition meeting the foregoing requirements, the court may grant a writ of certiorari directed to the city council to review the city council's decision. The writ must indicate the time by which the council's return must be made and served on the petitioner's attorney, which must be after ten days and may be extended by the court. Granting of the writ does not stay the proceedings on the decision under appeal, but on application and after notice to the city council the court may grant a restraining order if due cause is shown;

(4) The city council's return must concisely state any pertinent and material facts that show the grounds of the decision under appeal. The council is not required to return the original documents on which the council acted but may return certified or sworn copies of the documents or parts of the documents as required by the writ;

(5) If, after receiving the return, the court determines that there is substantial evidence in such return to constitute grounds for reasonable persons to differ as to whether the action of the city council in denying the appeal was lawful, the court shall affirm the decision. If the court finds that there is insufficient information contained in such return to make such a determination, and that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take evidence as directed. The referee shall report the evidence to the court with the referee's findings of fact and conclusions of law. The referee's report constitutes a part of the proceedings on which the court shall make its decision;

(6) The court may reverse or affirm, in whole or in part, or modify the decision that is appealed. Costs shall not be assessed against the city council.

(Code 1996, § 4.09.019; Ord. No. O-18-08, 6-16-2008)

Sec. 56-88. Gas well fees.

(a) For services rendered, the fees shall be as provided in the city fee schedule.

(b) The city council or city manager shall pass through the actual cost of any non-employee expert deemed necessary to advise or provide a service to the city to protect the health, safety and welfare of the citizens of the city.

(c) No blanket well permits will be issued.

(Code 1996, § 4.09.020; Ord. No. O-18-08, 6-16-2008)

Sec. 56-89. Penalty.

(a) It is unlawful and an offense for any person to intentionally or knowingly:

(1) Engage in any activity not permitted by the terms of a gas well permit issued under this article;

(2) Fail to comply with any condition set forth in a gas well permit issued under this article; or

(3) Violate any provision or requirement set forth under this article.

(b) Any violation of this article shall be punished by a fine not exceeding $2,000.00 per violation per day, subject to applicable state law. Each day that a violation exists shall constitute a separate offense.

(c) The penalty provided herein shall be cumulative of other remedies provided by state law, including, but not limited to, the recovery of civil penalties under V.T.C.A., Local Government Code ch. 54. The city may institute any appropriate action or proceeding in a court of competent jurisdiction to enjoin the violation of this article. The power of injunction may be exercised in enforcing this article whether or not there has been a criminal complaint filed.

(Code 1996, § 4.09.021; Ord. No. O-18-08, 6-16-2008)

Chapter 57

RESERVED

Chapter 58

LANDSCAPING, FENCING, SCREENING, AND LIGHTING

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ARTICLE I. IN GENERAL

Sec. 58-1. Intent and purpose.

It is the intent of this chapter to:

(1) Establish minimum requirements for the installation and maintenance of landscaping and screening elements that preserve and improve the natural and urban environment. Recognize that the use of landscaping elements can contribute to the processes of air purification, oxygen regeneration, groundwater recharge, provision of habitats for wildlife, and enhance the aesthetic qualities of the city.

(2) Protect and conserve the community's soils and prevent soil erosion and silting of drainage structures and water bodies, as well as reducing the impact of development on the community's storm drainage system.

(3) Reduce the negative effects, such as increases in noise, heat, and glare, and the spread of dust and debris, caused by expanses of impervious and nonvegetated surfaces creating an urban heat island within the urban environment.

(4) Ensure an acceptable degree of transition and reduce incompatibility between abutting or nearby uses of different character by providing visual buffering between such uses.

(5) Indirectly influence a rise in property values by eliminating nuisances, increasing security, and improving the general appearance of the city.

(Code 1996, § 15.02.002; Ord. No. O-08-13, 5-7-2013)

Sec. 58-2. Definitions.

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

Automatic controller means a mechanical or electronic timer, capable of operating valve stations to set the days and length of time of a water application.

CCRs means covenants, codes and restrictions.

Dilapidated fence means a fence which is decayed, deteriorated, or fallen into partial ruin.

Easement means a right created by grant, reservation, agreement, prescription, or necessary implication, which one has in the land of another. An easement is either for the benefit of appurtenant land, such as for the right to cross, or egress, such as a public utility easement, or in the specific, such as an exclusive utility easement. An easement may or may not have descriptive bounds.

Emitter means devices which are used to control the applications of irrigation water. The term "emitter" is primarily used to refer to the low flow rate devices used in micro-irrigation systems.

Fence means any new fence, wall, boundary enclosure, or screening device commonly referred to herein as "fence."

Ground cover means plants, other than turf grass, normally reaching an average maximum height of not more than 24 inches at maturity.

HOA means homeowners' association.

Infiltration rate means the rate of water entry into the soil expressed as a depth of water per unit of time (inches per hour).

Integrated stormwater management (ISWM) means a site development design manual developed by the North Central Texas Council of Governments (NCTCOG).

Irrigation system means a permanent artificial watering system that is designed to transport and distribute water to plants.

Irrigator means a person who holds a license to practice irrigation in the state.

Landscape architect means a person who holds a license to practice landscape architecture in the state.

Landscaped area means the entire parcel, less the building, footprint, driveways, nonirrigated portions of parking lots, landscapes, such as decks and patios, and other nonporous areas.

Landscaping means any combination of living plants (such as grass, ground cover, shrubs, vines, hedges, or trees) and nonliving landscape material (such as rocks, pebbles, sand, mulch, walls, fences, or decorative paving materials).

Mechanical equipment screening wall or *mechanical equipment screening fence* means a wall, fence, or architectural extension, that may be part of the structure or stand alone, that screens from view the standalone mechanical systems of a structure, mechanical roof-mounted equipment and similar type installations so that visibility through the wall shall be prevented from the exterior side of the wall or architectural extension.

Micro-irrigation (low volume) means the frequent application of small quantities of water directly on or below the soil surface, usually as discrete drops, tiny streams, or miniature sprays through emitters placed along the water delivery pipes (laterals). The term "micro-irrigation" encompasses a number of methods or concepts, including drip, subsurface, bubbler, and spray irrigation, previously referred to as trickle irrigation, low volume, or low flow irrigation.

Mulch means living, organic or synthetic materials customarily used in landscape design to retard erosion and retain moisture.

Native vegetation means any plant species with a geographic distribution indigenous to all, or part, of the state.

Naturally occurring existing plant communities. See *Native vegetation.*

NCTCOG means the North Central Texas Council of Governments.

Outside storage means the storage of commodities, goods or refuse outside of an enclosed building.

Pervious paving materials means a porous asphaltic or concrete surface and a void aggregate base which allows for rapid infiltration and temporary storage of rain on, or runoff delivered to, paved surfaces.

Plant communities means a natural association of plants that are dominated by one or more prominent species, or a characteristic physical attribute.

Public right-of-way means a strip of land which is used as a roadbed for a street, alley or highway intended for use by the public at large, or land set aside as an easement or in fee, either by agreement or condemnation.

Rain sensor device means a low voltage electrical or mechanical component placed in the circuitry of an automatic lawn irrigation system which is designed to turn off a sprinkler controller when precipitation has reached a preset quantity.

Rainwater harvesting zone means a landscape zone that is designed for the purpose of capturing, filtering, reusing or infiltrating rainwater with the intended purpose of protecting and conserving water resources.

Rear yard means a yard extending across the full width of the lot, the depth of which is the horizontal distance between the rear lot line and a line parallel to it at the building line.

Runoff means water or liquid that is not absorbed by the soil or landscape to which it is applied and flows from the area.

Site-specific plant means a selection of plant material that is particularly well suited to withstand the physical growing conditions that are normal for a specific location.

Soil texture means the classification of soil based on the percentage of sand, silt, and clay in the soil.

Structural soil means a soil medium, which is designed to meet or exceed pavement load bearing requirements while remaining root penetrable and supportive of tree growth.

Temporary irrigation means an irrigation system that is used to establish native and adapted plants species and is removed after a one-year establishment period.

Turf or *turf grass* means continuous plant coverage consisting of grass species suited to growth in the city.

Valve means a device used to control the flow of water in the irrigation system.

Visibility triangle means:

(1) *Intersections where an alley intersects a public street right-of-way.* The areas on both sides of the intersection of an alley and a public street shall have a triangular

visibility area with two sides of each triangle being a minimum of ten feet in length from the point of intersection, and the third side being a line connecting the ends of the other two sides.

(2) *A street intersection or intersection of a private driveway onto a public street.* These areas shall have a triangular visibility area with two sides of each triangle being a minimum of 25 feet in length along the right-of-way lines (or along the driveway curbline and the street right-of-way line) from the point of the intersection, and the third side being a line connecting the ends of the other two sides.

Water use zone means a grouping of sprays, sprinklers, or micro-irrigation emitters so that they can be operated simultaneously by the control of one valve according to the water requirements of the plants used.
(Code 1996, § 15.02.007; Ord. No. O-08-13, 5-7-2013)

Sec. 58-3. Applicability and scope.

(a) The landscaping standards and criteria contained within this chapter are deemed to be minimum standards and shall apply to all new developments and existing developments that are expanding or redeveloping 30 percent or more land or building or both within the city. HOAs and CCRs for residential developments shall not overrule the provisions of this chapter by penalizing or restricting water conserving landscapes or requiring landscape materials that do not comply with this chapter.

(b) Any new fence, wall, boundary enclosure, or screening device erected or altered in the city shall be in conformance with the standards and requirements of this chapter. Any fence constructed prior to the adoption of the ordinance from which this chapter is derived shall be required to be in compliance with this chapter whenever the fence is repositioned, upgraded, or replaced. Regular maintenance of a fence erected prior to the adoption of the ordinance from which this chapter is derived that costs more than 50 percent of the total market price of the fence shall be required to be in compliance with this chapter. In the case of a pre-existing nonconforming fence that has become unsafe, dilapidated, or a public nuisance, the nonconforming fence shall be repaired or replaced in compliance this chapter and any permits required by the city.
(Code 1996, § 15.02.003; Ord. No. O-08-13, 5-7-2013)

Sec. 58-4. Conflict and compliance.

In the event of conflict between this chapter and other laws, the most restrictive standard applies.
(Code 1996, § 15.02.004; Ord. No. O-08-13, 5-7-2013)

Sec. 58-5. Enforcement.

The provisions of this chapter shall be administered and enforced by the code enforcement officer of the city as appointed by the city manager or designee.

(1) *Violation.* Failure to comply with the provisions of this chapter shall constitute a violation of this chapter. Every day a violation occurs or continues to occur, shall constitute a separate offense.

(2) *Penalty.* Any person, firm or corporation who violates any provision of this chapter shall be guilty of a misdemeanor and shall be punished by a fine, upon conviction, in an amount not to exceed $500.00.

(Code 1996, § 15.02.005; Ord. No. O-08-13, 5-7-2013)

Sec. 58-6. Waiver.

Request for a waiver from any provision of this chapter shall be processed in the manner provided by section 52-2.

(Code 1996, § 15.02.006; Ord. No. O-08-13, 5-7-2013)

Secs. 58-7—58-32. Reserved.

ARTICLE II. REVIEW AND INSPECTIONS

Sec. 58-33. Review process.

The required landscape documents as outlined under section 58-34 shall be submitted for review with the complete site plan application required by the city's zoning concept plan and site plan review process. Permits for building, paving, utilities, or construction shall not be issued prior to an approval and construction release of required landscape documents by the city.

(Code 1996, § 15.02.031; Ord. No. O-08-13, 5-7-2013)

Sec. 58-34. Landscape and irrigation plan requirement.

(a) *Qualifications to prepare plans.* For all lots greater than or equal to one acre, landscape plans shall be prepared by a registered landscape architect. For lots less than one acre, a landscape designer or landscape contractor, knowledgeable in plant materials and landscape design, may prepare the landscape plan. Irrigation plans shall be prepared by a licensed irrigator or professional engineer.

(b) *Landscape plan requirements.* Proposed landscape plans shall be prepared by a landscape architect (if applicable), be submitted on 24-inch by 36-inch sheets of paper, and shall include the following information:

(1) An acceptable scale: one inch equals ten feet, one inch equals 20 feet, one inch equals 30 feet, or as approved;

(2) A north arrow, graphic and written scale;

(3) An appropriate title (i.e., landscape plan);

(4) The title block, including street address, legal description, and date of preparation;

(5) The name and address of the owner;

(6) The name, address and telephone number of the person preparing plan;

(7) The property line, shown with dimensions;

(8) The existing utilities (water, sewer, storm drain, gas, electric, cable television, etc.);

(9) The width and type of buffer yards, labeled on all sides;

(10) The location, caliper size and species of all existing trees six inches caliper or greater which are to be preserved;

(11) The location of all plants and other landscape materials, a legend with botanical and common names, and sizes of plant materials;

(12) The size of all plant material to be used at time of planting; appropriate spacing shall be indicated on the plan;

(13) The details and specifications for tree planting, soil preparation, and other applicable planting work;

(14) The landscape tabulations showing how landscape requirements have been met;

(15) A maintenance note;

(16) The label type of any enhanced pavement proposed;

(17) The visibility triangles shown;

(18) The seal and dated signature of the landscape architect (if applicable);

(19) The soil analysis.

(c) *Irrigation plan requirements.* A detailed irrigation plan shall be prepared by an irrigator or professional engineer, at a scale that matches the landscape plan and shall be submitted on 24-inch by 36-inch sheets of paper that include the following information:

(1) An acceptable scale: one inch equals ten feet, one inch equals 20 feet, or one inch equals 30 feet, or as approved (must be at same scale as landscape plan);

(2) A north arrow, graphic and written scale;

(3) An appropriate title (i.e., irrigation plan);

(4) The title block, including street address, legal description, and date of preparation;

(5) The name and address of the owner;

(6) The name, address and telephone number of the person preparing the plan;

(7) The property line, with dimensions;

(8) All pipes, labeled as to size;

(9) The all sprinkler heads, labeled as to type (key is acceptable);

(10) The backflow prevention device, labeled with type and size;

(11) The location of the water meter and connection to water service;

(12) The legend summarizing the type and size of all components of the system, including manufacturer name and model numbers;

(13) The static water pressure in pounds per square inch at the point of connection to the public water supply;

(14) The flow rate in gallons per minute and design operating pressure in pounds per square inch for each valve;

(15) The seal of a licensed irrigator or professional engineer;

(16) The topography;

(17) The meter and point of connection;

(18) The installation details for irrigation components;

(19) The any existing utilities (water, sewer, storm drain, gas, electric, cable television, etc.);

(20) The note indicating that installation must be inspected by the city's certified irrigation inspector;

(21) The maintenance note.

(d) *Other irrigation requirements.* The city encourages water conservation through the use of native or adapted plant materials. Landscaping using plants from approved plant list (section 58-124) designated as having low water demand (LW) do not require permanent irrigation. Temporary irrigation may be necessary during the initial period of plant establishment. Landscapes using nonnative species or a mixture of native and nonnative species require an irrigation system to maintain plant viability. The city's licensed irrigation inspector has the ultimate authority to determine whether an irrigation system is required or not. Irrigation systems should be installed with rain sensors and drip irrigation to promote efficient use of water.
(Code 1996, § 15.02.032; Ord. No. O-08-13, 5-7-2013)

Sec. 58-35. Maintenance.

(a) *Generally.* The owner and tenant, if any, shall be jointly and severally responsible for the maintenance of all landscaping and irrigation. All required landscaping shall be maintained in a neat and orderly manner at all times. This shall include mowing, edging, pruning, fertilizing, watering, weeding, and other such activities common to the maintenance of landscaping. Landscaped areas shall be kept free of trash, litter, weeds and other such material or plants not a part of the landscaping. All plant materials shall be maintained in a healthy and growing condition as is appropriate for the season of the year. All irrigation heads or lines that are broken and flow water shall be replaced or repaired immediately to prevent the waste of water.

(b) *Plant replacement.* The owner or tenant shall be responsible for replacing all plant materials displaying dead branching over 75 percent or more of the normal branching pattern. Plant materials which die shall be replaced with plant material of similar variety and similar initial size. The owner or tenant shall make such necessary replacements within

30 days of notification by the city to replace any plant. The owner or tenant shall maintain all irrigation system equipment so as to avoid damage to any landscaping caused by lack of irrigation.
(Code 1996, § 15.02.033; Ord. No. O-08-13, 5-7-2013)

Sec. 58-36. Inspection.

After installation of any approved landscape plan, the city's certified irrigation inspector shall inspect and approve the installation prior to the issuance of a certificate of occupancy for any building on the property. It is the owner's responsibility to request an inspection prior to the issuance of a certificate of occupancy. If a certificate of occupancy is sought during a time of year in which the city determines that it would be impractical to plant trees, shrubs or grass, or install turf, the owner shall place in escrow with the city a sum of money equal to the cost of installing all or the remaining portion of the approved landscaping. Under such circumstances the landscaping as shown and approved on the landscape plan shall be installed within five months of final acceptance of the development by the city or issuance of the first certificate of occupancy within the development.
(Code 1996, § 15.02.034; Ord. No. O-08-13, 5-7-2013)

Secs. 58-37—58-60. Reserved.

ARTICLE III. LANDSCAPING STANDARDS AND SPECIFICATIONS

Sec. 58-61. General provisions.

(a) *Purpose.* For purposes of establishing compliance with the minimum area requirements for landscaping in this article, no land within the 100-year floodplain shall be used to determine the total area of the site, nor shall it be counted as fulfilling the minimum landscape area requirements.

(b) *Best professional practices.* The best professional practices of the American Society of Landscape Architects, the International Society of Arboriculture and the American Nursery and Landscape Association regarding planting, installation, trimming, and fertilization shall be followed as a guiding principle.

(c) *Nursery standards.* Nursery standards shall meet the current American Standard for Nursery Stock.

(d) *Tree planting standards.*

(1) Tree plantings shall not include more that 45 percent of the same tree species;

(2) Trees shall not be planted within four feet of any right-of-way (ROW) concrete pavement, utility lines, screening walls, or other structures unless approved by the city;

(3) Trees and shrubs shall not overhang or encroach upon walkways, drives, parking areas, and traffic signs to the extent that they interfere with the intended use of these facilities;

(4) Tree limbs shall be trimmed up to a height of at least eight feet above the sidewalk level. Tree limbs which overhang the public street shall be trimmed to the height of at least 13 feet above the street level.

(e) *Plant materials.*

(1) *Quality standard.* All plant material shall be of No. 1 grade, free from plant disease, of typical growth for the species; have a healthy, normal root system and rounded branching pattern; and conform to the code of standards set forth in the current edition of the American Standard for Nursery Stock;

(2) *Plant materials.* Plants selected shall be appropriate for the region and local soil conditions and shall be planted in accordance with good horticultural practice. Plants selected should require only low maintenance and should be temperature and drought-tolerant. The applicant is encouraged to refer to the Texas SmartScape™ website (www.txsmartscape.com) for additional information on native and adapted species;

(3) *Tree measurement.* Canopy and understory trees with single trunks shall be measured by caliper size one foot above the ground line. Multi-trunk trees shall be measured by the height of the tree.

(f) *Plant size and materials.* The size of plant material at the time of installation shall comply with section 58-123 and the list of approved plant material provided in section 58-124.
(Code 1996, § 15.02.061; Ord. No. O-08-13, 5-7-2013)

Sec. 58-62. Landscaping design requirements.

Landscaping practice on all nonresidential (including multifamily and manufactured home zoned properties) applicable properties shall follow the seven steps of xeriscape principles as outlined in subsection (8) of this section to achieve the stated purpose and intent in section 58-1. Compliance with these xeriscape principles is optional for all single-family residentially zoned applicable properties.

(1) *Site planning and design.* Site plans shall identify all vegetated areas to be preserved. Installed trees and plant materials shall be grouped together into zones according to water use needs. The water use zones shall correlate to the water use zone designations of plants listed in the recommended plant list (section 58-124). Plants with similar water and cultural (soil, climate, sun, and light) requirements should be grouped together and irrigated based on their water requirements. The water use zones shall be shown on the landscape plan. Newly installed plants may

require regular, moderately applied watering for the first year to become established. Installed trees and vegetation shall be spaced and located to accommodate their mature size on the site. The water use zones are as follows:

a. *High water use zone (HW).* High water use zone shall be limited to a maximum of 50 percent of the total required landscaped area. Plants and turf types within this area are associated with moist soils and require supplemental water in addition to natural rainfall to survive. This zone includes shallow-rooted turf grass varieties;

b. *Moderate water use zone (MW).* Plants within this zone survive on natural rainfall with supplemental water during seasonal dry periods. This zone includes deep-rooted turf grass varieties. This zone sometimes is referred to as rainwater harvest zone, where landscape areas are strategically located to capture and utilize stormwater runoff as a source of water for trees and other landscape plants. The following design principles shall be used for rainwater harvesting:

1. Design bio-retention beds, rain gardens, filter strips, etc., to capture runoff from impervious surfaces pursuant to ISWM guidelines:
   (i) Coordinate with civil drainage and storm sewer plans and provide detention volume calculations subject to the director of public works' approval;
   (ii) Locate trees and other appropriate plants that are adapted to flood and drought conditions;
   (iii) Wheel stops or curb cuts shall be provided to allow stormwater to flow into rainwater harvest areas;
2. Design a system that stores and reuses stormwater in a pressurized irrigation system subject to the director of public works' approval. Retention ponds shall not count toward landscaping area requirements;

c. *Low water use zone (LW).* Plants within this zone survive on natural rainfall without supplemental water. This zone is designed with landscapes that emulate indigenous plant communities and select and locate appropriate plants that are adapted to the conditions of the site and do not require supplemental water from irrigation, except for establishment and periods of extreme drought. Because of the relatively high water requirements of turf grass, no presently available varieties are included in this category. Impervious surfaces and materials within a landscaped area shall be limited to borders, sidewalks, step-stones, and other similar materials, not to exceed 20 percent of the total required landscaped area.

(2) *Soil analysis.*

a. Soils will vary from site to site and even within a given site. A soil analysis based on random sampling is required and will provide information that will enable proper selection of plants and, if needed, soil amendments. When

appropriate, soil amendments can enhance the health and growing capabilities of the landscape by improving water drainage, moisture penetration, and a soil's water and nutrient holding capacity;

b. A soil analysis satisfying the following conditions shall be submitted as part of the landscape plan:

1. Determination of soil texture, indicating the percentage of organic matter;
2. An approximate soil infiltration rate (either measured or derived from soil texture/infiltration rate tables). A range of infiltration rates should be noted where appropriate;
3. Measurement of pH and total soluble salts;

c. The soil tests may be done prior to submittal for site plan review. It is the responsibility of the applicant to have the soil test analyzed. The applicant shall deliver a copy of the official soil test information to the city's planning and permit division as part of the site plan submittal. The applicant shall note on the submitted plans the types of soil found on the site and the specifications for soil amendments. When feasible, community-generated solid waste compost materials may be utilized.

(3) *Appropriate plant selection.* Plant selection should be based on the plant's adaptability to the landscape area, desired effect, color, texture, and ultimate plant size. Plants shall be grouped in accordance with their respective water and maintenance needs. Plant material shall be selected that is best suited to withstand the soil and physical growing conditions which are found in the microclimate of each particular location on a site. Plant species that are freeze and drought-tolerant are preferred plants having similar water use shall be grouped together in distinct water use zones.

(4) *Using turf wisely.*

a. The type, location, and shape of turf areas shall be selected in the same manner as with all the other plantings. Turf shall not be treated as a fill-in material but rather as a major planned element of the landscape. Since many turf varieties require supplemental watering at frequencies different than the other types of landscape plants, turf shall be placed so that it can be irrigated separately. While turf areas provide many practical benefits in a landscape, how and where it is used can influence water use. The use of drought-tolerant turf is preferred over the traditional turf grass varieties. If drought-tolerant varieties are used, then turf areas are considered as part of the moderate water use zones, thereby increasing ground coverage limits as set forth in this section above. Large turf areas, not subject to erosion, such as playfields, may be grassed with methods other than sod if previously approved during plan review;

b. Turf grass areas shall be consolidated and limited to those areas on the site that receive pedestrian traffic, provide for recreation use, or provide soil erosion

control, such as on slopes or in swales and where turf grass is used as a design unifier, or other similar practical use. Turf areas shall be identified on the landscape plan.

(5) *Efficient irrigation.*

a. If a landscape requires regular watering or if an irrigation system is desired, the system should be well planned and managed. Water can be conserved through the use of a properly designed and managed irrigation system. The irrigation system shall be designed to correlate to the organization of plants into zones as described in subsection (1) of this section. The water use zones shall be shown on the irrigation plan. Irrigation shall be required as follows:

1. *High water use zone.* All portions of high water use zones shall be provided with central automatic irrigation systems;

2. *Moderate water use zone.* All portions of moderate water use zones shall be provided with a readily available water supply within 25 feet;

3. *Low water use zone.* All portions of low water use zones shall be provided with a readily available water supply within 50 feet;

b. Retained trees, shrubs and native plant communities shall not be required to be irrigated, unless determined necessary by the planning and permit division of the city;

c. Turf grass areas shall be irrigated on separate irrigation zones from tree, shrub, and ground cover beds;

d. Reclaimed or nonpotable water may be used for irrigation if an acceptable source is determined to be available by the public works director;

e. Moisture sensor or rain shutoff switch equipment shall be required on automatic irrigation systems to avoid irrigation during periods of insufficient rainfall. Said equipment shall consist of an automatic mechanical or electronic sensing device or switch which will override the irrigation cycle of the sprinkler system when adequate rainfall has occurred;

f. The use of low volume emitters or target irrigation is required for trees, shrubs and ground covers so as to minimize irrigation overthrow onto impervious surfaces.

(6) *Use of mulches.*

a. Mulches applied and maintained at appropriate depths in planting beds will assist soils in retaining moisture, reducing weed growth, and preventing erosion. Mulch can also be used in places where conditions aren't adequate for, or conducive to, growing quality turf or ground covers. Mulches are typically wood bark chips, wood grindings, pine straw, nutshells, small gravel, and shredded landscape clippings;

b. A layer of organic mulch to a minimum depth of three inches shall be specified on the landscape plans in plant beds and around individual trees in turf grass areas. Mulch shall not be required in annual beds.

(7) *Appropriate maintenance.* A regular maintenance schedule shall be submitted as part of the landscape plan. Landscaping shall be maintained to ensure water efficiency. A regular maintenance schedule shall include, but not limited to, checking, adjusting, and repairing irrigation equipment; resetting the automatic controller according to the season; aerating and dethatching turf areas; replenishing mulch; fertilizing; pruning, and weeding in all landscaped areas. Repair of irrigation equipment shall be done using the originally specified materials or their equivalents.

(8) *Seven steps of xeriscape.*

a. *Planning and design*. There are two principle elements to a seven-step xeriscape design, the site analysis and the planting plan:

1. Plants with similar water requirements shall be grouped together;
2. Shade areas shall be increased to decrease the water needs of plants;
3. Areas of native vegetation shall be preserved;

b. *Soil analysis.* Organic matter shall be added to flower or vegetable gardens before planting to increase the water retention ability of the soil;

c. *Appropriate plan selection:*

1. Plants appropriate for the soil shall be selected;
2. Natural zone plants require only natural rainfall;
3. Drought-tolerant zone plants require minimal irrigation;
4. Oasis zone plants require frequent watering. These areas shall be limited as much as possible;

d. *Using turf wisely.* Areas shall be consolidated or alternatives shall be considered to ease maintenance and water requirements;

e. *Efficient irrigation:*

1. The time on each irrigation zone shall be set to correspond to the needs of the plants grouped within that zone;
2. The system shall be checked weekly to ensure it is operating properly;

f. *Use of mulches:*

1. Mulches shall be used for walkways as well as within the planting beds;
2. Mulches reduce watering needs, weeds, erosion, etc.;

g. *Appropriate maintenance:*

1. Water and fertilize plants only as needed. Excessive amounts promote pest problems and increase pruning and mowing requirements;
2. Lawn mower blades shall be raised to promote more extensive root growth;

3. Shrubs shall be pruned to natural height and shape.

(Code 1996, § 15.02.062; Ord. No. O-08-13, 5-7-2013)

Sec. 58-63. Landscaping area and location requirements.

Landscaping requirements on a site are divided into three groups: interior landscaping, parking lot landscaping, and perimeter landscaping, where applicable. Perimeter landscaping requires landscaped buffer yards to provide visual and physical buffers from site features, such as parking lots, high intensity use from low intensity use and between conflicting zoning districts (for example, where a residential zoning district abuts nonresidential zones).

(1) *Interior landscaping.*

a. *Residential.*

Residential Zoning District	*Tree Requirements**	*Landscaped Area Requirements*
SF-E	Minimum 5 large shade trees and 3 medium shade trees	30% of total lot area
SF-1	Minimum 3 large shade trees and 2 medium shade trees	20% of total lot area
SF-2, SF-3, SF-4	Minimum 2 large shade trees and 2 medium shade trees	20% of total lot area

b. *Residential subdivisions; developer installed landscaping.* All new homes shall follow the interior landscaping requirements as provided in subsection (1)a of this section. All basic landscape packages installed by the developer for individual lots shall be drought-tolerant and able to survive stage three drought restrictions pursuant to the city's drought contingency plan. Bermuda will be allowed as a drought-tolerant turf; however, alternative drought-tolerant grasses which will remain green while using 50 percent less water shall be offered as an option. Developers shall provide landscape water conservation information to all new homeowners.

c. *Nonresidential (including multifamily and manufactured home park).*

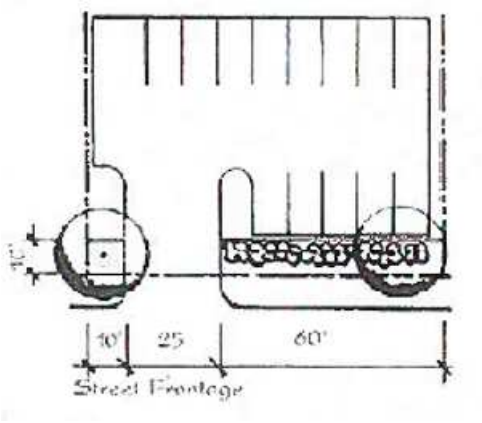
Nonresidential Zoning District	*Tree Requirements**	*Landscaped Area Requirements***
O Office, NS Neighborhood Services	Minimum 1 shade tree per 10,000 square feet of lot area	20% of total lot area
R Retail, TC Town Center	Minimum 1 shade tree per 10,000 square feet of lot area	20% of total lot area
C Commercial	Minimum 1 shade tree per 7,000 square feet of lot area	30% of total lot area

Nonresidential Zoning District	*Tree Requirements**	*Landscaped Area Requirements***
I Industrial	Minimum 1 shade tree per 5,000 square feet of lot area	30% of total lot area

* Trees shall be selected from the approved plant material list (section 58-124).

** 50 percent of required landscaping area shall be located in the designated front yard.

(2) *Perimeter landscaping.* Perimeter landscaping is required when any nonresidentially zoned property (including multifamily and manufactured home zoned properties) or any nonresidential use abuts a residentially zoned property or use. Perimeter landscaping shall be installed within the property limits of the nonresidentially zoned property. Landscaping shall be installed and maintained by the property owner of the more intensive use. Any parking lot of more than 30 parking spaces within private property shall provide minimum ten feet wide perimeter landscaping on three sides (excluding driveways and entry/exit points) except the parking lot side adjacent to the primary building. Perimeter landscaping area cannot be counted towards interior landscaping area requirements. Trees can be informally grouped and shall follow the xeriscape design principles as outlined in section 58-62(8). Perimeter landscaping may contain moderate water use zones as defined in section 58-62(1)b. Perimeter landscaping is not required when the stated more intense zoning or use is separated by a thoroughfare or a major arterial street from the residentially zoned use or district.



Minimum 10'-wide landscaped strip planted with a minimum of one shade tree and 10 shrubs per 35 linear feet of street frontage.

Zoning District / Use Abutting Residential Zoning / Use	*Perimeter Landscape Width*	*Tree Requirements**
O Office or NS Neighborhood Services	Minimum 10'	Minimum 1 shade tree and 10 shrubs per 35 linear feet of lot length adjoining the residential zoned lot
R Retail or C Commercial or TC Town Center	Minimum 15'	Minimum 1 shade tree and 12 shrubs per 35 linear feet of lot length adjoining the residential zoned lot
I Industrial	Minimum 15'	Minimum 1 shade tree and 12 shrubs per 35 linear feet of lot length adjoining the residential zoned lot

* Trees shall be selected from the approved plant material list (section 58-124).

(3) *Parking lot interior landscaping.*

a. 1. For parking lots with less than 30 parking spaces, planter islands shall be provided in parking areas with a minimum of 15 square feet of landscape area for each parking space. Planter islands should have a minimum area of 150 square feet. Each row of parking stalls shall provide the required landscape area; however, in situations where it would be beneficial to combine more than one islands into a larger island may be considered by the applicant and shall be reviewed by the city for approval. Planter islands shall have a minimum width of eight feet back to back, if curbed, or nine feet edge to edge if no curb is provided. Parking lot landscaping does not count toward the total required interior landscape area.

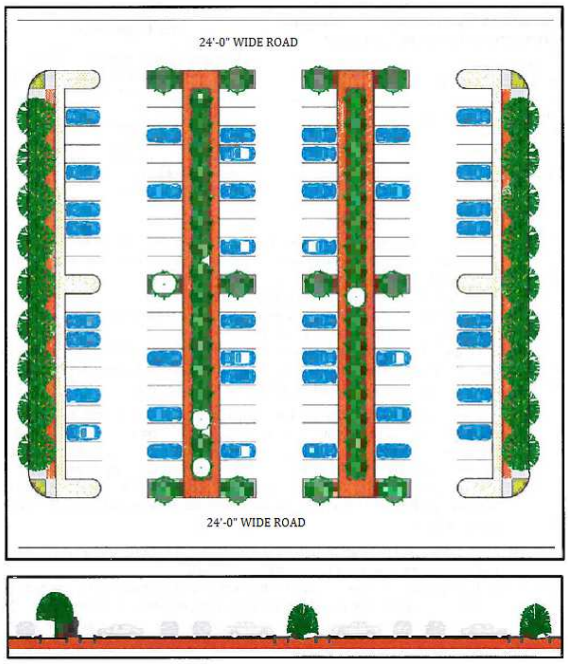
2. A minimum of 50 percent of all planter islands in parking areas shall contain a minimum of one large/medium shade tree with the remaining area in shrubs, ground cover, grasses or seasonal color. Planter islands which have light poles may substitute two understory/accent trees for the required canopy tree. If the parking lot faces a thoroughfare or major arterial (as defined in the city's thoroughfare plan) then a perimeter landscaping buffer shall be installed as stated in subsection (2) of this section.

b. For parking lots with more than 30 parking spaces, the following design standards, including area, location, and layout guidelines, shall be followed:

1. A continuous nine-foot-wide landscaping strip of moderate water use zone or rainwater harvest zone shall be installed within two head-in parking rows. On both sides of the rainwater harvest zone, a six-foot-wide at-grade paved walkway shall be installed for the entire row of the parking. This paving material should be porous in nature to support natural stormwater infiltration. Site grading and slope should be designed such that storm-water should naturally drain into these rainwater harvest zones. To

support the landscaping during no-rain seasons, drip irrigation should be installed in these landscaping strips. Wheel stops shall be installed next to the paved walkways to prevent cars entering the pavement or landscaping. The overall layout and design principle of parking lot landscaping is shown in the graphic below.

2. One medium shade tree every ten feet shall be installed in the continuous landscape strip with drought-tolerant ground cover at the base.
3. Approximately at the midway of the parking aisle and at both ends, landscape islands shall be installed as shown in the graphics below.
4. Water usage in parking lot landscaping shall be restricted to seasons when rainwater is not abundant. Drip irrigation shall be installed to prevent water wastage.



(Code 1996, § 15.02.063; Ord. No. O-08-13, 5-7-2013)

Sec. 58-64. Incentives.

(a) Any state-licensed landscape professional or licensed irrigator or landscape contractor who attends a water-efficient landscaping workshop or short course organized by any agency recognized by the city shall receive a ten percent reduction of the occupational license fee upon the next renewal date.

(b) Any development/landscape plan which incorporates the minimum water-efficient design principles and standards established by this article will be granted special staff consideration and will be expedited through the landscape review portion of the site-plan review process.

(c) In addition to a streamlined processing, any development/landscape plan which exceeds the minimum water-efficient design principles and standards established by this article will receive 20 percent reduction in the permit application fee.

(d) Any individual homeowner or resident who is not required to submit a development/ landscape plan, yet voluntarily applies the minimum water-efficient design principles and standards established by this article, will be eligible for a 20 percent reduction applied as a credit against the property's monthly water consumption charges, provided that the landscaped areas continue to comply with the minimum maintenance requirements and the total monthly water consumption is reduced by minimum ten percent as calculated on an annual average consumption rate. To be eligible for this credit, the water efficient design principles and standards, as proposed by the homeowner/resident, needs to be submitted to the planning and permit division for review. Once the landscape and irrigation plan are approved by the city, the credit in water fee shall be effective after six months of landscaping installation once the reduction in water consumption has been established in gallons. The credit shall be applicable for the six-month evaluation period as well and will be prorated back. This incentive shall be offered for a maximum of three years to any particular property. (Code 1996, § 15.02.064; Ord. No. O-08-13, 5-7-2013)

Secs. 58-65—58-86. Reserved.

ARTICLE IV. FENCE AND SCREENING STANDARDS AND SPECIFICATIONS

Sec. 58-87. General provisions.

(a) *Acceptable materials.* Acceptable materials for constructing fence and screening devices include wood, stone, preformed concrete block, concrete, brick, masonry, natural and treated woods, ornamental metal or wrought iron, and vinyl.

(b) *Prohibited materials.*

(1) Chain-link fence shall only be permitted in A Agricultural Districts for the following uses:

   a. Electrical transmission line;

   b. A farm, ranch, garden, or orchard;

   c. A railroad track or right-of-way;

   d. A sewage pumping station;

   e. A stable or barn, private;

   f. A telephone exchange, switching, relay or transmission station;

   g. A water pumping station;

(2) Corrugated metal panels or materials having similar properties shall not be permitted;

(3) Barbed wire fences are prohibited in the city except in A Agricultural Districts for the following uses:

a. A farm, ranch, garden, or orchard;

b. A stable or barn, private;

(4) Except as provided below, electrical fencing is prohibited within the city:

a. Electric fences and fence-charging devices are allowed only in within I Industrial and A Agricultural Districts in conjunction with agricultural and related activities for the purposes of containing horses and livestock, or for the security of crops grown on the premises, and shall be plainly labeled for ease of identification;

b. Electric fences and fence-charging devices must be located at least six inches inside a nonelectric fence;

c. Electric fences and fence-charging devices shall be Underwriters Laboratories (UL)-listed and installed and maintained as per manufacturer's instructions;

d. Electric fences and fence-charging devices shall have posted signs on all sides spaced at not more than 50-foot intervals: "Danger, electric fence";

(5) Electric fences not in compliance with subsection (b)(4) of this section are hereby declared a nuisance per se and must be immediately removed.

(c) *Temporary fences.* Temporary fences are required for properties under construction, demolition, repair, or maintenance with the following standards:

(1) Property undergoing new construction:

a. Prior to the initiation of construction and upon obtaining a required fence permit, a temporary security fence of six feet is required to be erected with sufficient anchoring to secure the new construction site;

b. The temporary security fence is to be removed after the construction completion and prior to occupancy of the site;

(2) Property undergoing demolition or repair or maintenance:

a. Prior to the initiation of demolition, dismantling, removing, or extensively (as determined by development review committee) repairing of a building or structure abutting a street, alley, or sidewalk; and, upon obtaining a required fence permit, protection in the form of a temporary security fence shall be provided for the site being affected;

b. For buildings exceeding 40 feet in height, the temporary security fence installed with sufficient anchoring shall not be less than four feet high with approved and appropriate cautionary signage, barricades or ribbon taping. The fence shall be minimum seven feet away from the building line. The temporary security fence shall be removed after completion of the demolition or repair;

c. For buildings exceeding 40 feet in height, the temporary security fence shall not be less than six feet high and shall be located a minimum 15 feet away from the building line. Where such protection is located, a special acknowledgement shall be noted on the issued permit.

(d) *Mandatory or permitted fencing/screening.* All mandatory or permitted fencing/screening shall be erected and maintained so as not to interfere with or obstruct the view of traffic or constitute a traffic hazard on any public or private street, alley or driveway.

(1) No fence, screen, wall, or other visual barrier shall be so located or placed that it obstructs the vision of a motor vehicle driver approaching any street or roadway intersection;

(2) Where an alley intersects with a street, no fence or plant taller than three feet may be placed within a sight visibility triangle;

(3) All required screening walls shall be equally finished on both sides of the wall;

(4) No person shall place, erect, install, build, construct, add as a repair item, use or maintain any fence or barrier with spikes or nails or any other sharp objects imbedded on the top or sides of a fence or barrier within any zoning district of the city.

(Code 1996, § 15.02.091; Ord. No. O-05-20, 5-5-2020)

Sec. 58-88. Permit required and application process.

If applicable per section 58-3, a permit is required to construct, repair, or replace a fence or any part of a fence within the city. A permit application and any required fees shall be submitted to the city, along with structural drawings, plans, and specifications, with the seal and stamp of a licensed professional engineer. The city's planning and permit department will review the application and process it through plan review process. Permits are valid for 160 days upon approval. Construction shall begin within 90 days from the date of issuance of the permit. If construction does not commence within 90 days from the date of issuance of any permit, the permit shall become null and void and a new permit application shall be required. The planning and permit division staff may extend the time for construction for the applicant for a period not exceeding 90 days on written request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken. No applications shall be granted more than one extension, and in no instance shall an extension exceed the original expiration date of the permit issued. The city may, in writing, suspend or revoke a permit issued under the provisions of this chapter when the permit was issued in error, on the basis of incorrect information, or in violation of any applicable law.
(Code 1996, § 15.02.092; Ord. No. O-08-13, 5-7-2013)

Sec. 58-89. Material and construction detail.

All fences and screening devices, whether required or optional, shall be constructed in the manner described below:

(1) *Wooden fence:*

a. Fence planks or panels must be at least five-eighths inch in thickness;

b. Fence picket material cannot be pine; it must be either spruce or cedar;

c. If adjacent to any public street, a wooden fence shall have its back side oriented away from public view. For the purposes of this subsection, the backside of the fence shall be the side with exposed posts or rails;

d. Metal vertical posts shall be spaced every six feet to eight feet, center to center;

e. Vertical slats shall be nailed or screwed to horizontal bracing stringers (bottoms and top nailer boards) running from vertical post to post. One stringer will be required for every two feet in height. The stringers shall be bolted to steel posts with noncorrosive metal anchor straps and one-fourth inch noncorrosive bolts or screws;

f. All nails or fasteners shall be of nonrusting, noncorrosive metal, such as hot-dipped galvanized steel. All nails or fasteners shall be of the type (such as screw shank or, ring shank) that, when properly driven, will not work free due to wind, vibration, or shrinkage of members;

g. In no case, however, shall ground-to-fence separation exceed four inches;

(2) *Masonry walls, fences and screening devices.* Masonry walls, fences and screening devices shall be limited to the following materials and standards:

a. *Materials.* Brick, stone or decorative, split-face block, or reinforced concrete wall provided it has a finished appearance similar to masonry;

b. *Masonry columns; spacing.* Masonry columns shall be spaced a maximum of 12 feet apart on-center (o.c.); the capstone of columns shall not exceed nine feet in height; columns shall extend at least eight inches above the remainder of the screening wall; and columns shall extend horizontally at least three inches from the vertical plane of the wall;

c. *Masonry walls and foundations.* Masonry walls and their foundations shall be engineered and have the certification or seal of a state-registered engineer;

d. *Masonry walls.* It is intended that all masonry walls erected pursuant to this subsection (2) be constructed in such a manner to last 30 years, with minimal maintenance required during said period, and are resistant to sunlight and moisture;

(3) *Wrought iron or tubular steel.* Wrought iron or tubular steel shall be permitted, provided that shrubs are placed within two feet parallel to the fence and planted three feet on center the entire length of the fence.

(Code 1996, § 15.02.093; Ord. No. O-08-13, 5-7-2013)

Sec. 58-90. Fence and screening requirements in residential zoning.

(a) *Developer-installed screening in single-family subdivisions. (add ', two-family' after 'single-family')* The developer of all single-family detached and two-family attached duplex residential development shall be required to construct a continuous solid masonry screening wall of eight in feet height surrounding the subdivision with openings at designated entry and exit points or at roadways passing through the subdivision. The material and standards shall conform to section 58-89(2). The developer shall construct these walls at the developer's sole expense in accordance with the standards set forth below:

(1) Structural plans and specifications for subdivision masonry screening wall are to be submitted at the same time as construction plans for other subdivision infrastructure improvements are required. Said plans and specifications shall be prepared and sealed by a registered professional engineer and shall consider the site's soil characteristics, wind loadings, and other environmental considerations;

(2) All masonry screening walls shall be placed at least nine feet from any existing or proposed city water line. To provide the nine-foot distance, if needed, the developer shall be required to provide up to an additional nine feet of right-of-way;

(3) All masonry screening walls required herein shall be placed on or within private property and outside of the public right-of-way;

(4) A plat note describing the location of the proposed masonry wall shall be included on the preliminary plat and the final plat. A fence schematic shall be provided along with the final plat;

(5) Prior to the city's issuance of a final certificate for residential occupancy, the developer must complete the subdivision screening wall required herein. The walls are permitted to be developed in phases as they are final platted;

(6) It shall be the responsibility of any person, firm, corporation, or other entity who shall own or occupy any lot on which a screening wall was constructed pursuant to the terms of this article to adequately maintain the wall and to prevent it from becoming dilapidated or unsightly.

(b) *Residential fence and screening standards.*

(1) A non-opaque fence may be installed in the front yard of residential properties fronting major thoroughfares (Bear Creek Road, Hampton Road, Uhl Road and S. Westmoreland Road). The fence shall be constructed of stained wood, wrought iron or similar decorative material, with a maximum height not to exceed four feet. This

option does not apply to lots with side access or properties within master planned subdivisions. For residential front entry gates, gates shall be a minimum of 24 feet from edge of pavement;

(2) With the approval of the city manager or designee, a fence may be permitted to be erected and maintained on residential properties located along roadways or adjacent to drainage ditches where there is a significant slope or a substantial drop in the natural ground elevation to enhance safety and privacy. The fence may not exceed a maximum height of eight feet;

(3) Fence height shall be measured from the natural ground elevation after final grading to the highest point of the fence, including any decorative elements, such as lattice, finials, or post caps. In cases where the ground elevation varies, the height shall be measured from the highest adjacent grade. Retaining walls or berms shall not be used to artificially increase fence height unless otherwise permitted by this Code;

(4) The city council may grant a variance to the requirements of subsections (b)(1) through (3) of this section.

(c) *Nonresidential fence and screening standards (including multifamily and manufactured home zoning districts).*

(1) A minimum six-foot-tall solid masonry screening wall is required on any nonresidential property adjacent to residential property. The masonry wall shall be constructed at the sole expense of the property owner or tenant of the nonresidentially zoned (including multifamily and manufactured home park) property and shall be maintained by the same. Design and construction of such a masonry wall shall follow standards set forth in section 58-89(2). If the screening fence is required to screen a multifamily use from a single-family residential use or any nonresidential use, the fence shall be comprised of brick only and installed and maintained by the property owner/tenant of the property with the more intensive use;

(2) When nonresidential property is adjacent to a public right-of-way or another nonresidential zoned property (commercial, retail, neighborhood services or industrial), no screening is required except in order to screen mechanical equipment, trash receptacle, outdoor storage, or loading area in accordance with section 58-92, 58-93, 58-94, or 58-95, as applicable;

(3) Any industrial use or I Industrial District zoned property shall have a solid, opaque masonry screening wall on all three sides except the sides facing the public right-of-way. The height of this wall shall be between eight feet and 12 feet. The material and standards shall conform to section 58-89(2).

(Code 1996, § 15.02.094; Ord. No. O-08-13, 5-7-2013; Ord. No. O-05-25, § 1, 2, 4-1-2025)

Sec. 58-91. Fence and screening construction within easements.

(a) The city or any utility company may require the removal of any fence built upon a drainage or utility easement. The owner of the fence shall be responsible for the removal and rebuilding of the fence at the owner's expense.

(b) The owner of a fence shall be responsible for the design, construction and maintenance of the fence, and said fence shall be so designed as not to interfere with utility lines or normal drainage.

(c) Permission to build a fence upon a utility easement may only be granted by the public works director.

(d) Where a fence is to be placed in an easement containing underground utilities, the owner or occupant shall sign a release indemnifying the city from any damages for removal of the fence and damage to the fence as a result of the need to repair or replace said utilities. (Code 1996, § 15.02.095; Ord. No. O-08-13, 5-7-2013)

Sec. 58-92. Mechanical equipment screening.

Solid, opaque screening of mechanical equipment shall be required within the city under the following provisions:

(1) Mechanical equipment located on the roof of any building shall be completely shielded from view on all sides. Mechanical equipment on the ground shall be screened with landscaping or hard screening with any approved material listed under section 58-89, preferably of a color, material and design consistent with the main structure. The development review committee may approve the use of landscaping or live screen if the intent of building a mechanical screen can be accomplished to achieve an aesthetic, comparable finish as required by this section;

(2) All equipment must be shielded from view of adjacent properties for a distance of 200 feet from the property line, at a point six feet above grade;

(3) All screening material shall be of a color, material and design consistent with the primary structure;

(4) Mechanical equipment shall not include exhaust fans, vents or drains;

(5) Total screened areas of the roof-mounted equipment shall not exceed 25 percent of the roof area of the structure;

(6) When the total screened areas of roof-mounted structures exceeds 25 percent of the roof area, a parapet wall of a color, material and design consistent with the main structure, at least as high as the roof-mounted equipment, shall be constructed along the sides of the roof of the building where such views exist.

(Code 1996, § 15.02.096; Ord. No. O-08-13, 5-7-2013)

Sec. 58-93. Trash/recycling receptacle screening.

(a) Screening of trash/recycling receptacles or any garbage, refuse and trash/recycling collection and storage areas within nonresidential zones (including multifamily and mobile home districts) shall be required within the city under the provisions of subsection (b) of this section.

(b) Any trash/recycling receptacles or any garbage, refuse and trash/recycling collection and storage areas visible from the public right-of-way shall be screened by a minimum six-foot-tall solid masonry wall on all three sides, with an opaque metal gate on the fourth side that is to be used for garbage pickup services and to secure the trash storage area.
(Code 1996, § 15.02.097; Ord. No. O-08-13, 5-7-2013)

Sec. 58-94. Outdoor storage screening.

Where outdoor storage is permitted in nonresidential districts, it shall be subject to the following provisions:

(1) It shall consist of any combination of fences, walls, berms and landscaping that is at least six feet in height;

(2) It shall provide a permanent, opaque, year-round screening around the entire perimeter of the outdoor storage area;

(3) Evergreen plant materials are encouraged as screening. The plants shall be irrigated, pruned and maintained;

(4) The primary outdoor storage of living plant material stored on the ground is not subject to the screening requirements;

(5) All equipment, tools, vehicles, etc., associated with the upkeep and maintenance of living plant material that are stored outdoors are subject to screening;

(6) A periodic market held in an open area, such as a farmer's or flea market, where a group of individual sellers offer goods for sale is not subject to outdoor storage screening regulations;

(7) General construction activity is not subject to outdoor storage screening regulations;

(8) Outdoor display areas are exempted from screening requirements.
(Code 1996, § 15.02.098; Ord. No. O-08-13, 5-7-2013)

Sec. 58-95. Loading area screening.

Screening for loading docks or truck berths visible from the public right-of-way is required in accordance with the following provisions:

(1) Loading docks or truck berths shall be screened by opaque walls, wooden fences, landscaped berms, or landscaped areas;

(2) Screening shall be at least eight feet in height;

(3) Screening must screen loading dock areas from view from the public street right-of-way with the greatest pavement width parallel to the trailer berths; and

(4) Screening shall be of sufficient length to screen the maximum size trailer which can be accommodated on site and shall be parallel to trailer berths. Example: Docks and berths that accommodate a 50-foot trailer shall be screened with a 50-foot wall parallel to the berth.

(Code 1996, § 15.02.099; Ord. No. O-08-13, 5-7-2013)

Sec. 58-96. Salvage yards and wrecking yards.

All wrecking yards and salvage yards with open storage of wrecked or salvaged automobiles, machinery, appliances, or other used commodities and equipment shall be screened as follows:

(1) A solid, opaque masonry screening wall shall surround such open storage area. The height of this wall shall be between eight feet and 12 feet. The material and standards shall conform to section 58-89(2);

(2) In no instance will any automobile, machinery, appliance, or any other material be allowed to be stacked to a height that exceeds the height of the screening wall.

(Code 1996, § 15.02.100; Ord. No. O-08-13, 5-7-2013)

Sec. 58-97. Maintenance.

(a) Any fence or screening device shall be maintained by the property owner as follows:

(1) The owner shall replace broken, damaged, removed or missing parts of a fence within ten days upon receipt of notice from the city with the same material, or material with a composition, color, size, shape and quality comparable to the original fence to which the repair is being made;

(2) In case of a shared fence between uses of differing intensity, the property owner of the more intensive use shall be responsible for maintenance of the entire fence.

(b) Fence and screening devices shall be maintained in a sound structural condition as follows:

(1) The property owner shall maintain fences, including those existing prior to the adoption of the ordinance from which this section is derived, at all times in a state of good repair, safe and secure condition, with all braces, bolts, nails, supporting frame and fastenings free from deterioration, termite infestation, rot, rust or loosening, and able to withstand at all times the wind pressure for which they were designed;

(2) Property owners shall be responsible for maintaining all fence supports, gates, structural members and exterior surfaces in good repair free of rusting, peeling or blistering paint or other surface damage;

(3) Property owners shall not maintain graffiti, writings and other symbols on a fence.

(Code 1996, § 15.02.101; Ord. No. O-08-13, 5-7-2013)

Secs. 58-98—58-122. Reserved.

ARTICLE V. SUPPORTING TABLES, CHARTS, AND ILLUSTRATIONS

Sec. 58-123. Plant material size standards.

The following table provides plant material size standards for the city:

Description	*Size*	*Height*	*Spacing*	*Standard*
Large shade trees	3" caliper	12 feet	50' spacing	40' crown at maturity
Medium shade trees	3" caliper	12 feet	30' spacing	20' crown at maturity
Small ornamental trees	3" caliper	7 feet	15' spacing	10' crown at maturity
Live screen	7-gallon	6 feet	8' spacing	6' high in two growing seasons
Shrubs	5-gallon	2 feet	Varies	2' high at planting

(Code 1996, § 15.02.121; Ord. No. O-08-13, 5-7-2013)

Sec. 58-124. Approved plant list.

Plants shall be selected for the appropriate landscape zone as noted in the following tables. Artificial plants are expressly prohibited.

Large Shade Trees

		Xeriscape Zone			
Common Name	*Botanical Name*	*Remarks*	*LW*	*MW*	*HW*
Oak, Burr	*Quercus macrocarpa*	Native	•	•	
Oak, Chinkapin	*Quercus muhlenbergii*	Native	•		
Oak, Live	*Quercus virginiana*	Native	•		
Oak, Red	*Quercus shumardii*	Native		•	
Pecan	*Carya illinoinensis*	Native	•	•	

Medium Shade Trees

		Xeriscape Zone			
Common Name	*Botanical Name*	*Remarks*	*LW*	*MW*	*HW*
Ash, Texas	*Fraxinus texensis*	Native	•	•	
Bald cypress	*Taxodium distichum*	Native	•	•	•
Elm, Cedar	*Ulmus crassifolia*	Native	•	•	•
Elm, Allee® Lacebark	*Ulmus parvifoia* 'Emer II'	Adapted	•	•	•
Elm, Bosque® Lacebark	*Ulmus parvifolia* 'UPMTF'	Adapted	•	•	
Oak, Durand	*Quercus sinuata* var. *sinuata*	Native	•		

Common Name	Botanical Name	Xeriscape Zone			
		Remarks	LW	MW	HW
Persimmon, Common	*Diospyros virginiana*	Native	•		
Pistache, Chinese	*Pistacia chinensis*	Adapted	•	•	•
Black locust	*Robinia pseudoacacia*	Adapted	•		

Small Ornamental Trees

Common Name	Botanical Name	Xeriscape Zone			
		Remarks	LW	MW	HW
American smoketree	*Cotinus obovatus*	Native	•		
Buckeye, Mexican	*Ungnadia speciosa*	Native	•		
Carolina buckthorn	*Rhamnus caroliniana*	Native	•	•	
Desert willow	*Chilopsis linearis*	Native	•		
Crepe myrtle	*Lagerstroemia indica*	Adapted	•		•
Dogwood (roughleaf)	*Cornus drummondii*	Native	•		
Eastern red cedar	*Juniperus virginiana*	Native	•		
Eve's necklace	*Sophora affinis*	Native	•	•	
Flameleaf sumac	*Rhus lanceolata*	Native	•		
Goldenball leadtree	*Leucaena retusa*	Native	•		
Holly, Yaupon	*Ilex vomitoria*	Native	•		•
Mexican plum	*Prunus mexicana*	Native	•	•	
Oak, Bigelow	*Quercus sinuata* var. *breviloba*	Native	•		
Oak, Lacey	*Quercus laceyi* *(Q. glaucoides)*	Native	•		
Persimmon, Texas	*Diospyros texana*	Native	•		
Possumhaw	*Ilex decidua*	Native	•		
Rusty blackhaw	*Viburnum rufidulum*	Native	•	•	
Texas redbud	*Cercis canadensis* var. *texensis*	Native	•	•	•

Trees for Live Screen

Common Name	Botanical Name	Xeriscape Zone			
		Remarks	LW	MW	HW
Arizona cypress	*Cupressus arizonica*	Adapted	•		
Eastern red cedar	*Juniperus virginiana*	Native	•		
Holly, Burford	*Ilex cornuta* 'Burfordii'	Adapted			•
Holly, Foster	*Ilex* × *attenuata* 'Fosteri'	Adapted			•
Holly, Nellie R. Stevens	*Ilex* × 'Nellie K. Stevens'	Adapted			•
Holly, Yaupon	*Ilex vomitoria*	Native	•		•
Magnolia, Little Gem	*Magnolia grandiflora* 'Little Gem'	Adapted		•	•
Mahonia, leatherleaf	*Mahonia bealei*	Adapted	•		•

Common Name	Botanical Name	Xeriscape Zone			
		Remarks	LW	MW	HW
Myrtle, Wax	*Myrica cerifera*	Native	•	•	•
Pine, Mondell	*Pinus eldarica*	Adapted	•		

Shrubs

Common Name	Botanical Name	Xeriscape Zone			
		Remarks	LW	MW	HW
Abelia	*Abelia × grandiflora*	Native		•	
Agarita	*Berberis trifoliolata*	Native	•		
American beautyberry	*Callicarpa americana*	Native	•	•	
Apache plume	*Fallugia paradoxa*	Native	•		
Aromatic sumac	*Rhus aromatica*	Native	•		
Black dalea	*Dalea frutescens*	Native	•		
Damianita	*Chrysactinia mexicana*	Native	•		
Desert spoon	*Dasylirion wheeleri*	Native	•		
Indian hawthorn	*Raphiolepis indica*	Adapted			•
Dwarf Burfort holly	*Ilex cornuta* 'Burfordii Nana'	Adapted			•
Flame anisacanthus	*Anisacanthus quadrifidus* var. *wrightii*	Native	•		
Texas kidneywood	*Eysenhardtia texana*	Native	•		
Red yucca	*Hesperaloe parviflora*	Native	•		
Texas sage, Silverado	*Leucophyllum frutescens* 'Silverado'	Native	•		
Soft leaf yucca	*Yucca recurvifolia*	Native	•		
Twistleaf yucca	*Yucca rupicola*	Native	•		

Grass/Turf

Common Name	Botanical Name	Xeriscape Zone			
		Remarks	LW	MW	HW
Big bluestem	*Andropogon gerardii*	Native	•	•	
Blue grama	*Bouteloua gracilis*	Native	•		
Buffalo grass	*Buchloe dactyloides*	Native	•		
Bermuda grass	*Cynodon dactylon*	Adapted			•
Eastern gamagrass	*Tripsacum dactyloides*	Native seed		•	
Green sprangletop	*Leptochloa dubia*	Native	•	•	
Muhly, Seep	*Muhlenbergia reverchonii*	Native	•	•	
Muhly, Deer	*Muhlenbergia rigens*	Native	•	•	
Muhly, Lindheimer	*Muhlenbergia lindheimeri*	Native	•		
Indiangrass	*Sorghastrum nutans*	Native	•	•	
Little bluestem	*Schizachyrium scoparium*	Native	•		

Common Name	*Botanical Name*	*Xeriscape Zone*			
		Remarks	*LW*	*MW*	*HW*
Prairie dropseed	*Sporobolus heterolepis*	Native	•		
Prairie wild rye	*Elymus canadensis*	Native seed		•	
Sideoats grama	*Bouteloua curtipendula*	Native	•		
Switchgrass	*Panicum virgatum*	Native	•	•	

(Code 1996, § 15.02.122; Ord. No. O-08-13, 5-7-2013)

Sec. 58-125. Pictures of different xeriscaped yards.

The following images present variations of xeriscaped yards:

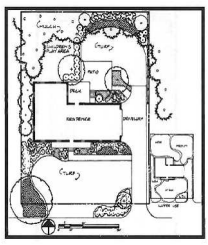




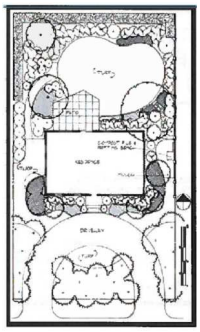












(Code 1996, § 15.02.123; Ord. No. O-08-13, 5-7-2013)

Secs. 58-126—58-148. Reserved.

ARTICLE VI. LIGHTING STANDARDS AND SPECIFICATIONS

Sec. 58-149. Scope of regulation.

This article establishes minimum criteria for the installation, use and maintenance of outdoor lighting.
(Code 1996, § 15.03.001; Ord. No. O-04-17, 5-2-2017)

Sec. 58-150. Purpose.

The purpose of this article is to:

(1) Preserve and enhance the lawful nighttime use and enjoyment of property;

(2) Protect drivers and pedestrians on nearby travelways from disabling glare from nonvehicular light sources that shine directly into their eyes, thereby impairing safe travel;

(3) Shield neighboring properties from nuisance glare and trespass resulting from improperly directed or unshielded light sources;

(4) Prevent or lessen light pollution;

(5) Promote efficient design and operation with regard to energy conservation; and

(6) Curtail the degradation of the nighttime visual environment.

(Code 1996, § 15.03.002; Ord. No. O-04-17, 5-2-2017)

Sec. 58-151. 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:

Building official means the chief building official for the city, or designee, having responsibility to enforce and administer this article.

Bulb or *lamp* means the source of electric light. To be distinguished from the whole assembly, lamp is used to denote the bulb and its housing.

Candela means the unit of luminous intensity in a given direction; commonly called "one candlepower."

Cutoff fixture means a fixture that provides a cutoff (shielding) of the light emitted.

Diffusing luminaire means a luminaire that scatters light substantially in all directions, as contrasted with a directional luminaire which confines its light principally to an angle of less than 180 degrees.

Fixture means the assembly that holds the lamp in a lighting system. The term "fixture" includes the elements designed to give light output control, such as a reflector (mirror) or defractor (lens), the ballast, housing and the attachment parts.

Floodlight means a luminaire designed to project its light in a well-defined area. It is directional in character.

Floodlight beam means the angular spread of light between two orthogonal planes each of which equal ten percent of the maximum candlepower within the beam.

Footcandle means the amount of illumination provided by one lumen uniformly distributed on one square foot of surface.

Footlambert means the luminance of a surface uniformly emitting, transmitting, or reflecting one lumen per square foot of surface.

Full cutoff fixture means a fixture that allows no emission above a horizontal plane through the fixture.

Fully shielded means light fixtures that are constructed so all light rays emitted by the fixture are projected below the horizontal plane passing through the lowest point on the fixture from which light is emitted, nearly 100 percent cutoff type, as evidenced by the manufacturer's photometric data.

Glare means direct lighting emitted from a luminary that causes reduced vision or temporary blindness.

High-pressure sodium (HPS) means a high intensity discharge lamp where radiation is produced from sodium vapor at relatively high partial pressures (100 tore). HPS is essentially point source light.

Horizontal plane means a line horizontal to the lowest point on the fixture from which light is emitted.

Illumination means the density of the luminous flux (lumens) incident on a surface. Illumination is the quotient of the luminous flux divided by the area of the surface, expressed in footcandles.

Incandescent lamp means any lamp that produces light by heating a filament through use of an electric current.

Installed means the attachment, or assembly fixed in place, whether or not connected to a power source, or any outdoor light fixture.

Kilowatt hour (kWh) means a unit of energy equal to the work done by one kilowatt (1,000 watts) of power acting for one hour.

Light source means a device, such as a lamp, which produces visible energy, as distinguished from devices or bodies which reflect or transmit light, such as a luminaire.

Light trespass means light falling outside the boundary of property for which it was originally intended or needed; also referred to as "spillover light" or "obtrusive light."

Low pressure sodium (LPS) means a discharge lamp where the light is produced by radiation from sodium vapor at a relatively low partial pressure (about 0.001 tore). An LPS is a tube source, monochromatic light.

Lumen means the quantity of luminous flux intercepted by a surface of one square foot, all points of which are one foot from a uniform source of one candela. A one-candela source provides 12.57 lumens.

Luminaire means the device or fixture containing a light source and means for directing and controlling the distribution of light from the source.

Luminance means the luminous intensity per unit projected area of a given surface viewed from a given direction; for purposes of this article, luminance is expressed in candelas divided by distance squared.

Mercury lamp means a high intensity discharge lamp where light is produced by radiation from mercury vapor.

Metal halide lamp means a high intensity discharge lamp where light is produced by radiation from metal halide vapor.

Outdoor lighting fixture means an outdoor artificial illumination device, whether permanent or portable, used for illumination outdoors, and shall include, but not be limited to, devices used for search, spot, flood and area lighting for buildings and structures, recreational facilities, parking areas, landscape lighting, outdoor advertising displays, billboards, signs, public and private street lighting and walkway lighting.

Partially shielded means shielding so that the lower edge of the shield is at or below the centerline of the light source or lamp so as to minimize light transmission above the horizontal plane, or so that at least 90 percent of the emitted light projects below the horizontal plane as evidenced by the manufacturer's photometric data.

Photometric means quantitative measurements of light levels and distribution.

Shielding means a physical structure intended to restrict emitted light.

Substantial change means any change to the lamp or bulb that alters the lighting properties of the site, or any change in the type, style or orientation of a light fixture.
(Code 1996, § 15.03.003; Ord. No. O-04-17, 5-2-2017)

Sec. 58-152. Applicability and exemptions.

The lighting standards for the city shall apply to all new construction except as follows:

(1) Outdoor lighting that lawfully exists as of the date of this article shall be deemed a lawful use. Any substantial change or addition to the existing lighting system, as determined by the building official, shall comply with the provisions of this article. If a site substantially changes more than 25 percent of the lighting on a site or adds new lighting that increases the number of light fixtures by more than 25 percent, the entire site shall comply with the provisions of this article;

(2) Commercial sites approved as part of a site plan prior to the ordinance from which this article is derived shall conform to the provisions in place at that time. Any substantial change or addition to the existing lighting system shall, as determined by the building official, comply with the provisions of this article. If a site substantially changes more than 25 percent of the lighting on a site or adds new lighting that increases the number of light fixtures by more than 25 percent, the entire site shall comply with the provisions of this article;

(3) If a use with existing, nonconforming lighting shall cease operation for a period of more than 18 months, then such nonconforming lighting shall be deemed permanently abandoned. The lighting on such site shall be brought into conformance with the provisions of this article prior to the redevelopment or reuse of the site;

(4) The following uses shall be exempt from the requirements of this article:

a. Lighting used for single-family homes and accessory buildings, provided no measurable light spills over to the adjacent property;

b. Lighting specifically directed at a flag may be unshielded and unfiltered, provided that the beam spread is limited to a narrow spot (approximately seven degrees) and the fixture aperture is concealed by a matrix grid to limit glare;

c. Lighting of baseball fields, softball fields, football fields, soccer fields, golf courses and golf driving ranges, and other similar sporting venues shall be exempt from the height and shielding requirements;

d. Lighting of baseball fields, softball fields, football fields, soccer fields, golf courses and golf driving ranges, and other similar sporting venues, shall be allowed to exceed the maximum illumination level of 40 footcandles until 11:00 p.m. No outdoor recreational facility, public or private, shall be illuminated after 11:00 p.m. except to conclude any recreational or sporting event or other activity concluded at a ballpark, outdoor amphitheater, arena, or similar facility in progress prior to 11:00 p.m.;

e. Automobile dealerships are allowed a maximum illumination level of 50 footcandles at display areas until 11:00 p.m.;

f. Lighting necessary for construction or emergencies is exempt from the provisions of this article, provided said lighting is temporary and is discontinued immediately upon completion of the construction work or abatement of the emergency necessitating said lighting;

g. Searchlights require a temporary exemption approval, as provided below;

h. Navigation and airport lighting required by the Federal Aviation Administration for operation of airplanes;

i. Lighting installed by a governmental agency for public benefit on public rights-of-way, parks, and public recreation areas;

j. Temporary exemptions to the requirements of this article may be granted by the planning department upon finding that the exemption does not violate any provisions of land use or overlay districts, and it would not pose a hardship on any adjacent property or use. Such requests shall be submitted in writing to the development review committee and include the following:

1. Specific exemptions requested;

2. Type and use of exterior light involved;

3. Duration of time for requested exemption;

4. Type of lamp and footcandles;

5. Total wattage of lamps; and

6. Proposed location of exterior light;

k. For street lighting within the public right-of-way, the development review committee may approve an alternate type of lighting not otherwise provided in this article if the committee finds that the proposed design, material or method:

1. Provides approximate equivalence to the specific requirements of this article; or

2. Is otherwise satisfactory and complies with the intent of this article.

(Code 1996, § 15.03.004; Ord. No. O-04-17, 5-2-2017)

Sec. 58-153. Submittal requirements.

(a) As part of any site plan application or prior to altering any existing lighting, the applicant shall submit evidence that the proposed work will comply with this article. The submission shall contain, but is not to be limited to, the following:

(1) Plans indicating the location on the premises, and the type of illuminating devices, fixtures, lamps, supports, reflectors and other devices, and the mounting height of the light;

(2) A description of the illuminating devices, fixtures, lamps, supports, reflectors and other devices shall include, but is not limited to, catalog cuts by manufacturers and drawings; and

(3) Photometric plans showing illumination levels on the property, at the property line and just beyond the property line, as well as other data, such as that furnished by manufacturers or similar data, showing the angle of cutoff for light emissions.

(b) The required plans, description, and data provided shall be sufficient to enable the plans examiner to readily determine whether compliance with the requirements of this article will be secured.
(Code 1996, § 15.03.005; Ord. No. O-04-17, 5-2-2017)

Sec. 58-154. Measurement.

(a) *Metering equipment.* Lighting levels shall be measured in footcandles with a direct reading, portable light meter. The meter shall read within an accuracy of plus or minus five percent. It shall have been tested and calibrated by an independent commercial photometric laboratory or the manufacturer within one year of the date of use as attested to by a certificate issued by such laboratory.

(b) *Method of measurement.* The meter sensor shall be mounted or held not more than six inches above ground level in a horizontal position. Readings shall be taken only after the cell has been exposed to provide a constant reading. Measurements shall be made when the National Weather Service indicates visibility is six miles or greater such that measurements will not be adversely affected by atmospheric scatter. Measurements shall be made at least one hour after sunset or one hour prior to sunrise with the existing questioned light sources on, then with the same sources off. The difference between the two readings shall be compared to the limitations stated by this section. This procedure eliminates the effects of moonlight and other ambient light. However, if lighting levels comply with the light sources on, then no further reading is needed with the light sources off to demonstrate compliance.

(c) *Computation of illumination.* Illumination at a point may be computed in lieu of measurement. Computation methods shall consist of an Illumination Engineering Society of North America accepted method, using certified photometric data furnished by the fixture manufacturer, lamp manufacturer, photometric laboratory, or other reliable authority satisfactory to the city. Computations shall be based on new, properly seasoned lamps, new and clean fixtures, and at rated voltage and wattage, with ballasts, lenses, shields, diffusers, and other appurtenances in place, and with proper regard taken for mounting height, relative elevation, natural and human-made objects and industry standard maintenance factors.
(Code 1996, § 15.03.006; Ord. No. O-04-17, 5-2-2017)

Sec. 58-155. Illumination levels.

(a) Maximum illumination level for on-site lighting is 20 footcandles as measured at grade, based on light loss factor of 68 percent for metal halide lighting and 72 percent for high-pressure sodium lighting.

(b) All minimum illumination guidelines listed in this article should be maintained from the ground level to a height of six feet. The minimum to maximum uniformity ratio may range up to 6:1 in acceptable layouts.

(c) The lighting levels specified are the minimum levels that are typically acceptable. In some circumstances, customer convenience, closed-circuit television, and customer attraction may require a higher level of lighting. In addition, demographics, the crime index and other factors particular to a certain geographic area may require a higher level of lighting than listed as follows:

(1) High risk activity (four to five footcandles):

a. ATMs;

b. Pay phones;

c. Bus/transit shelters;

(2) Medium-high risk activity (three to four footcandles):

a. Convenience stores;

b. Fast food;

c. Pharmacies;

d. Pool halls;

e. Grocery stores (24-hour, immediate parking areas);

f. Establishments licensed for the sale of liquor, beer or wine;

(3) Medium risk activities (two to three footcandles):

a. Gas stations (not convenience stores);

b. Entertainment/amusement;

c. Video stores;

d. Laundries;

e. Banks;

f. Restaurants (no sale of alcohol);

g. Hotels/motels;

h. Video halls;

i. Card/telemarketing;

j. Malls;

(4) Medium-low risk activity (one to two footcandles):

a. Multifamily housing;

b. Health care;

c. Industrial (nighttime use);

d. Preschools;

e. Worship;

f. Hospitals;

g. General retail;

h. Dental;

i. Warehouses (nighttime use);

j. Educational;

k. Storage;

l. General offices (nighttime use);

m. Grocery stores (non-24-hour);

(5) Low risk activity (0.5 to one footcandle):

a. Warehouses (daytime use);

b. Offices (daytime use only);

c. Greenbelt;

d. Car dealers (after hours);

e. Parks;

f. Industrial (daytime use);

g. Mini-storage;

h. Retention areas;

i. Walkways in apartment complexes.

(d) Limitations on neighboring property.

(1) The limit of illumination on neighboring property from one establishment shall be based on the zoning of the neighboring property. Maximum computed maintained and maximum measured footcandles at the neighboring property lines shall not exceed:

a. Single-family and two-family residential districts: 0.25 footcandle;

b. Multifamily residential districts: 0.5 footcandle;

c. Nonresidential districts (excluding industrial): three footcandles;

d. Rights-of-way and private streets: three footcandles;

e. Retail and commercial districts: four footcandles;

(2) Exception. Illumination at interior property lines on contiguous lots in a multi-tenant nonresidential development may exceed the criteria in subsection (d)(1) of this section when necessary to provide constant lighting levels on adjoining parking areas, fire lanes and interior access roadways as determined by the director of community development.

(e) The maximum outdoor maintained, computed, and measured illumination level on the subject property shall not exceed 20 footcandles at any point, with the following exceptions:

(1) Lighting under canopies (such as service stations) shall not exceed 30 footcandles. All other lighting on the site shall comply with the provisions of this section; and

(2) Lighting for car dealerships shall not exceed 30 footcandles within vehicle display areas.

(f) Hours of operation.

(1) Lighting used for the illumination of outdoor sales and eating areas, on-site advertising, assembly areas, repair areas, and businesses may be operated during the hours that the facilities are open to the public;

(2) Lighting used for the illumination of recreational and sporting areas shall be turned off by 11:00 p.m. on Sunday through Thursday and by 12:00 midnight on Friday and Saturday; and

(3) Lighting used for the illumination of walkways, roadways, equipment yards, parking areas and outdoor security may be operated any time.

(Code 1996, § 15.03.007)

Sec. 58-156. Mounting and operation of light fixtures.

(a) Building-mounted light fixtures shall be attached only to walls, and the top of the fixture shall not be higher than necessary to illuminate the area required.

(b) In any residential zoning district or within 50 feet of any residential zoning district, freestanding light fixtures shall not exceed 18 feet in height. Within the next 50 to 150 feet of any residential zoning district, freestanding light fixtures shall not exceed 25 feet in height. In all other locations, freestanding light fixtures shall not exceed 30 feet in height.

(c) To comply with subsections (a) and (b) of this section, height shall be measured from the top of a light fixture to the adjacent grade at the base of the support for that light fixture.

(d) Light fixture design.

(1) All luminaires used for security shall be a vandal-resistant design that resists tampering, incorporates vandal-resistant refractors (lens) and shall be provided with a gasket or seal designed to resist rain, dust and insect contamination;

(2) Outdoor light fixtures, which are full cutoff to direct all light below a horizontal plane through the bottom of the fixture and have no lens which drops below the fixture, may use any illumination source up to a maximum of 40 footcandles;

(3) Outdoor light fixtures, which have a lens or diffuser which is visible above the horizontal plane and constructed of white/opal glass, are considered non-cutoff and filtered and shall be limited to the light output equal to a 100-watt incandescent bulb, no greater than 1,700 lumens;

(4) Outdoor light fixtures, which have a lens or diffuser which is visible above the horizontal plane and constructed of clear or prismatic glass, are considered non-cutoff and nonfiltered and shall be limited to the light output equal to a 50-watt incandescent bulb no greater than 600 lumens;

(5) All conduit must be concealed; and

(6) The footcandle level at the property line adjacent to a single-family district (from the proposed lighting) shall not exceed one-fourth footcandle. Lighting next to a residential use shall not spill over onto that use.

(e) Other conditions related to lighting may be required through development plan review.

(Code 1996, § 15.03.008; Ord. No. O-04-17, 5-2-2017)

Sec. 58-157. Specific areas to be illuminated.

The following areas on a building or development shall be illuminated to the minimum security lighting levels shown below:

(1) All loading areas and docks shall be illuminated from dusk to dawn, with four footcandles of light at finish grade;

(2) Carport parking structures shall be illuminated from dusk to dawn, with three footcandles, including the adjacent landscape area to finish grade;

(3) Parking structures and parking garages shall be illuminated from dawn to dusk with ten footcandles, and from dusk to dawn with four footcandles. Sublevel parking shall be continuously illuminated 24 hours a day with four footcandles at finish grade. Transitional lighting will be required at all entry areas;

(4) All stairwells, landings, and areas under the lower landing shall be continuously illuminated with five footcandles;

(5) Breezeway lighting shall be illuminated from dusk to dawn, with four footcandles. Transitional lighting will be required at all entry areas to the breezeway corridor;

(6) Exterior pedestrian pathways and adjacent landscape areas within 20 feet of the pathway shall be illuminated from dusk to dawn, with half a footcandle of light at finish grade. Pedestrian gates shall be illuminated from dusk to dawn, with five footcandles and two footcandles within a 15-foot radius;

(7) Retention areas shall be illuminated from dusk to dawn, with five footcandles of light at finish grade;

(8) Cluster or neighborhood mailboxes shall be illuminated from dusk to dawn, with five footcandles of light for a 15-foot radius of the mailboxes;

(9) Parking lots, aisles, and refuse areas shall be illuminated from dusk to dawn as follows:

a. Parking spaces for motor vehicles and bicycles shall be illuminated with two footcandles;

b. Parking lot drive aisles shall be illuminated with one footcandle; and

c. Refuse areas shall be illuminated with two footcandles, with gates five footcandles;

(10) All building entrances and vehicular gates at operator or locking mechanism shall be illumined with five footcandles at the entrance and two footcandles within a 15-foot radius from the center point of the entrance;

(11) Secondary lighting may be required to supplement the primary security lighting due to design elements and landscaping conflicts, in order to meet the minimum lighting criteria.

(Code 1996, § 15.03.009; Ord. No. O-04-17, 5-2-2017)

Sec. 58-158. Effective outdoor lighting.

The purpose of this section is to minimize glare, sky glow, light trespass and excessive energy consumption through the use of appropriate lighting fixtures, practices and systems, while maintaining safety, security and productivity and curtailing degradation of the nighttime visual environment. The following are requirements for effective outdoor lighting:

(1) Fully shielded luminaires shall be required in all outdoor lighting installations, with the following exceptions:

a. Outdoor light fixtures used to illuminate flags, statues, or any other objects mounted on a pole, pedestal or platform shall use a very narrow cone of light or shielded lights for the purpose of confining the light to the object of interest and minimize light spillover and glare. Compliance with this subsection shall be subject to approval by the building official; and

b. Building façades and architectural features of buildings may be floodlighted when the floodlight fixtures are equipped with shields and are located so as to limit the fixture's direct light distribution to the façade or feature being illuminated. The configuration of the floodlight installation shall block all view to the floodlight fixture's lamps from adjacent properties. Compliance with this subsection shall be subject to approval by the building official;

(2) The following lamp types shall be prohibited for outdoor lighting:

a. Mercury vapor;

b. Bare bulbs above 75 watts; and

c. Strings of lamps, except for temporary lighting as provided in section 58-152;

(3) The quality of the light source shall be a minimum of 65 CRI (color rendering index) as indicated by the lamp manufacturer's data;

(4) Outdoor lighting shall be constructed and installed in a manner consistent with this section and shall be located so as to not produce glare or direct illumination across the property line or onto rights-of-way.

(Code 1996, § 15.03.010; Ord. No. O-04-17, 5-2-2017)

Sec. 58-159. Street lighting.

In both residential and nonresidential and all provisional districts (SF-4, MF and MH), lighting is required to be approved with the site plan and designed and constructed to the following standards:

(1) Metal standards or poles are required. The use of fiberglass poles is prohibited;

(2) High-pressure sodium bulbs (100-watt in residential areas and 250 watt at major intersections);

(3) Poles shall be erected a maximum of 200 feet apart;

(4) Streetlights shall be at each intersection and at the intersections (i.e., street intersection and street and alley intersections);

(5) A photometric plan must be approved by the city for streetlights and for any other lighting in the project (e.g., park lighting, parking lot lighting); this shall include the streetlight locations, type of pole, the type of head and the size of the bulb (this plan can and should be produced by the utility company);

(6) All electrical wiring for street lighting facilities shall also be installed underground.

(Code 1996, § 15.03.011; Ord. No. O-04-17, 5-2-2017)

Chapter 59

RESERVED

Chapter 60

MANUFACTURED HOMES

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ARTICLE I. IN GENERAL

Sec. 60-1. Definitions.

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

Building official means a designated inspection authority of the city, or its authorized representative.

Common access route/internal street means a private drive allowing principal means of access to individual HUD-code manufactured home or mobile home lots or auxiliary buildings.

Driveway means a minor entranceway off the common access route within the park, into an off-street parking area serving one or more HUD-code manufactured home or mobile homes.

Existing park or *existing community* means all mobile home, travel trailer, recreational vehicle or manufactured home parks that are in existence as of the effective date of the ordinance from which this article is derived.

Existing park operator means all existing park management operators or owners.

Existing structure means all mobile homes, travel trailers, recreational vehicles or manufactured homes that are located in an existing park as of the effective date of the ordinance from which this article is derived.

HUD-code manufactured home means a structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections which, in the traveling mode, is eight body feet or more in width, 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes plumbing, heating, air conditioning, and electrical systems. The term "HUD-code manufactured home" does not include a recreational vehicle as that term is defined by 24 CFR 3282.8(9).

IRD code means International Residential Code 2003 with Appendix E.

License means a written license issued by the city, permitting a person to operate and maintain a HUD-code manufactured home park under the provisions of this article.

Manufactured home means a HUD-code manufactured home as defined in this section.

Manufactured home stand means that part of a manufactured home park which has been improved for the placement of the manufactured home, including all required appurtenances and having provision for available utility connections.

Mobile home means a structure that was constructed before June 15, 1976, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 feet or more square feet, and which is built on a permanent chassis designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes plumbing, heating, air conditioning, and electrical systems.

Mobile home park or *manufactured home park* means any lot, block, tract, or parcel of contiguous lots, blocks, tracts or parcels of land, under common ownership, which contains two or more mobile homes or HUD-code manufactured homes or mobile homes or manufactured home lots available for lease or rent to the public and for the placement of mobile homes or manufactured homes for occupancy.

Occupant means any person who legally resides in the home, travel trailer or motor home.

Park management means the person who owns or has charge, care or control of the manufactured home or mobile home park.

Parking street space, off-street, means a parking space a minimum of nine feet in width by 18 feet in length, located within the boundary of a mobile home or manufactured home space, or in common parking and storage area having unobstructed access to an internal street.

Permit means written permit/certification issued by the city permitting the construction, alteration or extension of a manufactured home park under the provisions of this article and regulations issued hereunder.

Plot plan or *site plan* means a graphic presentation, drawn to scale in a horizontal plane, delineating the outlines of the land included in the plan and all proposed use location accurately dimensioned, the dimensions also indicating the relation of each use to that adjoining and to the boundary of the property.

Sewer connection means a connection consisting of pipes, frames and appurtenances from the drain outlet of a mobile home or manufactured home to the inlet of the corresponding sewer service riser pipe of the sewage system serving the manufactured home park.

Skirt means concealment from view of the undercarriage on all sides of a mobile home or manufactured home.

Space means a plot of ground within a manufactured home park designated for accommodation of one manufactured home, together with such open space as required by this article. The term "space" shall also include "lot" and "site."

Travel trailer or *motor home* means a portable vehicle built on a chassis and designed as a temporary dwelling for travel, recreation and vacation use and which has been permanently identified and equipped and identified by the manufacturer for use on public streets and highways. The term "travel trailer" shall also be deemed to include any other portable contrivance used or intended to be used generally for living and sleeping quarters and which may be moved under its own power, towed or transported by another vehicle.
(Code 1996, § 14.04.001; Ord. No. 833-06, § 1, 12-4-2006)

Sec. 60-2. Mobile home prohibition.

(a) The installation of mobile homes for use or occupancy as residential dwellings in the city is prohibited.

(b) This section is prospective and shall not apply to any mobile home used and occupied as a residential dwelling in the city on the effective date of the ordinance from which this article is derived.

(c) An existing mobile home located in the city, as of the date of the ordinance from which this article is derived, will be allowed to remain on its existing site until it is removed from city, or until the condition of the mobile home violates this Code. When the condition of the mobile home violates this Code, the building official shall require the owner to repair the home, move the home out of the city, or demolish the home.

(d) All structural repair or remodeling of a mobile home shall require a building permit. All work shall be done by a state-certified licensed contractor or home-occupied owner.

(e) An existing, but temporarily vacant, mobile home located in the city, as of the date of the ordinance from which this article is derived, will be considered occupied for purposes of this section if it has been in actual residential use within 30 days prior to enactment of the ordinance from which this article is derived, is vacant for purposes of refurbishment for future residential use at the time of enactment of the ordinance from which this article is derived or subsequently becomes vacant for purposes of refurbishment for future residential use after enactment of the ordinance from which this article is derived, and such vacancy is terminated by actual residential use of the mobile home within 60 days of enactment of the ordinance from which this article is derived.
(Code 1996, § 14.04.002; Ord. No. 833-06, § 2, 12-4-2006)

Sec. 60-3. Installation requirements.

All manufactured homes placed in the corporate limits of the city after the effective date of the ordinance from which this article is derived must be installed in accordance with all state and federal laws and the standards, rules, regulations and administrative orders and requirements of the state department of housing and community affairs, or its successor agency.
(Code 1996, § 14.04.003; Ord. No. 833-06, § 3, 12-4-2006)

Sec. 60-4. Siting requirements.

All manufactured homes, travel trailers, or motor homes placed in the corporate limits of the city after the effective date of the ordinance from which this article is derived must be installed and located in a manufactured home park, except for the following:

(1) A mobile home or manufactured home that was installed on a site within the city prior to the effective date of the ordinance from which this article is derived, subject to the restrictions of section 60-2;

(2) A manufactured home installed on any parcel or tract of land that has no other residential or commercial structure on it and placed within a solid fascia or perimeter enclosure (whether load-bearing or not) prior to having water, sewer or electrical service installed;

(3) A mobile home or manufactured home provided by any governmental agency as temporary housing following any public disaster or public calamity, or a mobile home temporarily moved from any mobile home park or subdivision by reason of any public disaster or public calamity;

(4) A mobile home or manufactured home that is located upon a site prior to annexation of the site by the city except as provided in section 60-6;

(5) The storage parking of a vacant and unoccupied travel trailer, motor home, or recreational vehicle at any residence or commercial site;

(6) The temporary parking of a mobile home or manufactured home, travel trailer, recreational vehicle or motor home for purposes of security at a temporary commercial facility for a period approved by the city manager or designee;

(7) Mobile homes or manufactured homes parked for purposes of sale to the public within a mobile home or manufactured home sales lot;

(8) A manufactured home, mobile home, or travel trailer that is used for an official city purpose, as may be determined and approved by the city manager or designee, and that is located on any parcel or tract of land owned or leased by the city;

(9) The temporary parking of an occupied, nonvacant travel trailer, recreational vehicle or motor home at any residence or commercial site is prohibited.

(Code 1996, § 14.04.004; Ord. No. 833-06, § 4, 12-4-2006; Ord. No. O-19-18, 11-20-2018)

Sec. 60-5. Skirting requirements.

(a) All manufactured homes shall have skirting within 90 days after being placed. The skirt shall be:

(1) Completely around the structure from the base of the manufactured home to the ground level beneath;

(2) Of material with similar appearance to the manufactured home or masonry material;

(3) Of weather-resistant material for skirting and shall not be scrap metal or polyurethane scrap material;

(4) Skirted in such a way as not to allow access to the underside of the manufactured home for storage or trash accumulation but access only for repair purposes to the manufactured home;

(5) Approved at the time of placement.

(b) Manufactured HUD-code sales lots shall comply with this section.

(Code 1996, § 14.04.005; Ord. No. 833-06, § 5, 12-4-2006)

Sec. 60-6. On-site parking.

Each manufactured home site shall provide a minimum of two off-street parking spaces which shall be constructed of engineered asphalt or 3,000 psi concrete per city specifications. (Code 1996, § 14.04.006; Ord. No. 833-06, § 6, 12-4-2006)

Secs. 60-7—60-30. Reserved.

ARTICLE II. MANUFACTURED HOME PARKS

DIVISION 1. GENERALLY

Secs. 60-31—60-48. Reserved.

DIVISION 2. PERMITS AND LICENSES

Sec. 60-49. Park permit requirements.

(a) *Permit required.* It is unlawful for any person to construct, alter, extend or expand any manufactured home park within the limits of the city unless the person holds a valid permit issued by the city in the name of the person for the specific construction, alteration or extension proposed.

(b) *Application requirements; fee.* All applications for permits shall be made upon standard forms provided by the city and shall include the name and address of the applicant and the location and legal description of the manufactured home park. The application shall be submitted together with a permit fee in the amount provided in the city fee schedule and five copies of a site plan, at a minimum scale of one inch equals 200 feet for sites of 30 acres or more, and at a minimum of one inch equals 100 feet for sites under 30 acres. The site plan shall include all data required under section 60-74.

(c) *Issuance of permit.* When after review of the application the city council is satisfied that the proposed plan meets the requirements of law, a permit shall be issued.

(d) *Rehearing for denied applications.* Any person whose application for a permit under this article has been denied may request in writing a rehearing on the matter and offer additional evidence if desired.
(Code 1996, § 14.04.007(a); Ord. No. 833-06, § 7, 12-4-2006)

Sec. 60-50. Park license requirements.

(a) *License required.* It is unlawful for any person to establish, operate, or maintain or permit to be established, operated or maintained upon any property owned or controlled by that person any manufactured home park within the limits of the city unless that person holds a valid license issued annually by the city.

(b) *Term of license.* Licenses issued pursuant to this section shall expire on December 31 of each year.

(c) *Original license applications.* Applications for original license shall be in writing, signed by the applicant, accompanied by an affidavit of the applicant as to the truth of the application and by payment of a license fee in the amount provided in the city fee schedule. The application shall also contain the name and address of the applicant, the location and legal description of the park, and a site plan of the park.

(d) *License issuance.* The license shall be issued if the city determines that the application and park are in compliance with this Code.

(e) *Hearing for application denials.* Any person whose application for a license under this article has been denied may request, in writing and within ten days, a rehearing shall be granted by the city council.

(f) *Application for renewal.* Application for renewal of a license shall be made in writing by the licensee on forms furnished by the city no later than December 1 of each year. The application shall contain any change in the information occurring after the original license was issued or the latest renewal granted and shall be accompanied by a renewal fee in the amount provided in the city fee schedule.

(g) *Transfer of license.* Every person holding a license shall give notice in writing to the city within 15 days after having sold, transferred, given away, or otherwise disposed of interest in or control of any manufactured home park. All applications for license transfer shall be accompanied by a fee in the amount provided in the city fee schedule.

(h) *Violations, notice, suspension of license.* If the city finds that conditions or practices exist which are in violation of any provision of this article it shall give notice in writing in accordance with section 60-104 to the permittee or licensee or agent that unless such conditions or practices are corrected within a reasonable period of time (not less than 30 days and not more than one year) as specified in the notice, the license or permit shall be suspended. At the end of the period of time, and if such conditions or practices have not been corrected, the city may suspend the license and give notice, in writing, of such suspension to the licensee or agent at the address provided in the application. Upon receipt of notice of suspension, the licensee shall cease operation of such park within ten days after the notice is issued.

(Code 1996, § 14.04.007(b); Ord. No. 833-06, § 7, 12-4-2006)

Secs. 60-51—60-73. Reserved.

DIVISION 3. STANDARDS AND SPECIFICATIONS

Sec. 60-74. Site plan.

(a) The site plan submitted to the city shall show the following:

(1) The name, address, fee owner and record owner of the proposed manufactured home park to be constructed or of the existing manufactured home park to be altered, extended or expanded;

(2) The name of the subdivision where the park is located;

(3) The names of adjacent public streets and roads;

(4) Contour lines at two-foot intervals;

(5) Locations and dimensions of all HUD-code manufactured home spaces, utility easements, drives, recreation areas, streets and sidewalks. Each HUD-code manufactured home space shall be numbered;

(6) The scale of the plan (no smaller than one inch equals 200 feet) and complete dimensions;

(7) Density in units per gross acre;

(8) The area and dimensions of site;

(9) The areas defined for waste containers and method of disposal of garbage and refuse;

(10) Water and sewer plans must be submitted showing:

a. Sewer line locations, grades and sizes; and

b. Water line locations and sizes and source of water supply;

(11) Paving and drainage plans must show the directions and calculated quantities of runoff and the proposed specifications for streets;

(12) Plans must indicate provision for street lighting along internal streets of the park;

(13) A contiguous area of not less than five percent of the total park area shall be designated as a recreational area for the park's residents. Recreation areas shall be so located as to be free of traffic hazards and should, where the topography permits, be centrally located;

(14) City-approved screening fence not to exceed six feet shall be completely around the approved site.

(b) The building official shall notify the applicant in writing as to whether the site plan was approved or disapproved, stating the reasons for disapproval and the modifications or conditions that must be made or met before approval can be obtained upon subsequent submission. New manufactured home parks require a special use permit.

(c) Any manufactured home park constructed after adoption of the ordinance from which this article is derived and any extension/addition to an existing manufactured home park in the city shall be done in compliance with the site requirements provided in this division.
(Code 1996, § 14.04.008(1); Ord. No. 833-06, § 8, 12-4-2006)

Sec. 60-75. Density.

A manufactured home park shall have no more than ten spaces per acre. Each manufactured home park shall be planned for and shall provide a minimum of five acres in area.
(Code 1996, § 14.04.008(2)(A); Ord. No. 833-06, § 8, 12-4-2006)

Sec. 60-76. Minimum site requirements.

(a) *Height regulations.* The height limit for any structure intended for occupancy in the manufactured home park shall be 35 feet. The average height of the HUD-code manufactured home frame above ground elevation, measured at 90 degrees to the frame, shall not exceed four feet from the top of the pad.

(b) *Spacing regulations.* HUD-code manufactured homes shall be located no closer than 20 feet from any exterior wall to the closest exterior wall of the nearest HUD-code manufactured home.

(c) *HUD-code manufactured home space.* Every HUD-code manufactured home shall be located on a separate space which shall conform to the following standards:

(1) Be served with sanitary sewer, water, electrical power, telephone service and natural gas;

(2) Abut or have access to a private street for a minimum distance of 18 feet;

(3) Be provided a minimum area of 3,200 square feet, the area to be determined by the boundary lines of the space;

(4) Be provided a HUD-code manufactured home pad which shall provide an adequate foundation for the placement and tie-down of one single-family HUD-code manufactured home, thereby securing the superstructure against uplift, sliding rotation, and overturning. Further, such pad shall:

a. Be constructed of concrete which shall adequately support the weight of the HUD-code manufactured home placed thereon and be durable and well drained under normal use and weather conditions;

b. Be provided anchors and tie-downs, such as cast-in-place concrete dead men, eyelets embedded in concrete foundations or runway screw augers, arrowhead anchors, or other devices which secure the stability of the HUD-code manufactured home, and shall be placed at least at each corner of the HUD-code manufactured home; and

c. Cover an area of at least 240 square feet or at least one-third of the area of the largest HUD-code manufactured home which is to be placed on the HUD-code manufactured home space, whichever is greater.

No surface provided for a purpose other than the foundation of HUD-code manufactured home shall be considered a part of such HUD-code manufactured home pad;

(5) Be provided a minimum of two off-street parking spaces which shall be constructed of engineered asphalt or 3,000 psi concrete per city specifications;

(6) Double street frontage of HUD-code manufactured home spaces shall be avoided;

(7) No vehicular access to a HUD-code manufactured home space is permitted from a publicly dedicated street.

(d) *Drainage.* The ground surface in all parts of every manufactured home park and especially beneath HUD-code manufactured homes and other structures shall be graded and equipped to drain all surface water in a safe, efficient manner so as not to permit water to stand or to become stagnant.

(e) *Design and location of storage facilities.* Storage facilities with a minimum capacity of 200 cubic feet per HUD-code manufactured home space may be provided on the space, or in compounds located within 200 feet of the space. Where provided, storage facilities shall be faced with a durable, fire-resistant material. Storage outside the perimeter walls of the HUD-code manufactured home shall be permitted only if in such facilities. No storage shall be permitted under a HUD-code manufactured home. Storage facilities shall not be located within ten feet of any HUD-code manufactured home space boundary line.

(f) *Location of HUD-code manufactured home and accessory structures.* No HUD-code manufactured home or accessory structure, such as a refuse container, carport cabana, awning, fence, or storage locker shall be permitted within ten feet of a private street or any HUD-code manufactured home space boundary line.

(g) *Setbacks and screening.* Setbacks and screening shall be provided as follows:

(1) All HUD-code manufactured homes or structures in a manufactured home park shall be located at least 25 feet from any manufactured home park boundary line abutting upon a public/private street or highway and at least 15 feet from interior manufactured home park property boundary lines;

(2) The following screening requirements shall be applicable: a landscaped strip not less than ten feet in width shall be located along all manufactured home park boundary lines abutting upon a public dedicated street or abutting residential property. Such landscaped strip shall be continuously maintained and shall be devoted exclusively to the planting, cultivation, growing and maintenance of site-obscuring trees, shrubs and plants. Trees, shrubs, cane or other vegetation shall be planted, cultivated and maintained as a sight- and noise-obscuring buffer that will effectively achieve sight and noise obstruction within approximately five years.

(h) *Access, traffic circulation, parking and lighting.* Access, traffic circulation, parking and lighting shall be provided as follows:

(1) Internal streets shall be privately owned, built and maintained. Streets shall be designed for safe and convenient access to all spaces and facilities for common use of park residents;

(2) All internal streets shall be constructed to specifications set by the city council and shall be maintained by the owner;

(3) All private streets shall be constructed with water-impermeable, hard-surface material and shall be durable and well drained under normal use and weather

conditions. Such hard-surface material shall be a minimum of two seal coats of asphalt or one-inch compacted hot or cold asphalt mix on base approved by the public works director;

(4) Internal streets shall be minimum pavement width of 27 feet. Parking shall not be allowed on the minimum street width. An additional lane of nine feet minimum width may be added to one or both sides for off-street parking;

(5) Internal streets shall permit unobstructed access to within at least 200 feet of any portion of each HUD-code manufactured home;

(6) Within each manufactured home park, streets shall be named, and HUD-code manufactured homes numbered. Street signs, including traffic safety signs, shall be of standard size and placement shall be approved by the public works director, in order to facilitate location by emergency vehicles. Lot numbers shall be a minimum of four inches in height in contrasting colors visible from the public right-of way attached to the manufactured home. All signs shall be compliant with the Americans with Disabilities Act, as amended;

(7) Private streets which may connect two public street rights-of-way shall, by the use of curves, offsets, location, or the use of two or more streets, be located so as to discourage through traffic;

(8) Private street intersections shall generally be at right angles; offsets at intersections of less than 125 feet (centerline to centerline) shall be avoided; intersection of more than two streets at one point shall be avoided;

(9) Dead-end private streets shall be limited to a maximum length of 600 feet and shall be provided with a vehicular turning space, with a turning circle of 100 feet in diameter;

(10) Streets shall be laid out to provide a minimum distance of 240 feet, center to center of parallel streets, between intersections;

(11) The internal private streets, parking lots, walks and service areas shall be lighted at all times so the manufactured home park shall be safe for occupants and visitors; provided, further, all entrances and exits shall be lighted. Street lighting shall be located at not more than 200-foot intervals along streets, such as to maintain adequate levels of illumination for the safe movement of pedestrians and vehicles at night.

(i) *Fire safety standards.* The following fire safety standards shall be observed:

(1) The storage, handling and use of liquefied petroleum gases and flammable liquids shall be done in compliance with applicable city ordinances and state statutes;

(2) Approaches to all HUD-code manufactured homes shall be kept clear for emergency vehicles;

(3) Water lines and fire hydrants shall be provided and suitably located for adequate fire protection as determined by the fire chief, but in no case shall the park provide less

than a system of standard hydrants located not more than 500 feet from each HUD-code manufactured home space and served by water lines not less than six inches in diameter installed in a looped system. Private lines and fire hydrants shall be maintained, and testing of such lines shall be the responsibility of park owners. Records shall be kept at park location per the Uniform or International Fire Code;

(4) The manufactured home park licensee or agent shall sign up for trash service with the city.

(j) *A manufactured home park shall be connected to the city water system.* All approved water supply for domestic use and fire protection purposes shall be supplied by the city to meet the requirements of the manufactured home park. All plumbing shall be in accordance with applicable ordinances of the city. Individual water and electric meters to each unit shall be installed upon approval by the city and dedication to the city of any necessary infrastructure, coupled with individual garbage service and assessment of all applicable fees. Those water, sewer, electric, gas, telephone and cable television connections which are made available at each space shall be readily accessible by appropriate private company or city technicians for maintenance, connection, or inspection as required for providing service. Maintenance of the water distribution system within the manufactured home park shall be the responsibility of the park owner. Emergency repairs performed by the city within the manufactured home park shall be at the expense of the park owner.

(k) *Regulations for sewage disposal.* From and after the effective date of the ordinance from which this article is derived, the following regulations for sewage disposal shall apply:

(1) A manufactured home park shall be connected to the city sewer system;

(2) Waste from all toilets, lavatories, sinks and showers in a manufactured home park shall be discharged into a public sewer;

(3) All plumbing shall comply with applicable plumbing codes as adopted by the city;

(4) Each HUD-code manufactured home pad shall have a sewer riser pipe of at least four inches which shall be capped when not in use;

(5) Maintenance of water and sewer lines within the manufactured home park shall be the responsibility of the park owner.

(l) *Electrical distribution system.* From and after the effective date of the ordinance from which this article is derived, the electrical distribution system shall comply with applicable electrical codes as adopted by the city and other applicable laws of the state.

(m) *Bath facilities.* All bath facilities will be built under the International Plumbing Code, as amended.

(n) *Solid waste storage.* Solid waste shall be stored in flyproof, waterproof containers, which shall be emptied regularly and maintained in a usable, sanitary condition and the collection and disposal of the refuse and garbage shall be so conducted as to create no health

hazard. A refuse pickup easement shall be granted by the owner of the manufactured home park to the city, if these facilities are located so as to require the entrance of waste hauling vehicles into the park.

(o) *Skirting.* All manufactured homes located in manufactured home parks or private lots shall have skirting within 90 days after being placed, in accordance with skirting requirements in section 60-5.

(p) *Mobile homes shall not be permitted in a manufactured home park.* Only HUD-code manufactured homes shall be permitted in a manufactured home park.

(q) *Conforming.* All manufactured home park facilities and HUD-code manufactured homes contained therein shall conform, without limitation, to the codes and ordinances of the city, including the building, plumbing, electrical and fire codes as adopted and all applicable laws of the state.
(Code 1996, § 14.04.008(2)(B); Ord. No. 833-06, § 8, 12-4-2006)

Sec. 60-77. Management requirements.

The licensee shall be responsible for all requirements of manufactured home park operators set out elsewhere in this article and shall be responsible for:

(1) Ensuring that the manufactured home park is operated and maintained in a safe and sanitary manner;

(2) Maintaining all streets, street signs, parking, storage areas, and recreational areas within the manufactured home park;

(3) Maintaining the water distribution system, storm drainage and sewer system within the manufactured home park;

(4) Installing and maintaining screening around entire street and alley frontage of the park. Screening design shall be approved by the city. Screening may be fast-growing shrubbery;

(5) Ensuring that all requirements of this article are met and maintained. Any manufactured home park issued an initial license after adoption of the ordinance from which this article is derived that is found to be in violation of any provisions of this article shall be notified in writing by the city manager or designee in accordance with terms set forth herein and, upon failure to comply, the license shall be revoked;

(6) All responsibilities set out elsewhere in this article, and the licensee or agent shall operate the park in compliance with this article and other applicable ordinances and shall provide adequate supervision to maintain the park and all facilities in good repair, and in clean and sanitary condition. The licensee or agent shall notify park occupants of all applicable provisions of this article and inform them of their duties and responsibilities under this article;

(7) Allowing any duly authorized inspector of the city to make reasonable inspections of the manufactured home park to determine compliance with this article.

(Code 1996, § 14.04.009; Ord. No. 833-06, § 9, 12-4-2006)

Sec. 60-78. Owner/occupant requirements.

Manufactured home park occupants or manufactured homeowners' shall be responsible for all the requirements set forth in this article on all manufactured homes' owners or occupants set out elsewhere in this article and shall be responsible for:

(1) Proper placement of the manufactured home on the manufactured home stand and proper installation of all utility connections in accordance with the instructions of the park management;

(2) Keeping the area under the manufactured home clear of flammable and combustible items and not using the space for storage;

(3) Maintaining those portions of the interior of a manufactured home under the owner's or occupant's control free from rubbish, garbage, and other substances that may encourage infestation by insects, rodents, or vermin and from all unsanitary conditions;

(4) Keeping all occupied areas and all plumbing equipment and facilities in a clean, sanitary condition at all times;

(5) Connecting plumbing fixtures and heating equipment that the owner or occupant supplies and maintaining the connections in accordance with applicable codes of the city;

(6) Maintaining the manufactured home and its facilities without alteration creating nonconformity with this article or any other applicable law;

(7) Maintaining the manufactured home unit, plot, its facilities, equipment and accessory structures in good repair and in a clean and sanitary condition;

(8) Maintaining skirting, porches, awnings, and other additions to the manufactured home;

(9) Maintaining lots to prevent grass or weeds from exceeding 12 inches in height;

(10) Ensuring there is no open storage, except personal lawn mowers, trash cans or bicycles;

(11) Ensuring that any and all structural repair or remodeling of a manufactured home shall be done by a state-certified licensed person or contractor or home-occupied owner in compliance with state and federal laws.

(Code 1996, § 14.04.010; Ord. No. 833-06, § 10, 12-4-2006)

Sec. 60-79. Use of portable buildings.

The use of portable metal buildings or the modification and adaptation thereof shall not be allowed for purposes of residential dwelling unless the design and construction thereof has been specifically found by the building official not to constitute a hazard to life, health or property and to be in full compliance with all requirements of the International Residential Code adopted by the city.
(Code 1996, § 14.04.011; Ord. No. 833-06, § 11, 12-4-2006)

Sec. 60-80. Existing park owner/occupant requirements.

Existing park occupants or mobile home, travel trailer, recreational vehicle or manufactured home (existing structure) owners shall be responsible for all the requirements set forth in this article for all owners or occupants of an existing structure set out elsewhere in this article and shall be responsible for:

(1) Proper placement of the existing structure on the stand and proper installation of all utility connections in accordance with the instructions of the existing park management;

(2) Keeping the area under the existing structure clear of flammable and combustible items and not using the space for storage;

(3) Maintaining those portions of the interior of an existing structure under the owner or occupant's control free from rubbish, garbage, and other substances that may encourage infestation by insects, rodents, or vermin and from all unsanitary conditions;

(4) Keeping all occupied areas and all plumbing equipment and facilities in a clean, sanitary condition at all times;

(5) Connecting plumbing fixtures and heating equipment that the existing structure owner or occupant supplies and maintaining the connections in accordance with applicable codes of the city;

(6) Maintaining the existing structure and its facilities without alteration in contradiction of the nonconforming status created under this article or any other applicable law;

(7) Maintaining the existing structure unit, plot, its facilities, equipment and accessory structures in good repair and in a clean and sanitary condition;

(8) Maintaining skirting, porches, awnings, and other additions to the existing structure;

(9) Maintaining lots to prevent grass or weeds from exceeding 12 inches in height;

(10) Ensuring there is no open storage, except personal lawn mowers, trash cans and bicycles;

(11) Ensuring that any and all structural repair or remodeling of an existing structure shall possess the required building permit, and inspections and all work shall be done by a state-certified licensed person or contractor or home-occupied owner.

(Code 1996, § 14.04.014; Ord. No. 833-06, § 13, 12-4-2006)

Secs. 60-81—60-103. Reserved.

DIVISION 4. VIOLATIONS AND ENFORCEMENT

Sec. 60-104. Notice requirements.

(a) Upon violation of this article, the city shall give notice of such alleged violation to the permittee or licensee or agent. The notice shall:

(1) Be in writing;

(2) Include a statement of the reasons for its issuance;

(3) Allow a reasonable time of not less than 30 days nor more than one year, based upon the nature and severity of the violation and having due regard for the safety and protection of the community, for the performance of the act it requires;

(4) Be served upon the licensee or agent, provided that such notice or order shall be deemed to have been properly served upon such licensee or agent when a copy thereof has been sent by mail to the last known address, or when the licensee has been served with such notice by any method authorized or required by the laws of this state; and

(5) Contain an outline of remedial action which, if taken, will effect compliance with the provisions of this article.

(b) If the violation is not remedied in accordance with the notice, and a breach of this article continues, then the city may revoke any permits or licenses issued in addition to any punishment provided in this article.

(Code 1996, § 14.04.014; Ord. No. 833-06, § 14, 12-4-2006)

Sec. 60-105. Violations; penalties.

A person violating a provision of this article shall, upon conviction, be punished by a fine of not less than $1.00 and not more than $500.00 for a first conviction, and by not less than $500.00 and not more than $2,000.00 for each additional conviction. Every day's violation shall constitute a separate and distinct offense. Any mobile home or manufactured home, travel trailer or motor home not in compliance with this article shall not be provided city utility services directly from the city or indirectly from an established city utility customer.

(Code 1996, § 14.04.015; Ord. No. 833-06, § 15, 12-4-2006)

Secs. 60-106—60-123. Reserved.

ARTICLE III. RECREATIONAL VEHICLE PARKS

DIVISION 1. GENERALLY

Sec. 60-124. 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:

Dependent trailer means a trailer which is dependent upon a service building for toilet and lavatory facilities.

Recreational vehicle.

(1) The term "recreational vehicle" means a nonmotorized vehicle that:

a. Is designed:

1. To be towable by a motor vehicle; and

2. For temporary human habitation for uses, including recreational camping or seasonal use;

b. Is permanently built on a single chassis;

c. May contain one or more life support systems; and

d. May be used permanently or temporarily for advertising, selling, displaying, or promoting merchandise or services, but is not used for transporting property for hire or for distribution by a private carrier.

(2) By way of example, but not limitation, the term "recreational vehicle" also means any of the following:

Motor home means a portable, temporary dwelling to be used for travel, recreation, and vacation, constructed as an integral part of a self-propelled vehicle.

Pickup coach means a structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation.

Travel trailer means a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses, or permanently identified travel trailer by the manufacturer of the trailer and, when factory-equipped for the road, it shall have a body width not exceeding eight feet and a body length not exceeding the state maximum.

Recreational vehicle park means a certain piece of property, located within the appropriate zoning district on which two or more recreational vehicles are placed.

Self-contained trailer means a trailer which can operate independent of connections to sewer, water, and electric systems. It contains a water-flushed toilet, lavatory, shower, and kitchen sink, all of which are connected to water storage and sewage holding tanks located within the trailer.
(Code 1996, § 3.09.002; Ord. No. 705-01, 5-21-2001)

Sec. 60-125. Scope of article.

All recreational vehicle parks existing as of the time of the adoption of the ordinance from which this article is derived or hereafter constructed or laid out within the city shall conform to or be made to conform to the requirements of this article.
(Code 1996, § 3.09.013)

Sec. 60-126. Permit required.

Any person seeking to construct, alter, or expand a recreational vehicle park shall obtain a written permit from the city building official for the specific purposes proposed. Such application shall set out the name and address of the applicant, the location and legal description of the property and a site plan, which plan shall further be submitted to the planning and zoning commission of the city for approval. The application and subsequent issuance of a permit by the city building official does not take the place of any building permits required under the building and other applicable codes of the city.
(Code 1996, § 3.09.003)

Sec. 60-127. Permit fee required.

The city building official shall issue a permit upon the payment of a fee in the amount provided in the city fee schedule.
(Code 1996, § 3.09.004)

Sec. 60-128. Permit application.

An application for a recreational vehicle park permit shall be filed with the city secretary and shall contain the following:

(1) The name and address of the applicant;

(2) The location and legal description of the recreational vehicle park;

(3) The name and address of the owner of the property;

(4) A site plan at a scale of 20 feet to one inch in three copies, showing the following:

   a. The date, scale, north point, name of the owner, and name of the person or company preparing the plan;

   b. The location of existing boundaries and dimensions of the tract;

   c. The location and width of driveways used for ingress and egress;

   d. The location and width of private drives and streets within the park;

e. The locations, dimensions, and front, rear, and side yard setbacks of all unit plots;

f. The location of permanent structures and accessory structures;

g. The designation of parking, recreation, and landscaped areas;

h. All required front, side, and rear yard building setback lines in compliance with this section and chapter 60;

i. The names of contiguous subdivisions and the owners of contiguous parcels of unsubdivided land and an indication of whether or not contiguous properties are platted.

(Code 1996, § 3.09.008)

Sec. 60-129. Records to be kept; inspection.

Each recreational vehicle park shall have on the site an office in which shall be kept copies of all records pertaining to the management and supervision of the premises, and any other records required to be kept by this article. Such records shall always be available for inspection by the city tax collector and agents of the city authorized to inspect.
(Code 1996, § 3.09.006)

Sec. 60-130. Register of occupants.

(a) The owner or operator of each recreational vehicle park shall keep a register containing a record of all owners and occupants located within the recreational vehicle park area.

(b) The register shall include the following information:

(1) The name and address of each occupant;

(2) The license number of primary vehicle.

(Code 1996, § 3.09.007)

Secs. 60-131—60-158. Reserved.

DIVISION 2. STANDARDS AND SPECIFICATIONS

Sec. 60-159. Zoning restrictions.

Recreational vehicle parks shall be located only within a zoning classification permitting HUD-code manufactured home parks or recreational vehicle parks, in accordance with chapter 60. The placing of two or more recreational vehicles on property in violation of this article or article IV of this chapter shall be deemed a violation of this article.
(Code 1996, § 3.09.001; Ord. No. 705-01, 5-21-2001)

Sec. 60-160. Minimum site requirements.

(a) *Drainage.* The ground surface in all parts of a recreational vehicle park shall be graded and equipped to drain all surface water in a safe, efficient manner.

(b) *Soil and ground cover.* Exposed ground surfaces in all parts of every recreational vehicle park shall be paved, covered with stone screening or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and preventing dust.

(c) *Space requirements.*

(1) Each recreational vehicle park shall be located upon a minimum of five acres of land;

(2) Each recreational vehicle lot within the park shall have a minimum area of 1,250 square feet;

(3) No recreational vehicle shall be parked closer than 15 feet to the property line adjoining a public street.

(d) *Access and traffic circulation.*

(1) All recreational vehicle lots shall be provided with access to an internal street or common access route. Such street shall have a minimum width of 15 feet. A minimum of ten feet shall remain open and clear at all times to permit fire, police, and sanitation vehicles access through the park;

(2) Internal streets shall be privately owned, built, and maintained by the owner. Streets shall be designed for safe and convenient access to all spaces and to facilities for common use of park residents;

(3) Internal streets shall be kept open and free of obstruction in order that police and fire vehicles may have access to any areas of the park;

(4) All internal streets shall be constructed and maintained by the owner free of cracks, holes, and other hazards;

(5) A speed limit of ten miles per hour shall be enforced throughout the park, and signs shall be erected giving notice of such speed limit;

(6) The police department shall be authorized to issue citations for the violation of the provisions hereof and to stop, remove, and impound offending vehicles, or stop, detain, and arrest offending individuals;

(7) Streets shall be constructed according to city specifications.

(Code 1996, § 3.09.008)

Sec. 60-161. Utilities.

(a) *Water supply.*

(1) An accessible, adequate, safe, and potable supply of water shall be provided in each recreational vehicle park. Connection shall be made to the public supply of water

unless a special exception is granted by the city council to use a private water supply. If a private supply is utilized for service to the park, the private supply shall be adequate for both domestic requirements and for firefighting requirements established by the city;

(2) The water supply system shall be accessible to all residents and shall be connected by pipe to all buildings and other facilities requiring water. Water supply faucets shall be located not more than 100 feet from any camping space;

(3) All water piping, fixtures, and other equipment shall be constructed and maintained in accordance with state and city requirements and regulations;

(4) Individual water riser pipes and connections shall be in accordance with the city plumbing code.

(b) *Sewage disposal.*

(1) *General requirements.* An adequate and safe sewer system shall be provided in all recreational vehicle parks. Connection shall be made to the public sewer system within 150 feet of a public sewer, unless a special exception is granted by the city council to use an alternate sewage disposal facility. The sewer system shall be constructed in accordance with the city plumbing code. Effluents from sewage treatment facilities shall not be discharged into any waters of the state except with prior approval of the city health officer or agent of the city acting in such capacity and the appropriate regulatory agency of the state;

(2) *Sewer lines.* All sewer lines shall be constructed in a manner, and of materials, in accordance with the city plumbing code.

(c) *Electrical.* Every recreational vehicle park shall contain an electrical wiring system consisting of wiring, fixtures, equipment, and appurtenances which shall be installed and maintained in accordance with the city electrical code.
(Code 1996, § 3.09.009)

Sec. 60-162. Responsibilities of recreational vehicle park operator or owner.

(a) The operator or owner of a recreational vehicle park shall operate the park in compliance with this article and other applicable ordinances and shall provide adequate supervision to maintain the park, its facilities, and equipment in a safe and sanitary condition.

(b) The operator or owner of the park shall be responsible for the proper placement of each recreational vehicle on the lot, including the securing of its installation and the installation of its utility connections.

(c) The operator or owner of the park shall notify all park occupants of applicable provisions of this article and inform them of their duties and responsibilities under this article.
(Code 1996, § 3.09.010)

Sec. 60-163. Responsibilities of recreational vehicle park occupants.

(a) Each recreational vehicle park occupant shall comply with the provisions of this article and shall maintain the occupant's lot, facilities, and equipment in a clean and sanitary condition.

(b) Skirtings, porches, awnings, and other additions, when installed, shall be maintained in good repair. Use of space underneath a recreational vehicle shall be permitted for storage only under the following conditions:

(1) Stored items shall not interfere with the underneath inspection of the recreational vehicle and shall comply with city fire and sanitary regulations;

(2) The storage area shall be enclosed with skirting.

(Code 1996, § 3.09.011)

Sec. 60-164. Playground space.

The owner or developer of a recreational vehicle park shall provide sufficient recreation space, accessible to all park occupants, the space to be not less than ten percent of the total square footage of the park.

(Code 1996, § 3.09.012)

Secs. 60-165—60-181. Reserved.

ARTICLE IV. TEMPORARY USE PERMITS

Sec. 60-182. Unlawful acts; permit requirement.

(a) It is unlawful for any person to park, place, or locate or allow to be parked, placed or located a recreational vehicle or HUD-code manufactured home within the city except in an approved HUD-code manufactured home park or recreational vehicle park, unless a temporary use permit has been issued by city council or as otherwise excepted and provided herein.

(b) Allegation and evidence of a culpable mental state is not required for the proof of an offense defined by this article.

(c) It shall be a rebuttable presumption that the registered owner of the recreational vehicle parked the vehicle.

(Code 1996, § 3.10.002; Ord. No. 705-01, 5-21-2001)

Sec. 60-183. Exceptions.

The provisions of section 60-182 shall not apply to the following:

(1) A recreational vehicle parked upon a lot where recreational vehicles are sold and where no person occupies such a recreational vehicle as a dwelling or sleeping place;

(2) A recreational vehicle temporarily parked upon a lot as an office or display unit and where no person occupies such recreational vehicle as a dwelling or sleeping place;

(3) A recreational vehicle temporarily parked upon a lot or tract of land and used to provide shelter or temporary living quarters for a guard, watchperson, supervisor or construction worker of a public or private construction project, upon issuance of a temporary use permit by the city council;

(4) A recreational vehicle parked upon privately owned residential property in accordance with any applicable zoning, subdivision or parking regulations; provided, however, in no event shall such recreational vehicle be utilized as a temporary dwelling unit, or connected to public or private utilities, such as water, wells, sanitary sewer, wastewater, septic or electricity.

(Code 1996, § 3.10.003; Ord. No. 705-01, 5-21-2001)

Sec. 60-184. Application, issuance, and duration standards of permit.

(a) *Contents; transferability.* The permit shall be specific to the person named in the application for the permit and shall not be transferred without the prior written consent of the city through the issuance of a new permit.

(b) *Application requirements.* All applications for permits shall be made upon standard forms provided by the city secretary and shall contain the following:

(1) The name and address of the applicant;

(2) The location and legal description of the property where the recreational vehicle or HUD-code manufactured home will be located;

(3) The number of recreational vehicles or HUD-code manufactured home to be located on property with license plate numbers, names and addresses of registered owners;

(4) The number of persons to be temporarily housed per vehicle;

(5) The requested duration of temporary use permit with a stated rationale.

(c) *Permit fee.* All applications to the city secretary shall be accompanied by a fee in the amount provided in the city fee schedule.

(d) *Issuance of permit.* In considering the application, the city manager may take into account the proposed location of the temporary use in relation to the present and anticipated land use and development surrounding the property. After review of the application and, upon determining that the application complies with this article and other applicable laws, codes and regulations, the permit shall be issued. The temporary use permit shall in no event be issued for more than one year. The permit shall be issued for the number of and specific vehicles listed in the application; provided, however, the vehicles may be exchanged with other vehicles, provided the number of vehicles covered by the permit shall not be increased. If the vehicles are exchanged, the license plates, names and addresses of the registered owners shall be submitted to the city secretary, prior to the parking of the vehicles.

(e) *Duration of permit.* Such temporary use permit may only be valid for the duration of the temporary purpose and must be removed within 24 hours of the completion of the temporary purpose, such as a construction project. The city manager shall determine the duration of the temporary use permit based upon information provided by the applicant and independent investigation. The duration of the temporary use permit shall be reasonable.
(Code 1996, § 3.10.004; Ord. No. 705-01, 5-21-2001)

Sec. 60-185. Denial/revocation of permit.

(a) The city manager, in the city manager's discretion, may deny the issuance of the temporary use permit. In the event the city receives complaints from its citizens relative to a nuisance that might be or is created due to the use of such recreational vehicles or HUD-code manufactured home as temporary dwellings, the city manager may revoke the temporary use permit, upon seven days' written notice. Appeal of such decision may be made to city council upon submission of a notice of appeal to the city secretary within ten days of receipt of the notification; otherwise, the decision of revocation is final and binding.

(b) Notwithstanding the notice of appeal, the permit shall remain revoked, and the vehicles removed, until such time as a hearing is held before city council.

(c) Upon revocation, the vehicles may be moved to a location designated as a recreational vehicle park or HUD-code manufactured home park. No new application for a permit shall be accepted within one year of the denial or revocation of a permit unless the denial is without prejudice to the refiling of same, or the revocation is conditional; provided, however, that the stated conditions for reapplication have been satisfied.
(Code 1996, § 3.10.005; Ord. No. 705-01, 5-21-2001)

Sec. 60-186. Penalty.

(a) Any person violating or failing to comply with any provision or requirement of this article, who continues to violate or fail to comply with same after seven days' written notice is given, shall also be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in accordance with the general penalty provision found in section 1-9, such offenses being violations of the health, safety and zoning ordinances of the city. A separate offense shall be deemed committed upon each day during or on which a violation or failure to comply occurs or continues to occur.

(b) In addition to any other remedies or penalties contained herein, the city may enforce the provisions of this article pursuant to the applicable provisions of V.T.C.A., Local Government Code ch. 54, which chapter provides for the enforcement of city ordinances.
(Code 1996, § 3.10.006; Ord. No. 705-01, 5-21-2001)

Chapter 61

RESERVED

Chapter 62

PROPERTY MAINTENANCE STANDARDS

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Sec. 62-2. Scope and applicability; conflicting zoning provisions to prevail.
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Sec. 62-49. Powers and duties.
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Sec. 62-75. Notice; hearings; urban nuisance; repair, demolition, receivership and civil penalties.
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ARTICLE I. IN GENERAL

Sec. 62-1. Authority; purpose and intent; liberal construction.

(a) This chapter is adopted pursuant to the authority granted by V.T.C.A., Local Government Code chs. 54 and 214 for purposes of:

(1) Protecting the health, safety, and welfare of the citizens of the city by establishing minimum standards applicable to residential and specific nonresidential structures with respect to utilities, facilities, and other physical components essential to make structures safe, sanitary, and fit for human use and habitation, and permitting demolition of structures as a last resort when compliance with standards cannot reasonably be achieved;

(2) Creating and establishing a building and standards commission which shall have jurisdiction and authority to administer and enforce this chapter.

(b) This chapter is remedial in nature and essential to the public interest, and it is intended that this chapter be liberally construed to affect its purpose.
(Code 1996, § 3.13.001(a), (b); Ord. No. O-10-10, 6-21-2010)

Sec. 62-2. Scope and applicability; conflicting zoning provisions to prevail.

(a) *Scope.* This chapter shall apply to all buildings and structures or portions thereof intended or used for human habitation and occupation, unless otherwise specified, which existed on June 21, 2010, or are constructed thereafter.

(b) *Application to existing buildings and structures.*

(1) *Additions, alterations, or repairs.* Additions, alterations or repairs required by this chapter will be done in accordance with, and meet, the requirements of the current building, plumbing, mechanical, or electrical code, as amended, whichever is applicable, unless a variance is granted as provided herein;

(2) *Relocation.* Buildings or structures moved into, or existing within, the city shall comply with the requirements of the current building, plumbing, mechanical or electrical code for new buildings and structures, as amended, whichever is applicable, unless a variance is granted as provided herein.

(c) *Conflict with zoning regulations.* Nothing in this chapter shall be construed to cancel, modify, or set aside any provision of the city's comprehensive zoning regulations.
(Code 1996, § 3.13.001(c)—(e); Ord. No. O-10-10, 6-21-2010)

Secs. 62-3—62-22. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. GENERALLY

Secs. 62-23—62-47. Reserved.

DIVISION 2. BUILDING AND STANDARDS COMMISSION

Sec. 62-48. Created.

Pursuant to V.T.C.A., Local Government Code ch. 54, the city has created a building and standards commission, composed of seven members. The members of the planning and zoning commission shall serve as and perform the duties and functions of members of the building and standards commission. All members of the building and standards commission shall be appointed to serve two-year terms and may be reappointed following an initial term. In the event that a vacancy occurs on the building and standards commission which is not filled by a member of the planning and zoning commission, the city council will, by majority vote, appoint an individual to fill that vacancy.
(Code 1996, § 3.13.003; Ord. No. O-10-10, 6-21-2010; Ord. No. O-07-22, 6-7-2022)

Sec. 62-49. Powers and duties.

The commission has the following powers and duties:

(1) To require the reduction in occupancy load of an overcrowded structure or vacation of a structure that is reasonably dangerous to the health, safety or welfare of the occupants;

(2) To require, as an alternative to demolition of a structure found to be an urban nuisance, the repair of the structure by the owner or by the city;

(3) To require the demolition of a structure found to be an urban nuisance;

(4) To require the removal of personal property from a structure ordered vacated or demolished. Removal may be accomplished by use of city forces or a private transfer company if the owner of the personal property is not known, or the whereabouts of the owner cannot be ascertained, or the owner fails to remove the personal property. The commission may cause any personal property removed to be stored in the care and custody of a bonded warehouse facility. Such stored personal property shall be held for 60 days so that the owner may pay the costs of removal and storage and reclaim the property. Should the owner fail to reclaim the property within 60 days, the commission shall give the owner notice in writing and by publication one time in the city's official newspaper at least ten days prior to placing such property on sale at a public auction advertised for that purpose. The city may auction such personal property at a sale called to auction abandoned personal property otherwise acquired by the city. Should the owner fail to reclaim the property, it will be sold at the public

auction and the proceeds from its sale will be applied to pay the costs of removal and storage and for any expenses incurred by the city in the demolition or removal of the structure from which it was removed. Cost of removal and storage are the responsibility of the owner of the personal property. An appeal by the owner for a judicial review of the commission's decision shall not stay the proceedings, but the district court, on application, on notice to the commission and for due cause shown, may grant a restraining order or injunction;

(5) To require a vacant structure or vacant portion of a structure constituting a dangerous condition or nuisance be securely closed and made safe;

(6) To require or cause the correction of a dangerous condition on the land. Correction of a dangerous condition may be accomplished by city forces or private contract. Costs of correction are the responsibility of the owner;

(7) To grant a variance when, in the opinion of the commission, a literal interpretation of this article would result in the imposition of an unnecessary or unreasonable hardship;

(8) To assess a civil penalty, not to exceed $1,000.00 a day, against a property owner for each day or part of a day that the owner fails to repair or demolish a structure in compliance with a commission order issued under this article;

(9) To cause an action to be brought in district court in accordance with V.T.C.A., Local Government Code § 214.003, as amended, for the appointment of a receiver for property found to be an urban nuisance;

(10) To require relocation of the occupants of a structure found to be an urban nuisance;

(11) To declare a building substandard in accordance with the powers granted by V.T.C.A., Local Government Code ch. 54, subch. C, as amended;

(12) To administer and enforce the provisions of this chapter; and

(13) To issue orders or directives to any peace officer of the state, including a sheriff or constable or the police chief of the city, to enforce and carry out the lawful orders or directives of the commission.

(Code 1996, § 3.13.004; Ord. No. O-10-10, 6-21-2010)

Sec. 62-50. Failure to comply with commission order.

(a) A person commits an offense if the person fails to correct a violation of this article in compliance with a commission order that has become final.

(b) It is a defense to prosecution under subsection (a) of this section that the commission order has been appealed to the state district court.

(c) If, after the expiration of the time allotted under section 62-75, the owner fails to satisfy any requirement or mandate set forth therein, the city may:

(1) Proceed with the hearing in the absence of the owner if the city sent the proper notices and performed the requisite due diligence to ascertain the owners, lienholders and mortgagees of the property;

(2) Vacate, remove, secure or demolish, or cause to be vacated, removed, secured or demolished, the building or relocate the occupants at its own expense, should the owner fail to do so within the allotted time. The expense may be assessed as a lien against the property as allowed by law;

(3) Repair or cause to be repaired the building only to the extent necessary to bring the structure into compliance with the minimum standards and only if the building is a residential building with ten or fewer dwelling units. The repairs may not improve the building to the extent that the building exceeds the minimum standards, as defined by this chapter, and expenses may be assessed, as provided in section 62-74; or

(4) Assess a civil penalty against the property owner for failure to repair, remove, demolish, or secure the building, as provided herein.

(Code 1996, § 3.13.005; Ord. No. O-10-10, 6-21-2010)

Secs. 62-51—62-73. Reserved.

DIVISION 3. PROCEDURE

Sec. 62-74. Enforcement.

(a) *Generally.*

(1) *Authority.* The building official is hereby authorized and directed to enforce all provisions of this chapter. For such purposes, the official is empowered to make interpretations and rulings of this chapter;

(2) *Inspections.* For the purpose of ascertaining whether violations of this chapter exist, the building official, or designee, is authorized to inspect:

a. The exterior of a structure and premises which contain no structure; and

b. The interior of a structure, if permission of the owner, occupant, or person in control is given. If such entry is refused, the building official shall have every recourse provided by law, including, but not limited to, an administrative search warrant or an injunction to secure entry;

c. If the structure is unoccupied and open for unauthorized entry or use, or the owner, occupant, or person in control cannot be identified or located, the building official may enter the property to the extent allowed by law.

(b) *Substandard buildings.* All buildings or portions thereof which are determined to be substandard as outlined in this chapter are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal.

(c) *Hearings.* The building and standards commission, with the assistance of the city attorney, shall provide reasonable interpretations of the provisions of this chapter, mitigate specific provisions of this chapter which create practical difficulties in their enforcement and to hear cases and make determinations, as provided in this chapter.

(d) *Violations.*

(1) *Criminal.*

a. A person who violates a provision of this chapter, or who fails to perform an act required of the person by this chapter, commits a misdemeanor offense. A person commits a separate offense each day or portion of a day during which a violation is committed, permitted, or continued;

b. An offense under this chapter is punishable by a fine not to exceed $2,000.00;

c. Allegation and evidence of a culpable mental state is not required for the commission of an offense under this chapter.

(2) *Civil.*

a. The city may, in accordance with V.T.C.A., Local Government Code ch. 54, subtitle B, as amended, bring a civil action against a person violating a provision of this chapter relating to dangerously damaged or deteriorated structures or improvements;

b. The civil action may include, but is not limited to, a suit to recover a civil penalty not to exceed $1,000.00 for each day or portion of a day during which the violation is committed, continued, or permitted by the owner or occupant of the property, as provided below;

c. The city, by order of the commission, may assess and recover a civil penalty against a property owner, if the owner fails to take the requisite action as ordered by the commission, after an administrative hearing on the matter. The civil penalty may not exceed $1,000.00 a day for each violation or, if the owner shows that the property is the owner's lawful homestead, in an amount not to exceed $10.00 a day for each violation, if the city proves:

1. The property owner was notified of the requirements of this chapter and the owner's need to comply with the requirements; and

2. After notification, the property owner committed an act in violation of this chapter or failed to take an action necessary for compliance with this chapter;

d. A determination by the building and standards commission which involves the establishment of an amount and duration of a civil penalty shall be final and

binding and constitute prima facie evidence of the penalty in any court of competent jurisdiction in a civil suit brought by the city for final judgment in accordance with the established penalty;

e. To enforce any civil penalty under subsection (d)(2) of this section, the city secretary must file in the Dallas or Ellis County district clerk's office, as appropriate, a certified copy of the order of the commission establishing the amount and duration of the penalty. No other proof is required for a district court to enter final judgment on the penalty;

(3) *Other available remedies.* The city shall have all other available remedies at law and in equity to enforce the provisions of this article.

(4) *Municipal court proceedings not affected.* Action taken by the city under this article shall not affect the ability of the city to proceed under the jurisdiction of the city's municipal court.

(e) *Authority to impose fees.* If the city does or causes to be done any work pursuant to a commission order, including, but not limited to, the abatement, repair, demolition, or securing of a structure or lot, the city may proceed to secure payments for actual costs, plus the administrative fee, as described in subsection (f) of this section, and as otherwise allowed by law. The building official shall keep an itemized account of any expenses incurred in abating, repairing, demolishing, or securing of a structure or lot or in abating any other condition on the property.

(f) *Administrative fee.* In addition to the actual costs incurred in abating, repairing, demolishing, or securing a structure or lot, there shall be an administrative fee assessed on each lot, tract, or parcel of property to cover the actual cost of clerical work, title searches, publications, and filing fees estimated to be 20 percent of the value of the property.

(g) *Fee and due date.* The actual cost of abating, repairing, demolishing, or securing a structure or lot, or abating any other condition on the property, plus the attendant administrative fee, shall become due and payable upon the completion of the repairing, demolishing, or securing of the structure or other abatement procedure. The building official shall send by certified mail, return receipt requested, and an optional second copy by regular mail, an itemized billing to the owner of record, describing the work done. Any money recovered by payment of the charge or assessment or from the sale of property at foreclosure sale, to the extent allowed by law, shall be paid to the city treasurer, who shall credit the same to the repair and demolition fund. If after 30 days from the billing date payment in full has not been made, then the city may proceed to collect all monies and fees due by filing a lien upon real property. All such charges shall bear interest at the rate of ten percent per annum from the date the owner of the real property receives the aforementioned notice of demand for payment of such charges. The city may bring suit in a court of competent jurisdiction to foreclose its liens and collect all monies and fees due. The written statement of such charges, or a certified copy thereof, shall be prima facie evidence of the city's claim for charges or right to foreclose the lien.

(h) *Filing.* The city shall file its notice of lien in the office of the county clerk of Dallas or Ellis County, as appropriate. The notice shall contain the name and address of the owner if that information can be determined with a reasonable effort, a legal description of the property on which the building was located, the amount of expenses incurred by the city and the balance due.

(i) *Extinguishment of lien.* The lien is extinguished if the property owner or other person having an interest in the legal title to the property reimburses the city for the expenses.

(j) *Homestead exemption.* Real property protected by the state constitution as a homestead shall not be subject to assessment of liens resulting in expenses involved in the abatement, repair, demolition, or in securing a structure or lot as described in the process of this chapter. (Code 1996, § 3.13.006; Ord. No. O-10-10, 6-21-2010)

Sec. 62-75. Notice; hearings; urban nuisance; repair, demolition, receivership and civil penalties.

(a) *Commission may adopt rules.* The commission may adopt rules not inconsistent with this article.

(1) Meetings of the commission will be held at the call of the chairperson or, in the chairperson's absence, the acting chairperson, or as the board may determine from time to time. The chairperson or, in the chairperson's absence, the acting chairperson, may administer rolls and compel the attendance of witnesses. All meetings are open to the public;

(2) The building official or designated representative shall act as secretary to the commission but shall not be a member. The secretary shall keep a record of the cases, activities and actions of the commission and its determinations, give notice of the date and time of hearings, and perform such other duties as are consistent with or may be necessary for the enforcement of this article;

(3) Whenever the building official has inspected or caused to be inspected any structure or lot and has found and determined that such structure or lot is substandard, the official may commence proceedings to cause repair, rehabilitation, vacation, or demolition of the structure or lot.

(b) *Notice and administrative order to abate.* The building official shall issue a notice and administrative order to abate a substandard structure or lot. The notice and administrative order shall contain:

(1) The street address and a legal description sufficient for identification of the premises upon which the structure is located;

(2) A statement that the building official has found the structure or lot to be substandard with a brief and concise description of the conditions found to render the structure or lot substandard under the provisions of this chapter;

(3) A statement of the action recommended to be taken, as determined by the building official, as follows:

a. If the building official has determined that the structure or lot must be repaired, the administrative order shall require that all required permits be secured and work physically commenced within 30 days from the date of the administrative order;

b. If the building official has determined that the structure or lot must be vacated, the administrative order shall require that the structure or lot must be vacated within 30 days of the date of the administrative order;

c. If the building official has determined that the structure or lot must be demolished, the administrative order shall require that all required permits be secured and work physically commenced within 30 days from the date of the administrative order;

(4) A statement advising that a notice of hearing is forthcoming and a description of the hearing. The hearing shall provide the commission the means to consider or determine whether a structure or lot complies with the standards set forth herein and to consider or determine whether a structure or lot must be repaired or demolished, as recommended by the building official, in the notice and administrative order;

(5) Statements advising that if the owner of record is in full agreement with a demolition order, and that if the owner of record is financially unable to abate such nuisance, then the owner of record may grant the city written permission to abate said nuisance and, in doing so, shall grant the city a lien against the real property as described in this chapter.

(c) *Notice of hearing.* The building official shall give notice of a public hearing to all known owners, lienholders, or mortgagees for the commission to consider or determine whether a structure or lot complies with this chapter and to consider or determine whether a structure or lot must be repaired, secured or demolished. The notice shall be mailed and posted as provided herein and published in the official newspaper of the city on one occasion, on or before the tenth day before the date of the hearing. The notice of hearing shall contain:

(1) The name and address of the owner of the affected property, if known;

(2) A legal description of the property, as well as the physical address;

(3) A description of the hearing, including:

a. The date, time, and place of the public hearing. This date shall be established not less than ten days from the date of the administrative order;

b. A statement advising that securing the required permits and physically commencing the required action shall be considered as intent to comply with

the administrative order to abate, and that the hearing shall be temporarily postponed. Should abatement halt, or not progress at a rate determined to be reasonable by the building official, the hearing shall be recalled;

c. A statement that the owner, lienholder, or mortgagee will be required to submit at the hearing proof of the scope of any work that may be required to comply with this article and the time it will take to reasonably perform the work.

(d) *Service of notice and administrative order to abate and notice of hearing.* The notice of the administrative order to abate, the notice of hearing and any supplemental notices or orders shall be served upon the owner, lessor, lienholder, and mortgagees of record and occupant, if different than the owner of the structure or lot. Service of these notices and orders shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice by certified mail, return receipt requested, and an optional second copy by regular mail, to each such person at the person's address as it appears on the county tax rolls, or as discovered by due diligence, as defined by subsections (d)(1) through (6) of this section, and the notice shall be posted on the front door of each improvement situated on the affected property or as close to the front door as practical. The following of these procedures shall be prima facie evidence of notification. If a certified notice is returned as "refused" or "unclaimed," the validity of the notice is not affected, and the notice shall be deemed delivered. The city has satisfied the requirements of this subsection to make a diligent effort to determine the identity and address of an owner, a lienholder, or a mortgagee if the city searches the following records:

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

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

(3) Records of the secretary of state;

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

(5) City tax records; and

(6) City utility records.

(e) *Filing of notice and administrative order at the county.* A copy of the notice and any administrative orders, or such orders as may be issued pursuant to these provisions, shall be filed with Dallas or Ellis County deed records, as appropriate. The notice must contain the name and address of the owner of the affected property if that information can be determined from a reasonable search of the instruments on file in the office of the county clerk, or upon a due diligence search as set forth herein, a legal description of the affected property, and a description of the proceeding. The filing of said notice and any said orders is binding on subsequent grantees, lienholders, or other transferees of an interest in the property who acquire such interest after the filing of said notice or any said orders and constitutes notice of said hearing and notice of any said orders, on any subsequent recipient of any interest in the property who acquires such interest after the filing of said notice or filing of any said orders.

(f) *Meeting/public hearing procedures.* During an officially convened meeting, the commission shall hold a public hearing on each case and shall hear such testimony as may be presented by any department of the city, the building official, inspector, or the owner, occupant, mortgagee or any other person having an interest in such building to determine whether a building complies with the standards of this chapter. The owner, lienholder, or mortgagee has the burden of proof to demonstrate the scope of any work that may be required to comply with this chapter and the time it will take to perform the work. After all testimony has been received, the public hearing shall be closed and the commission shall deliberate on the case in open session. The commission shall make written findings of fact from the testimony offered as to whether the building complies with the standards of this chapter.

(1) After the meeting, if a building is found in violation of standards set forth herein, the commission may order that the building be vacated, secured, repaired, removed, or demolished by the owner within a reasonable time as provided herein. The commission also may order that the occupants be relocated within a reasonable time, at the cost of the owner, lienholder or mortgagee. The commission reserves the right to determine what is a reasonable amount of time to perform the ordered work or what is a reasonable amount of time to relocate occupants;

(2) The commission shall require the owner, lienholder, or mortgagee of the building to, within 30 days:

a. Secure the building from unauthorized entry or use; or

b. Repair, remove, or demolish the building, unless the owner, lienholder, or mortgagee establishes at the hearing that the work cannot reasonably be performed within 30 days;

If the commission allows the owner, lienholder, or mortgagee more than 30 days to repair, remove, or demolish the building, the commission shall establish specific schedules for the commencement and performance of the work and shall require the owner, lienholder, or mortgagee to secure the property in an approved manner from unauthorized entry while the work is being performed, as determined by the commission;

(3) The commission may not allow the owner, lienholder, or mortgagee more than 90 days to repair, remove, or demolish the building or fully perform all work required to comply with the order unless the owner, lienholder, or mortgagee:

a. Submits a detailed plan and time schedule for the work at the hearing; and

b. Establishes at the hearing that the work cannot justifiably be completed within 90 days because of the scope and complexity of the work. If the commission allows the owner, lienholder, or mortgagee more than 90 days to complete any part of the work required to repair, remove, or demolish the building, the commission shall require the owner, lienholder, or mortgagee to regularly submit progress reports to the building official and to the commission to

demonstrate that the owner, lienholder, or mortgagee has complied with the time schedules established for commencement and performance of work. The order may require that the owner, lienholder, or mortgagee appear before the commission to demonstrate compliance with the time schedule.

(g) *After the meeting.* After the meeting, the city secretary shall, within ten days after the date the order is issued:

(1) File a copy of the order in the office of the city secretary;

(2) Publish in a newspaper of general circulation in the city a notice containing:

a. The street address or legal description of the property;

b. The date of the hearing;

c. A brief statement indicating the results of the order;

d. Instructions stating where a complete copy of the order may be obtained; and

(3) Promptly mail by certified mail, return receipt requested, and an optional second copy by regular mail, a copy of the order to the owner, any lienholders, and any mortgagees of the building, as determined by due diligence, as defined herein.

(h) *Repair of a structure.* Repair of a structure may be accomplished by an owner, mortgagee or lienholder as compliance with this section or by the city, but only to the extent necessary to bring the structure into compliance with minimum standards and only if the structure is a residential structure with not more than ten dwelling units. Demolition of a structure may be accomplished by an owner, mortgagee or lienholder as compliance with this section or by the city. Voluntary demolition may be accomplished as follows:

(1) If a structure is determined by the building official to be in violation of the provisions of this article and an urban nuisance, and if the building official determines that the structure should be demolished, the owner may submit a written statement to the building official on a form supplied by the city stating that the owner consents to the demolition of the structure, that the costs of demolition would present an undue financial hardship on the owner, and that the owner waives further notice and public hearing by the commission. Upon receipt of such written consent, the city may proceed with demolition without further notice, without public hearings, and without commission action;

(2) If the owner submits the written consent described in this subsection (h) and demolition would not present an undue financial hardship on the owner, the owner may proceed with demolition, after obtaining any necessary permits, at the owner's expense, waiving further notice, public hearings, and commission action.

(i) *Expense.* The expense of repair, vacation, removal, closure or demolition of a structure when performed under contract with the city or by city forces, and any civil penalty assessed against the owner, constitutes a nontransferable lien against the real property on which the structure stands or stood, unless it is a homestead protected by the state constitution, and the lien runs with the land. The city's lien attaches when notice of the lien is recorded and

indexed in the office of the county clerk in the county in which the property is located. Notice must contain the name and address of the owner, if reasonably determinable, a legal description of the real property, the amount of expenses incurred by the city and the balance due. The city's lien for demolition, vacation, removal and closure expenses is a privileged lien subordinate only to tax liens and all previously recorded bona fide mortgage liens attached to the property, if each mortgagee and lienholder is given notice and an opportunity to repair or demolish the structure. The city's lien for repair expenses or civil penalties is inferior to any previously recorded bona fide mortgagee lien attached to real property if the mortgage lien was filed for record in the county clerk's office of the county in which the real property is located before the date the civil penalty is assessed or the repair is begun by the city but is superior to all other previously recorded judgment liens. A lien acquired by the city under this subsection for repair expenses may not be foreclosed if the structure upon which the repairs were made is the residential homestead of a person 65 years of age or older and is occupied by that person.

(j) *Collection of penalties.* The city may use lawful means to collect repair, vacation, removal, closure and demolition costs and civil penalties from an owner. Any civil penalty or other assessment imposed under this section accrues interest at the rate of ten percent a year from the date of the assessment until paid in full. In any judicial proceeding regarding enforcement of city rights under this article, the prevailing party is entitled to recover reasonable attorney's fees from the nonprevailing party.

(k) *Notice.* The building official shall give notice of demolition, repair by the city or the assessment of a civil penalty if the building official determines that the owner has not complied with an order to repair.

(l) *Time of notice.* The building official shall give notice of an order of the commission and notice of demolition, repair by the city, or the assessment of a civil penalty, at the time of issue, to each person required to receive notice and shall file each order of the commission in the deed records. If an order to demolish or repair is timely effected, the building official or designated representative shall, upon request and payment of the cost by the owner, file a notice of compliance in the deed records.

(m) *Filed order not affected by sale.* When an order of the commission has been filed in the county deed records, the execution of the order is not affected by a sale or other transfer of the premises. A person acquiring interest in property after an order has been so filed is subject to the requirements of the order. Provisions of this subsection shall be included as part of each order.

(n) *Service of notice.* The building official or designated representative shall serve notice required by this section by certified United States mail, return receipt requested, sent to the last known address of the person being notified. If the certified mail is returned undelivered, the building official or designated representative may serve the notice personally if the person to be notified can be found in Dallas County or Ellis County, Texas. If the notice sent to an owner is returned undelivered, and after diligent search, the building official or designated representative is unable to discover a correct address for the owner or is unable

to serve the owner personally, then the building official or designated representative shall give notice by publication of the order once in the official newspaper of the city at least five days before the hearing.

(o) *Witnesses.* At each hearing of the commission, owners, lessors, occupants or lienholders may present witnesses in their own behalf and are entitled to cross examine any witnesses appearing against them.

(p) *Decision final.* After a public hearing, the decision of the commission is final as to the administrative remedies.
(Code 1996, § 3.13.007; Ord. No. O-10-10, 6-21-2010)

Sec. 62-76. Vacation of structure.

(a) When the building official or designated representative has given notice of a hearing to consider vacation of a structure, the building official or designated representative shall place a sign on the structure or dwelling unit. The sign shall serve as a warning of the unsafe, unsanitary and dangerous condition of the structure. A person commits an offense if the person:

(1) Without authority from the building official, moves or destroys a sign placed by the building official;

(2) Occupies a vacant structure or dwelling unit on which the building official has placed such sign;

(3) As the owner of a structure or dwelling unit, authorizes a person to occupy a vacant structure or dwelling unit on which the building official has placed such sign.

(b) Each occupant of a structure or dwelling unit that has been ordered vacated shall vacate the structure or dwelling unit within a specified time determined by the commission. No person shall occupy a structure or dwelling unit that has been ordered vacated.
(Code 1996, § 3.13.008; Ord. No. O-10-10, 6-21-2010)

Sec. 62-77. Closure of structure.

When the building official or designated representative gives notice of a hearing to consider closure of the structure, the building official or designated representative may place a sign on the open and vacant structure or portion of a structure warning of its condition:

(1) No person, without authority from the building official, shall remove such sign;

(2) No person shall occupy an open and vacant structure in which such sign has been placed.
(Ord. No. O-10-10, 6-21-2010)

Sec. 62-78. Minimum standards.

Buildings, structures or dwellings that do not meet one or more of the minimum standards, set forth in the International Building, Mechanical, and Plumbing Codes, and the

National Electrical Code, as adopted by city council and as amended, such that conditions or defects exist that endanger the life, health, property or safety of its occupants or the general public, constitute uninhabitable, dangerous and substandard buildings, structures or dwellings. Such structures or buildings may be declared as unfit for human occupation, in violation of this article and subject to the procedures set forth herein.

(1) *Deemed substandard.* A structure may be deemed substandard whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the city's building regulations or as specified in the building code, or other applicable codes, or of any law or ordinance of the state or the city relating to the condition, location or structure of buildings, such that the structure meets the definition of the term "dangerous building" as defined under the adopted building code.

(2) *Minimum standards.* A structure deemed substandard must be repaired to the minimum standards enumerated in the current building code, or other code applicable to the substandard condition, as adopted and as amended.

(3) *Accessory structures.* If the primary structure is substandard such that it requires demolition, and accessory structures are not in substandard condition, the commission may allow the accessory structures to remain in the absence of a primary use, for a fixed period of time, provided that plans to construct a primary structure are submitted and attendant building permit application is issued within 90 days of the demolition.

(4) *Variance.*

a. If the owner, lienholder or mortgagee requests a variance from the current code requirements, the commission may grant such a variance if:

1. Evidence or information is submitted by the owner, lienholder or mortgagee generated by a certified inspector or registered structural engineer that such a variance will have no adverse impact on the integrity of the structure or facilities, to the satisfaction of the building official;
2. This evidence must be presented at the public hearing and falls within the owner's burden of proof that the structure can be repaired;
3. In no event shall the variance permitted be less than the minimum standard required at the time of original construction.

b. The commission shall make specific findings of financial hardship which, in and of itself, is not sufficient basis for granting a variance.

(Code 1996, § 3.13.009; Ord. No. O-10-10, 6-21-2010)

Sec. 62-79. Permits and inspections.

(a) *Generally.* No building or structure regulated by this chapter shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted, or demolished unless a separate permit for each building or structure has first been obtained from the building official or designee in the manner and according to the applicable conditions prescribed in the current building code.

(b) *Fees.* Whenever a building permit or demolition permit is required by this chapter, the appropriate fees shall be paid to the city as specified in the city's fee schedule for building permits.

(c) *Inspections.* All buildings or structures within the scope of this chapter and all construction or work for which a permit is required shall be subject to inspection by the building official in accordance with, and in the manner provided by, this chapter and the current building code.
(Code 1996, § 3.13.011; Ord. No. O-10-10, 6-21-2010)

Sec. 62-80. Authority to secure unoccupied or unsecured buildings and structures.

(a) *Purpose.* The owner or person in control of an unoccupied structure shall ensure that the building is in such condition that an unauthorized person cannot enter the structure through missing or unlocked doors or windows, or through other openings into the building. The city may secure unoccupied, unsecured structures, or structures occupied by persons who do not have the right of possession to the building. A lien may be filed on real property to ensure the cost of securing the structure as set forth in this chapter.

(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:

Unoccupied structure means any structure or building that currently has no occupant with the right of possession of the building or appears vacant or abandoned as evidenced by having no active utility accounts, an absence of personal property, general conditions of neglect and any other substantiated evidence of vacancy or abandonment that may be presented by the building official.

Unoccupied, unsecured structure or building means and is hereby declared to be a danger to public health and safety and is hereby declared to be a public nuisance.

Unsecured structure means any structure or building which has missing or unlocked doors or windows, or other unsecured openings into the building through which unauthorized persons can enter.

(c) *City may secure.* The building official may secure a building that violates the minimum standards of this chapter and is an unsecured, unoccupied structure. This authority is in addition to that regarding substandard buildings.

(d) *Notice.*

(1) Before the 11th day after the date the building is secured, the building official shall give notice to the owner of record by:

   a. Personally serving the owner with written notice;

   b. Sending a copy of the notice certified mail, return receipt requested, and an optional copy by regular mail, to the owner's post office or physical address;

c. Publishing the notice at least twice within a ten-day period in the city's official newspaper if personal service cannot be obtained and the owner's post office or physical address is unknown; or

d. Posting the notice on or near the front door of the building if personal service cannot be obtained or the owner's post office or physical address is unknown;

(2) The notice must contain the following:

a. An identification, which is not required to be a legal description, of the building and the property on which it is located;

b. A description of the violation of this chapter that is present at the building;

c. A statement that the city will secure or has secured, as the case may be, the building; and

d. An explanation of the owner's entitlement to request a hearing about any matter relating to the city's securing of the building;

(3) The city shall conduct a hearing before the commission at which the owner may testify or present witnesses or written information about any matter relating to the city's securing of the building if, within 30 days after the date the city secures the building, the owner files with the city secretary a written request for the hearing. The city shall conduct the hearing within 20 days after the date the request is filed.

(e) *Method of securing.* The securing of windows, doors, or any other opening allowing access to an unsecured unoccupied structure shall be done with such material and in such a fashion as to effectively bar entrance to the structure, including, but not limited to, plywood, lumber, steel, replacement glass, nails, screws, and bolts. The use of cardboard, tar paper, window and door screens or any other material that will not effectively prevent entrance shall not be deemed sufficient in securing a structure.
(Code 1996, § 3.13.012; Ord. No. O-10-10, 6-21-2010)

Sec. 62-81. Review.

(a) *Judicial review.* Any owner, lienholder, or mortgagee of record jointly or severally aggrieved by a decision of the commission may present a petition to a district court as provided by V.T.C.A., Local Government Code § 54.039. The petition must be presented to the court within 30 days after the date of copy of the final decision of the commission is personally delivered, mailed by first class mail with certified return receipt requested, or delivered by the U.S. Postal Service using signature confirmation service, to all persons to whom notice is required to be sent under V.T.C.A., Local Government Code § 54.035. On presentation of the petition, the court may allow a writ of certiorari pursuant to V.T.C.A., Local Government Code ch. 54, subch. C, as amended. If no appeals are taken from the decision of the commission within the required period, the decision of the commission shall, in all things, be final and binding. The appeal in district court shall be limited to a hearing

under the substantial evidence rule. The decision of the commission shall become final as to each such owner, lienholder or mortgagee upon the expiration of each such 30-calendar-day period unless otherwise allowed by law.

(b) *Final decision; reconsideration.* If no appeals are taken from the decision of the commission within the required period, the decision of the commission shall, in all things, be final and binding. The commission shall not entertain a reconsideration of the final order except on motion of the city.

(c) *Continuances.* The commission, at its discretion, may continue or table a matter for consideration if the commission finds:

(1) The owner of the property, lienholder or mortgagee has made reasonable efforts to obtain information and evidence for the hearing but requires additional time to secure said information; and

(2) The property is secured from unlawful entry; and

(3) A delay in the proceedings will not pose a threat or danger to the general health, safety and welfare of the citizens.

(d) *Requests for continuance.* City staff may request a continuance or a tabling of a matter, and the commission may continue or table a matter, when deemed to be necessary and when delay in the proceedings will not pose a threat or danger to the general health, safety and welfare of the citizens.
(Code 1996, § 3.13.013; Ord. No. O-10-10, 6-21-2010)

Sec. 62-82. Disclaimer of liability.

No officers, agents or employees of the commission or the city shall render themselves personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of their duties under this article. Any suit brought against the commission or any officers, agents or employees of the city as a result of any act required or permitted in the discharge of their duties under this article shall be defended by the city attorney or by such legal counsel engaged by the commission for that purpose until the final determination of the proceedings herein.
(Code 1996, § 3.13.014; Ord. No. O-10-10, 6-21-2010)

Chapter 63

RESERVED

Chapter 64

ROADWAY IMPACT FEES

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Sec. 64-1. Purpose.

This chapter is intended to ensure the provision of adequate water, wastewater and roadway facilities to serve new development in the city by requiring each development to pay its share of the costs of such improvements necessitated by and attributable to such new development.
(Ord. No. O-04-25, § 4(10.03.002), 3-4-2025)

Sec. 64-2. Authority.

This chapter is adopted pursuant to V.T.C.A., Local Government Code ch. 395 and the city Charter. The provisions of this chapter shall not be construed to limit the power of the city to utilize all powers and procedures authorized under V.T.C.A., Local Government Code ch. 395 or other methods authorized under state law or pursuant to other city powers to accomplish the purposes set forth herein, either in substitution or in conjunction with this chapter. Guidelines may be developed by ordinance, resolution, or otherwise to implement and administer this chapter.
(Ord. No. O-04-25, § 4(10.03.003), 3-4-2025)

Sec. 64-3. Definitions.

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

Capital improvement means any of the following facilities with a life expectancy of three or more years that are owned and operated by or on behalf of the city, including newly constructed facilities or the expansion of existing facilities:

(1) Water supply, treatment and distribution facilities; wastewater collection and treatment facilities; and stormwater, drainage and flood control facilities, whether or not they are located within the service area; and

(2) Roadway facilities.

Capital improvements plan means the adopted plan, as may be amended from time to time, that identifies the capital improvements or facilities expansions for which impact fees may be assessed or which are to be financed in whole or in part through the imposition of fees pursuant to this chapter.

Effective date of this chapter means the date of the ordinance from which this chapter is derived was adopted by the city council, to wit: March 4, 2025.

Final plat approval or approval of a final plat means the point at which the applicant has complied with all conditions of approval for any type of plat required to be filed with the applicable county and the plat has been approved by the city.

Impact fee means a charge or assessment imposed as set forth in this chapter against new development. The term "impact fee" does not include:

(1) Required dedications of land for public parks or payments in lieu thereof;

(2) Dedication of rights-of-way or easements or construction or dedication of on-site water distribution, wastewater collection or drainage facilities, or streets, sidewalks, or curbs if the dedication or construction is required by ordinance and is necessitated by and attributable to the new development; or

(3) Lot or acreage fees or pro rata fees to be placed in trust funds for the purpose of reimbursing developers for oversizing or constructing water or wastewater mains or lines.

Land use assumptions means the projections of population and employment growth and associated changes in land uses, densities and intensities adopted by the city, as may be amended from time to time, upon which the capital improvements plan is based.

New development means a project involving the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure, or any use or extension of land, which has the effect of increasing the requirements for capital improvements, measured by the number of service units to be generated by such activity, and which requires either the approval of a plat, the issuance of a building permit, or connection to the city's system, and which has not been exempted from these regulations by provisions herein. Installation of a larger water meter will also constitute new development.

Off-site means located entirely on property which is not included within the bounds of the plat or property being considered for impact fee assessment.

Offset means the amount of the reduction of an impact fee designed to fairly reflect the value of system facilities or other capital improvements pursuant to rules herein established or council-approved administrative guidelines, provided by a developer pursuant to the subdivision regulations or requirements.

Plat means any type of plat required by law to be filed with the applicable county, including, but not limited to, a final plat, replat, amending plat and vacating plat.

Recoup means to reimburse the city for capital improvements which the city has previously installed or caused to be installed.

Roadway facility means arterial or collector streets or roads that have been designated on the city's official adopted roadway plan, together with all necessary appurtenances and improvements to a roadway. The term "roadway facility" includes, but is not limited to, rights-of-way, whether conveyed by deed or easement; intersection improvements; interests in land; traffic lanes; traffic signs, signals and control devices; turn lanes; drainage facilities associated with the roadway; street lighting, and curbs. The term "roadway facility" also includes the city's share of costs for roadways and associated improvements designated on

the federal or state highway system, including, but not limited to, local matching funds and costs related to utility line relocation, and the establishment of curbs, gutters, sidewalks and drainage appurtenances.

Sanitary sewer facility or *wastewater facility* means an improvement for providing wastewater collection and treatment, including, but not limited to, land or easements, treatment facilities, lift stations, and interceptor mains. Sanitary sewer facility excludes sanitary sewer lines or mains which are constructed by developers, the costs of which are reimbursed from pro rata charges paid by developers or owners of property in other subdivisions as a condition of connection to or use of such facility. The term "sanitary sewer facility" or "wastewater facility" does not include a site-related facility.

Service area means:

(1) For water supply, treatment and distribution facilities, wastewater collection and treatment, the entire area within the corporate limits of the city and its extraterritorial jurisdiction to be served by the capital improvements and facilities expansions specified in the capital improvements plan; and

(2) For roadway facilities, each individual area designated in the land use assumptions served by the roadway facilities designated in the capital improvements plan.

Service unit means the standardized measure of consumption, use, generation or discharge attributable to an individual unit of development, calculated in accordance with generally accepted engineering and/or planning standards.

Single-family residential lot means a lot intended to accommodate a single-family or duplex dwelling unit, as defined in the city's zoning regulations.

Site-related facility means an improvement or facility which is for the primary use or benefit of a new development and/or which is for the primary purpose of safe and adequate provision of water, wastewater and/or or roadway facilities to serve the new development, and which is not included in the capital improvements plan and for which the developer or property owner is solely responsible under subdivision and other applicable regulations or which is located at least partially on the plat which is being considered for impact fee assessment. The term "site-related facility" includes that portion of an off-site water or wastewater main, equivalent to a standard size water or wastewater main, which is necessary to connect any new development with the city's water or wastewater system, the cost of which has not been included in the city's capital improvements plan.

System facility means a capital improvement which is designated in the capital improvements plan and which is not a site-related facility. System facilities may include a capital improvement which is located off site, within, or on the perimeter of the development site.

Water facility means an improvement for providing water supply, treatment and distribution service, including, but not limited to, land or easements, water treatment facilities, water supply facilities, or water distribution lines. The term "water facility"

excludes water lines or mains which are constructed by developers, the costs of which are reimbursed from pro rata charges paid by developers or owners of property in other subdivisions as a condition of connection to or use of such facility. The term "water facility" does not include a site-related facility.
(Ord. No. O-04-25, § 4(10.03.004), 3-4-2025)

Sec. 64-4. Applicability.

The provisions of this chapter regarding water and wastewater impact fees apply to all new development within the corporate boundaries of the city and its extraterritorial jurisdiction. The provisions of this chapter regarding roadway impact fees apply to all new development within the corporate boundaries of the city.
(Ord. No. O-04-25, § 4(10.03.005), 3-4-2025)

Sec. 64-5. Impact fees per service unit.

Impact fees per service unit shall be as provided in the city fee schedule.
(Ord. No. O-04-25, § 4(10.03.006), 3-4-2025)

Sec. 64-6. Impact fee as condition of development approval; permit issuance.

No final plat for new development shall be released for filing with the appropriate county, or in cases for which no request for plat approval is submitted to the city, whether the property is located inside or outside the corporate boundaries of the city, no application for a utility connection shall be approved and/or no building permit and/or certificate of occupancy shall be issued, without assessment of an impact fee pursuant to this chapter. No building permit shall be issued, or in the cases for which no plat is submitted to the city, whether the property is located inside or outside the corporate boundaries of the city, no building permit and/or certificate of occupancy shall be issued and/or utility connection made for new development until the property owner or developer has paid the impact fee imposed and calculated herein, or a contract for payment is approved by the city and executed by the parties.
(Ord. No. O-04-25, § 4(10.03.007), 3-4-2025)

Sec. 64-7. Assessment of impact fees.

Assessment of the impact fee for any new development shall be made as follows:

(1) For new development which has been platted prior to the effective date of the ordinance from which this chapter is derived, impact fees shall not be collected on any service unit for which a valid building permit is issued within one year after the effective date of the ordinance from which this chapter is derived;

(2) Subject to subsection (1) of this section, for land which is unplatted at the time of application for a building permit, or for a new development which received final plat approval prior to or on the effective date of the ordinance from which this chapter is derived and for which no replatting is necessary pursuant to the subdivision

regulations prior to development, assessment of impact fees shall occur at the time application is made for the building permit, and shall be the amount of the impact fee per service unit as set forth in the city's fee schedule at the rates then in effect;

(3) For new development which is submitted for approval pursuant to the subdivision regulations after the effective date of the ordinance from which this chapter is derived, or for which replatting results in an increase in the number of service units after such date, assessment of impact fees shall be at the time of final plat recordation, and shall be the amount of the impact fee per service unit as set forth in the city's fee schedule at the rates then in effect;

(4) Following assessment of the impact fee pursuant to subsection (1) of this section, the amount of the impact fee assessed per service unit for that development cannot be increased, unless the approved plat expires or lapses or the owner proposes to change the approved development by the submission of a new development application or application to increase the number of service units, in which case new assessment shall be the amount of the maximum impact fee per service unit as set forth in the city's fee schedule at the rates then in effect;

(5) Following the vacating of any plat, the expiration or lapse of a plat, or submittal of any replat, a new assessment shall be made in accordance with subsection (2) of this section;

(6) Approval of an amending plat that does not increase the number of service units is not subject to reassessment for an impact fee.

(Ord. No. O-04-25, § 4(10.03.008), 3-4-2025)

Sec. 64-8. Payment and collection of impact fees.

(a) For all new developments, impact fees shall be collected at the time of application for a building permit or, in cases for which no plat is submitted to the city, whether the property is located inside or outside the corporate boundaries of the city, at the time of application for building permit, utility connection or certificate of occupancy, whichever occurs first. The city may enter into an agreement with a developer for a different time and manner of payment of impact fees, in which case the agreement shall determine the time and manner of payment.

(b) At the time of final plat approval, or upon request for a utility connection for an area in the city's extraterritorial jurisdiction for which a final plat was not submitted to the city, for all new developments, the city shall compute the impact fees due for the new development in the following manner:

(1) The amount of each type of impact fee due (roadway, water, and/or wastewater) shall be determined by multiplying the number of each type of service unit generated by the new development by the maximum impact fee due for each type of service unit in the applicable service area as set forth in the city's fee schedule at the rates then in effect.

(2) The amount of each impact fee due shall be reduced by any allowable credits for that category of capital improvements in the manner provided by this chapter.

(c) When a property owner proposes to increase the number of service units for a new development, the additional impact fees collected for such new service units shall be determined by using the amount of the maximum impact fee per service unit, being the amount of the maximum impact fee per service unit as set forth in the city's fee schedule at the rates then in effect, and such additional fee shall be collected at the time of issuance of a building permit, or for an area in the city's extraterritorial jurisdiction for which a plat was not required to be approved by the city, prior to or at the time of connection or enlargement of the connection to the city's water or wastewater system.

(d) If the building permit for which an impact fee has been paid has expired, and a new application is thereafter filed, the impact fees shall be computed using the fees then in effect, with credits for previous payment of fees being applied against the new fees due.

(e) For a new development which is unplatted at the time of application for a building permit, and for which platting is not necessary pursuant to the subdivision regulations prior to development, collection of impact fees shall occur at the time application is made for the building permit and shall be the amount of the impact fee per service unit then in effect. (Ord. No. O-04-25, § 4(10.03.009), 3-4-2025)

Sec. 64-9. Offsets and credits against impact fees.

(a) Any construction or contributions to or dedications of any non-site-related facility appearing in the capital improvements plan that is required to be constructed by a property owner or developer as a condition of new development shall be credited against the impact fees otherwise due on that new development from the same category (roadway, water or wastewater) of impact fees assessed on the new development. Offsets or credits shall be allowed in accordance with the rules set forth in this section. The value of an offset or credit may be stated in dollars or service units.

(b) All credits against impact fees shall be subject to the following limitations and shall be granted based on this chapter and any additional administrative guidelines that may be adopted by the city:

(1) No credit shall be given for the dedication of land or easements or the construction of site-related facilities;

(2) No credit shall exceed an amount equal to the assessed impact fee;

(3) If a credit applicable to a final plat has not been exhausted within ten years from the acquisition of the first building permit issued or, in the cases for which no plat is submitted to the city, whether the property is located inside or outside the corporate boundaries of the city, the acquisition of the first building permit issued, the acquisition of the first certificate of occupancy is issued or connection made after the

effective date of the adoption of the applicable impact fees, whichever occurs first, or within such period as may otherwise be designated by contract, such credit shall lapse;

(4) In no event will the city reimburse the property owner or developer for a credit when no impact fees for the new development can be collected pursuant to city ordinance or state law or for any amount exceeding the total impact fees due for the new development for the category of capital improvement, unless otherwise agreed to by the city.

(c) The available credit associated with new development shall be applied against an impact fee in the following manner:

(1) For single-family residential lots in a new development consisting only of single-family residential development, such credit shall be prorated equally among such lots, to be applied at the time of application of a building permit for each lot, against impact fees to be collected at the time the building permit is issued;

(2) For all other types of new development, including those involving mixed uses, the credit applicable to the new development shall be applied to the impact fee due at the time of approval.

(d) At its sole discretion, the city may authorize alternative credit arrangements by written agreement with the property owner in accordance with the city's administrative guidelines.
(Ord. No. O-04-25, § 4(10.03.010), 3-4-2025)

Sec. 64-10. Establishment of accounts.

(a) The city shall establish an account to which interest is allocated for each service area for each type of capital facility for which an impact fee is imposed. Each impact fee collected within the service area shall be deposited in such account.

(b) Interest earned on the account into which the impact fees are deposited shall be considered funds of the account and shall be used only in the same manner in which the underlying funds may be used.

(c) The city shall establish adequate financial and accounting controls to ensure that impact fees disbursed from the accounts are utilized solely for authorized purposes.

(d) The city shall maintain and keep financial records for impact fees, which shall show the source and disbursement of all fees collected in or expended within each service area. The records of the account into which impact fees are deposited shall be open for public inspection and copying during ordinary business hours. The city may establish a fee for copying services.
(Ord. No. O-04-25, § 4(10.03.011), 3-4-2025)

Sec. 64-11. Use of proceeds of impact fee accounts.

(a) The impact fees collected for each service area may be used to finance or to recoup the costs of any capital improvements or facility expansion identified in the capital improvements plan for the service area, including, but not limited to, the construction contract price, surveying and engineering fees, land acquisition costs (including land purchases, court awards and costs, attorney's fees and expert witness fees). Impact fees may also be used to pay the principal sum and interest and other finance costs on bonds, notes or other obligations issued by or on behalf of the city to finance such capital improvements or facility expansion.

(b) Impact fees collected pursuant to this chapter shall not be used to pay for any of the following expenses:

(1) Construction, acquisition or expansion of public facilities or assets other than capital improvements or facility expansions identified in the capital improvements plan;

(2) Repair, operation or maintenance of existing or new capital improvements or facility expansion;

(3) Upgrade, update, expansion or replacement of existing capital improvements to provide better service to existing development; or

(4) Administrative and operating costs of the city.

(Ord. No. O-04-25, § 4(10.03.012), 3-4-2025)

Sec. 64-12. Refunds.

(a) Upon application by an owner of property, any impact fee or portion thereof collected pursuant to city ordinance shall be refunded as specified in this chapter if:

(1) The fee collected has not been expended within the service area within ten years from the date of payment;

(2) Existing facilities are available and service is denied; or

(3) The city has, after collecting the impact fee when service was not available, failed to commence construction within two years or service is not available within a reasonable period considering the type of improvement or expansion, but in no event later than five years from the date of payment.

(b) Payment shall be refunded to the record owner of the property for which the impact fee was paid or, if the impact fee was paid by another governmental entity, to such governmental entity, together with interest calculated from the date of payment to the date of refund at the statutory rate as set forth in the V.T.C.A., Finance Code § 302.002. The application for refund pursuant to this chapter shall be submitted within 60 days after the expiration of the ten-year period for expenditure of the fee. An impact fee shall be considered expended on a first-in, first-out basis.

(c) An impact fee collected pursuant to this chapter shall also be considered expended if the total expenditures for capital improvements or facilities within the service area within ten years following the date of payment exceed the total fees collected within the service area for such improvements or expansions during such period.

(d) If a refund is due pursuant to subsections (a) and (b) of this section, the city shall divide the difference between the amount of expenditures and the amount of the fees collected by the total number of service units assumed within the service area for the period to determine the refund due per service unit. The refund to the record owner shall be calculated by multiplying the refund due per service unit by the number of service units for the development for which the fee was paid, and interest due shall be calculated upon that amount.
(Ord. No. O-04-25, § 4(10.03.013), 3-4-2025)

Sec. 64-13. Relief procedures.

Any person who has paid an impact fee or an owner of land upon which an impact fee has been paid may petition the city council to determine whether any duty required by this chapter has not been performed within the time so prescribed. The petition shall be in writing and shall state the nature of the unperformed duty and request that the duty be performed within 60 days of the request. If the city council determines that the duty is required pursuant to this chapter and is late in being performed, it shall cause the duty to commence within 60 days of the date of the request and to continue until completion.
(Ord. No. O-04-25, § 4(10.03.014), 3-4-2025)

Sec. 64-14. Updates to plan and revision of fees.

(a) The city shall update its land use assumptions and capital improvements plans at least every five years, commencing from the date of adoption of such plans, and shall recalculate the impact fees based thereon in accordance with the procedures set forth in V.T.C.A., Local Government Code ch. 395, or in any successor statute.

(b) The city may review its land use assumptions, impact fees, capital improvements plans and other factors, such as market conditions more frequently than provided in subsection (a) of this section to determine whether the land use assumptions and capital improvements plan should be updated and the impact fee recalculated accordingly.

(c) If, at the time an update is required pursuant to subsection (a) of this section, the city council determines that no change to the land use assumptions, capital improvements plan or impact fee is needed, it may dispense with such update by following the procedures in V.T.C.A., Local Government Code § 395.0575.
(Ord. No. O-04-25, § 4(10.03.015), 3-4-2025)

Sec. 64-15. Impact fee as additional and supplemental regulation.

Impact fees established by this chapter are additional and supplemental to, and not in substitution of, any other requirements imposed by the city on the development of land or the

issuance of building permits or certificates of occupancy. Such fee is intended to be consistent with and to further the policies of the city's comprehensive land use plan, the capital improvements plan, the zoning ordinance, subdivision regulations and other city policies, ordinances, codes and resolutions by which the city seeks to ensure the provision of adequate public facilities in conjunction with the development of land.
(Ord. No. O-04-25, § 4(10.03.016), 3-4-2025)

Chapter 65

RESERVED

Chapter 66

SIGNS AND ADVERTISING

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ARTICLE I. IN GENERAL

Sec. 66-1. Intent; purpose.

The regulations of this chapter are intended to coordinate the use, placement, physical dimensions and design of all signs within the city. The purpose of these regulations is to promote public health, safety and welfare, and develop an appropriate visual appearance within the city by:

(1) Protecting the public from damage or injury caused by signs which are poorly designed or maintained and from distractions or hazards to pedestrians or motorists caused by the indiscriminate placement or use of signs;

(2) Maintaining property values by eliminating signs that are incompatible with the surrounding land uses;

(3) Encouraging a viable economic environment through uniform control of signs;

(4) Facilitating communication by means of well-designed and proportioned signage;

(5) Encouraging quality sign design to promote a better visual environment; and

(6) Enhancing the physical appearance of the city through a program that ensures the removal of inadequately maintained, unpermitted, or illegal signs within a reasonable time period.

(Code 1996, § 15.01.002; Ord. No. O-18-12, 9-18-2012)

Sec. 66-2. Definitions.

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

Alter means to change the size, shape, outline, configuration, intent, location or type of sign.

Animation means copy or other images that flash or move or otherwise change in less than ten seconds frequency.

Area of a sign means the area of a sign shall be measured as the area within a series of straight lines around the outermost extremities of all text, symbols, graphics, advertising surfaces, framing, background and ornamentation, but not including sign poles or other supporting structures. If dimensions and a means of calculating the area of circular, oval-shaped or triangular signs are readily available, they may be used for such signs.

Awning means an architectural projection designed to provide weather protection, identification or decoration, and supported by the structure to which it is attached. An awning is composed of a frame over which is placed a cover of fabric or other material.

Banner means a temporary sign containing a worded message or graphic image composed of lightweight material secured or mounted so as to allow movement caused by wind.

Canopy means a roof-like structure of permanent construction, either freestanding or supported by an adjacent structure and open on two or more sides. Examples of canopies include those structures erected above the fuel pumps at a service station or the lanes of a drive-through facility.

Canopy sign means a sign attached to or painted upon an awning and visible to the exterior.

Changeable electronic variable message sign (CEVMS) means a sign which permits light to be turned on or off intermittently or which is operated in a way whereby light is turned on off intermittently, including any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use, including an LED (light emitting diode) or digital sign, and which varies in intensity or color.

Copy means letters, characters, illustrations, logos, graphics, symbols, writing or combination thereof, designed to communicate information of any kind, or to advertise, announce the purpose of, or identify the purpose of a person or entity, or to identify or advertise a business or business product, or to advertise the sale or lease of a premises.

Inflatable sign means an inflatable sign is a type of temporary sign that is inflated with air or gas to display a message, logo, or advertisement. These signs are often made of flexible materials, such as PVC or nylon, and can take various shapes, including balloons, tubes, or custom figures. Inflatable signs are commonly used for promotional events, grand openings, and sales, and they are typically anchored to the ground or a structure to prevent movement.

Masonry pylon sign means a freestanding sign erected upon two masonry pylons or posts. Except the sign face, the pylons, decorative cap and base should be made of masonry material namely brick, stone, concrete, or stucco and designed to match with the primary structure elevation. Masonry pylon signs can have a monolithic form as well where, rather than two masonry pylons, the whole sign will be solid masonry sign with a base and a cap. The base or supports of any and all pylon signs shall be securely anchored to a concrete base or footing. The height of a pylon sign shall be measured from the average ground grade adjacent to the sign to the top of the sign.

Monument sign means a freestanding sign intended to be relatively broad in width compared to height build with masonry material like brick, stone, concrete or other masonry material that harmonizes with the architecture of the establishment it serves.

Neon sign means neon tubing attached directly to a wall surface forming a border for the subject matter, or when attracting or directing attention to the subject matter, or when forming letters, logos or pictorial designs.

Obsolete sign means a sign which no longer serves a bona fide use or purpose conforming to this chapter, or a sign which advertises a business no longer in operation or a product or service no longer offered at that location.

Pole sign means any freestanding sign supported above the ground by upright structural members.

Premises means a lot or tract, or a combination of contiguous lots or tracts if the lot or tract, or combination, is under single ownership and is reflected as a single premises in the plat records of the city.

Sign means any device, flag, light, figure, picture, letter, word, message, symbol, plaque or poster visible from outside the premises on which it is located and designed to inform or attract the attention of persons not on the premises.

Sign installer means a person who is hired to install, construct, erect or repair such sign in the city, and employees, representatives and subcontractors.

Sign support means any pole, post, strut, cable or other structural fixture or framework necessary to hold and secure a sign, providing that such fixture or framework is not imprinted with any picture, symbol or word using characters in excess of one inch in height or is internally or decoratively illuminated.

Vehicular sign means any sign that is attached to, painted on, or otherwise displayed on a motor vehicle, trailer, or other mobile unit for the purpose of advertising or identifying a business, service, product, or event. Vehicular signs can be permanent or temporary and may include decals, wraps, magnetic signs, or rooftop signs.

Visibility triangle.

(1) *Alley intersects a public street right-of-way.* The areas on both sides of the intersection of an alley and a public street shall have a triangular visibility area with two sides of each triangle being a minimum of ten feet in length from the point of intersection, and the third side being a line connecting the ends of the other two sides.

(2) *Street intersection or intersection of private driveway onto a public street.* These areas shall have a triangular visibility area with two sides of each triangle being a minimum of 25 feet in length along the right-of-way lines (or along the driveway curbline and the street right-of-way line) from the point of the intersection, and the third side being a line connecting the ends of the other two sides.

Wall sign means a permanent sign other than a mural erected, displayed or maintained on the wall of a building.

Window sign means a sign painted on or attached to a window or erected, displayed or maintained inside a structure within five feet of a window and visible through such window. (Code 1996, § 15.01.011; Ord. No. O-18-12, 9-18-2012; Ord. No. O-06-25, § 1, 4-1-2025)

Sec. 66-3. Conflict and compliance.

All signs erected or maintained pursuant to the provisions of this chapter shall be erected and maintained in compliance with all applicable state laws, V.T.C.A., Local Government

Code ch. 216, and with the 2021 International Building Code, 2023 National Electrical Code, and other applicable city regulations. In the event of conflict between this chapter and portions of this Code or state law, the most restrictive standard applies.
(Code 1996, § 15.01.003; Ord. No. O-18-12, 9-18-2012)

Sec. 66-4. Responsibility for compliance.

Any sign permit holder, owner, manager, agent, occupant, person in charge of a premises; person having the beneficial use of the property on which a sign is erected, maintained or displayed; the owner of the land or structure on which a sign is located; a contractor or person in charge of erecting, maintaining or displaying a sign; or anyone who causes a sign to be erected, displayed or maintained, shall be subject to the provisions of this chapter.
(Code 1996, § 15.01.004; Ord. No. O-18-12, 9-18-2012)

Sec. 66-5. Enforcement; violation; penalty.

The provisions of this chapter shall be administered and enforced by the city code enforcement officer as appointed by the city manager or designee.

(1) *Violation.* Failure to comply with the provisions of this chapter shall constitute a violation of this chapter. Every day on which a violation exists shall constitute a separate violation and a separate offense;

(2) *Penalty.* Any person who violates any provision of this chapter shall be guilty of a misdemeanor and shall be punished by a fine upon conviction in an amount not to exceed $500.00. A separate offense shall be deemed committed upon each day during or on which a violation or failure to comply occurs or continues to occur.

(Code 1996, § 15.01.005; Ord. No. O-18-12, 9-18-2012)

Sec. 66-6. Applicability.

The regulations of this chapter shall govern the placement and construction of all outdoor advertising displays within the city.
(Code 1996, § 15.01.006; Ord. No. O-18-12, 9-18-2012)

Sec. 66-7. Nonconforming signs.

(a) The purpose of this chapter is to ensure that, over time, all privately owned signs shall either conform to the provisions of this chapter or be removed. By the passage of the ordinance from which this chapter is derived 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 chapter and all other ordinances of the city. Any sign which does not conform to all applicable provisions of this chapter shall be a nonconforming sign, even if it legally existed as a conforming sign under prior ordinances.

(b) Change of ownership, or occupant, or use, or any such event that requires a new certificate of occupancy (CO) or building permit to be processed, shall make this chapter applicable to all existing and proposed signs on the property. Under such circumstance all signs on the property shall be brought in compliance with this chapter or shall be removed as required by this chapter.

(c) No nonconforming sign shall be repaired or renovated except to bring the sign into compliance with the provisions of this chapter. Any nonconforming sign which is damaged in excess of 50 percent of its current value must be demolished and not repaired unless such proposed repairs will bring the sign into compliance with the provisions of this chapter. A nonconforming sign on any property that has been vacant for a period of six months or more or that does not have a current certificate of occupancy issued by the city must be brought into compliance with the provisions of this chapter.
(Code 1996, § 15.01.007; Ord. No. O-18-12, 9-18-2012)

Sec. 66-8. Maintenance and removal.

(a) Every sign in the city, regardless of whether any permit is required for such sign, shall be maintained in a safe, presentable and sound structural and operational condition at all times, including the replacement of nonfunctioning, broken, defective, or missing parts, painting, repainting, cleaning and any other acts required for the maintenance of such sign. All signs and sign supports, brackets and frames shall be kept painted or otherwise treated to prevent rust, rot or deterioration.

(b) Signs not meeting the standards imposed by this chapter shall be subject to removal or repair at the expense of the person responsible for the sign. Obsolete signs shall be removed immediately by the city at the expense of the property owner or any person responsible for that sign.
(Code 1996, § 15.01.008; Ord. No. O-18-12, 9-18-2012)

Sec. 66-9. Sign control board; appeals; exceptions to sign regulations.

(a) *Established; composition.* The planning and zoning commission is hereby established to serve in a dual capacity as the sign control board (SCB).

(b) *Powers; duties.* The planning and zoning commission in its capacity as the SCB is authorized to sit as a board of appeals and to exercise the powers set forth in this section.

(c) *Appeals.* Appeals to the SCB may be taken by any person aggrieved or by any officer, department, board or bureau of the city affected by any decision of the building official. Such appeal shall be taken within 30 days of the date of the decision appealed from, by filing with the building official and with the SCB a notice of appeal specifying the grounds thereof. The building official shall forthwith transmit to the SCB all the papers constituting the record upon which the action appealed from was taken.

(d) *Quorum; voting; meetings.* A majority of the members shall constitute a quorum. All motions shall be decided by a simple majority of the members present. A tie vote shall constitute failure of a motion. All meetings shall be open to the public and minutes shall be recorded.

(e) *Appeal stays proceeding.* An appeal stays all proceedings in furtherance of the action appealed unless the building official certifies to the SCB after the notice of appeal shall have been filed with the building official that, by reason of facts stated in the certificate, a stay would, in the building official's opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the SCB or by a court of record on application or notice to the building official and on due cause shown.

(f) *Hearing.* The SCB shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent. At the conclusion of the hearing, the SCB may grant the special exception requested, grant a special exception of a greater or lesser nature or degree than requested, or deny the special exception requested.

(g) *Factors to be considered; burden of proof.* The appellant or applicant for the exception bears the burden of proving facts justifying an exception. In considering requests under this section, the SCB, as a board of appeal, shall consider factors, including, but not limited to:

(1) The degree of exception from the requirements of this chapter that is requested;

(2) The reasons for the exception requested;

(3) The location of the exception requested;

(4) The duration of the exception requested;

(5) The effect on public safety;

(6) The impairment of use, if any, of adjacent property that is developed in compliance with the city requirements;

(7) The alteration of the character of the area adjacent to the property;

(8) The impairment of the purposes of the regulations of this chapter;

(9) The degree of hardship or injustice involved; and

(10) The effect of the exception on the general plan for signing within the city.

(h) *Submission to city council.* All SCB actions on exception requests shall be submitted to the city council for review, and such decisions of the SCB shall become final unless reversed or modified by the city council no later than the second regular called city council meeting following the SCB meeting at which formal action was taken by the SCB.
(Code 1996, § 15.01.009; Ord. No. O-22-20, 11-10-2020)

Sec. 66-10. Prohibited signs.

(a) Signs that are not described or mentioned anywhere in this chapter are prohibited, and the following signs are specifically prohibited in the city by this chapter:

(1) *Balloon, banner, flags.* Except as provided in section 66-67(b), any balloon, banner or flag signs for the explicit purpose of advertising a business or attracting attention to a business or place is prohibited;

(2) *Changeable electronic variable message signs (CEVMS).* A sign that permits light to be turned on or off intermittently, including any illuminated sign on which such illumination is not kept stationery or constant intensity and color at all times when such sign is in use, including an LED (light emitting diode) or digital sign, and which varies in intensity or color. This prohibition does not include time and temperature signs. Signs that have copy that changes, moves, flashes, or blinks in no less than ten-second intervals shall not be considered as animated and shall be reviewed by city's planning, permit and code enforcement officers on a case-by-case basis for approval/denial. These signs must not be illuminated in such an intensity and glare to constitute traffic hazard as defined in Texas Manual on Uniform Traffic Control Devices;

(3) *Imitation signs.* Any signs that imitate official traffic, warning, or governmental signs, lights or other similar devices, emergency signs, or block visibility of such signs are prohibited;

(4) *Nuisance signs.* No sign, name, number or advertising material other than building addresses may be applied to, placed or scattered upon streets, curbs, gutters, sidewalks, trees, rocks, natural features, fences, railings, public telephones, utility poles or any public property;

(5) *Off-premises signs.* Except as specified in this chapter, all off-premises signs are prohibited. This includes all signs commonly referred to as billboards;

(6) *Portable signs.* Signs mounted on portable or movable frames or structures, including signs placed on, but not affixed or attached to, the ground, shall be prohibited;

(7) *Roof signs.* A sign mounted on the main roof portion of a building or on the uppermost edge of a parapet wall of a building and which is wholly or partially supported by such building are prohibited. Signs mounted on mansard façades, pent eaves, and architectural projections, such as canopies or marquees, shall not be considered to be roof signs;

(8) *Signs causing safety concerns.* No sign shall be erected in a manner that would interfere, confuse, or obstruct the view of moving traffic, traffic signs, signals or devices, and no sign shall be erected within the visibility triangle as determined by the city's engineer, or within public right-of-way;

(9) *Vehicular signs.* Signs placed on or leaning on to vehicles or trailers that are parked on a public right-of-way, public property, or private property so as to be visible from

a public right-of-way where the apparent purpose is to advertise a product or direct people to a business or activity located on the same or nearby property shall be prohibited. However, this is not in any way intended to prohibit signs affixed to vehicles and trailers, such as lettering on motor vehicles, where the sign is incidental to the primary use of the vehicle or trailer.

(b) Any prohibited sign mentioned in subsection (a) of this section, if found in the city, shall be removed and disposed of by the code enforcement officer, and the cost incurred should be billed to the person responsible for such a sign, along with the code violation ticket with a penalty for violation of this chapter.
(Code 1996, § 15.01.010; Ord. No. O-18-12, 9-18-2012)

Secs. 66-11—66-38. Reserved.

ARTICLE II. PERMITS AND INSPECTIONS

Sec. 66-39. Exempt signs for which no permit is required.

(a) *Official signs.* No permit shall be required for signs required or authorized by the local, state or federal government or any kind of governmental agency. These signs include, but are not limited to, traffic control signs, public utility signs, street names or directional signs, historical markers, railroad crossing signs, bus stop and transit agency signs.

(b) *Holiday decoration.* No permit shall be required for signs or materials displayed in a temporary manner on or prior to traditional civic, patriotic or religious holidays. These decorations shall not be displayed more than 15 days prior to the respective holiday and should not be displayed for more than 30 days altogether.

(c) *Political signs.* No permit shall be required for signs supporting, opposing, encouraging or identifying any candidate, or proposition in an upcoming election, or any sign displaying political speech.

(d) *Real estate signs.* No permit shall be required for signs not exceeding six square feet in sign area and three feet in height advertising the sale, lease or rental of real estate in residential zoning districts. For nonresidential and agricultural zoning districts, no permit shall be required for signs having up to 32 square feet of sign area (but not exceeding six feet in height) advertising the sale, lease or rental of real estate. For agricultural and nonresidentially zoned land, one such sign shall be allowed per property, parcel or lot of record.

(e) *Gasoline signs.* No permit shall be required for gasoline price or credit card signs placed on pump islands not exceeding four square feet in sign area.

(f) *Window signs.* No permit shall be required for signs in windows facing public rights-of-way that are limited to ten percent of the window area per façade in nonresidentially zoned districts.

(g) *Special event banner*. No permit shall be required for special event banners that are associated with a special event that has obtained a special events permit from the city's planning and permitting division. The banner should contain a message directly relating to a special event; provided, however, that such banners may be displayed no more than seven days prior to the special event and must be removed within two days after the conclusion of the special event. The size of the banner is limited to 50 square feet and at least one-half of the banner shall contain a message relating to the special event. Such banner shall be located within the private property where such event is taking place and not within any public rights-of-way.
(Code 1996, § 15.01.031; Ord. No. O-18-12, 9-18-2012)

Sec. 66-40. Permit application and review procedure.

It is unlawful for any person to maintain, display, erect, replace, repair, alter or reface any sign or to cause same to be maintained, displayed, erected, replaced, repaired, altered or refaced within the city without first obtaining a permit to do so from the planning and permitting division, except for the signs specifically identified in section 66-39. A permit application should be submitted to the planning and permitting division with a complete application form (which may be obtained at the planning and permitting offices), required drawings, information, and applicable fees (as per the city's adopted fee schedule). Application and associated information will be reviewed by planning and permitting division staff and the review will be coordinated with the development review committee (DRC). Upon completion of staff review and determination of compliance with this article and other applicable city ordinances, a sign permit will be issued to the applicant. The permit number, primary contact/applicant's full name and phone number should be visibly displayed at the bottom of the sign at all times.
(Code 1996, § 15.01.032; Ord. No. O-18-12, 9-18-2012)

Sec. 66-41. Duration of permit.

If the work authorized by a permit issued under this article has not been commenced within 60 days after the date of issuance, the permit shall become null and void.
(Code 1996, § 15.01.033; Ord. No. O-18-12, 9-18-2012)

Sec. 66-42. Licensing and registration.

Any person or business engaging in the operation of erecting, installing, servicing or maintaining signs within the city must be registered with the city to conduct such business. For the purposes of this article, persons engaging in the business of erecting, installing and maintaining signs shall be designated as sign installers, including those responsible for erecting temporary signs requiring a permit.
(Code 1996, § 15.01.034; Ord. No. O-18-12, 9-18-2012)

Sec. 66-43. Insurance or bond requirement.

(a) No permit for the installation, erection, relocation and maintenance of signs shall be issued to any sign installer until such person has provided proof of general liability insurance covering the work to be performed pursuant to the permit in the amount of at least $100,000.00 or filed with the city a $5,000.00 surety bond in favor of the city as the beneficiary thereof, and shall be conditioned for the installation and erection of signs in accordance with the ordinances of the city, for any and all damages or liability which may accrue against it by reason of faulty installation, erection, demolition, repair, removal, or defects in, or collapse of, any signs, for a period of one year after erection and for such period of time that such sign is maintained or serviced by or under the direction of the maker of such bond.

(b) The bond shall further provide for the indemnification of any person who shall, while upon public property or in any public place, incur damage for which the principal named in the bond is legally liable.
(Code 1996, § 15.01.035; Ord. No. O-18-12, 9-18-2012)

Sec. 66-44. Suspension and revocation.

Permits issued under this article may be suspended or revoked when it is determined that the permit is issued in error or on the basis of incorrect or false information supplied or when a sign for which such permit is issued violates any of the provisions of this Code or state or federal law. Such suspension or revocation shall be effective when communicated in writing to the person to whom the permit is issued, the owner of the sign or the owner of the premises upon which the sign is located.
(Code 1996, § 15.01.036; Ord. No. O-18-12, 9-18-2012)

Sec. 66-45. Inspections; electrical wiring to comply with electrical code.

All signs for which a permit is required shall be subject to inspection at the discretion of the code enforcement officer. Signs containing electrical wiring shall be subject to the provisions of the governing electrical code, and the electrical components used shall bear the label of an approved testing agency.
(Code 1996, § 15.01.037; Ord. No. O-18-12, 9-18-2012)

Secs. 66-46—66-63. Reserved.

ARTICLE III. STANDARDS AND SPECIFICATIONS FOR SIGN TYPES

Sec. 66-64. Illumination; landscaping.

(a) An illuminated sign shall not directly front any residential district and must be located at least 50 feet away from all residential property lines. All external lighting for sign illumination shall be properly shielded to obstruct glare for pedestrians or motorists.

(b) Any external illumination on signs shall follow glare, illumination and other applicable lighting standards as outlined in the city's lighting ordinance as was adopted and may be amended.

(c) Required landscaping associated with certain sign types as specified in section 66-66 shall comply with maintenance provisions of the city's landscaping ordinance as it was adopted and as may be amended.
(Code 1996, § 15.01.061; Ord. No. O-18-12, 9-18-2012)

Sec. 66-65. Attached permanent signs.

(a) *Wall sign.* Wall signs are allowed in every zoning district and shall be placed on the principal structure only and may be internally and externally illuminated.

(1) *Number.* Each parcel containing a single business shall be allowed not more than one wall sign. On parcels containing multiple businesses, each business shall be allowed a wall sign. Single businesses on a corner lot shall be allowed one wall sign per street frontage;

(2) *Location.* No wall sign shall be placed on any roof or on top of any structure. Except as otherwise set forth herein, no part of a wall sign shall extend beyond the roofline of the building. If a building has two or more stories, no signs shall be installed at a level above the bottom of the second floor windows, unless the building is a multitenant office or multitenant commercial structure wherein tenants have primary, direct access from their space to the outside. Their access must include outside walkways and stairways properly designed for public use. If the multi-stories building does not have the aforementioned direct, primary access, but has multiple businesses, a multitenant monument sign may be used in lieu of wall signs;

(3) *Erection.* All wall signs shall be safely and securely attached to the building wall, subject to the approval of the city's permit division;

(4) *Size calculation.* The allowable front wall sign area for each building shall not exceed two square feet per linear foot of the front length of the building or portion thereof occupied. If the sign is a panel or box, the total area, including background, is included. If a sign consists of individual letters, each attached directly to a building or structure, the area of the sign shall be measured by the area of the smallest rectangle or series of contiguous rectangles which enclose all the letters.

(b) *Canopy/awning sign.* An awning or canopy sign is only allowed in TC Town Center Commercial Districts and can be used as the primary sign in lieu of a wall sign, subject to the following:

(1) The sign area shall not exceed 40 percent of the total face area of the canopy or awning upon which the sign is affixed. The term "total face area of an awning or canopy" means the portion of the awning or canopy that is parallel, or within 15 percent of parallel to the building façade upon which it is attached;

(2) The maximum vertical dimension of a canopy/awning sign shall be five feet and shall be limited to the first story only for multi-story buildings;

(3) Canopy/awning signs may extend three feet into the public right-of-way and shall have a minimum clearance of eight feet above the ground level unless projecting over a vehicular right-of-way, in which case clearance shall be 14 feet;

(4) Backlit awnings shall be limited to building façades that contain signs and shall not exceed 25 percent of the canopy/awning area of the façade upon which it is placed;

(5) Canopy/awning signs shall be made of fabric that is flame retardant. It shall be supported with metal framework and mounting brackets. Rigid horizontal awning supports shall be no less than eight feet above the sidewalk. Decorative supports may be lower if they are angled down to attach to the building. Fabric valances shall not hang lower than seven feet and six inches from the sidewalk. The canopy/awning color shall compliment or coordinate with the building color. No fluorescent colors shall be allowed. The awning/canopy shall be sized to match the opening that it is shading.

(c) *Neon sign.* Neon signs are allowed in nonresidential zoning districts and can be used as the primary sign in lieu of a wall sign subject to the following:

(1) The sign area shall not exceed ten percent of the total sign area as would have been allowed under a wall sign;

(2) On a multitenant premises, cumulative area of neon signs shall not exceed 25 percent of the building façade.

(Code 1996, § 15.01.062; Ord. No. O-18-21, 9-18-2012; Ord. No. O-07-21, 5-4-2021)

Sec. 66-66. Detached permanent signs.

(a) *Monument sign.* Monument signs shall be built on a monument base as opposed to a pole base with no separation between the base of the sign and natural grade. In addition to nonresidential zoning districts, monument signs may be erected within residential zoning districts to identify schools, churches, parks, residential subdivisions or apartment complexes, provided they do not contain any off-premises advertisement. Monument signs are intended to be relatively broad in width compared to height. Monument signs are not intended to have gaps, cutouts, or penetrations but instead should be a solid face or area without openings or cutouts. The sign face shall be designed with materials that harmonize with the architecture of the establishment it services. All monument signs shall have landscaping comprised of shrubbery and flowering plants, not exceeding three feet in height near the base of the sign. Only one monument sign per property along the street frontage shall be allowed. Monument signs shall be set back a minimum 12 feet from any public right-of-way and shall not obstruct traffic visibility triangles. Monument signs shall be at least 120 feet apart. Monument signs shall be illuminated externally for visibility after dark.

(1) *Residential subdivision.* Each residential subdivision shall be permitted one monument sign and one wall sign mounted on a subdivision masonry screening wall for

identification of the subdivision for each street frontage providing access to the subdivision. For the purposes of this article, identical subdivision signs on both sides of the access street shall be considered one sign. Such sign shall be a minimum eight feet in height and 12 feet in width, and the sign face area shall be a minimum 20 square feet per sign face;

(2) *Multifamily residential complex.* Multifamily developments of 12 units or more shall be permitted one monument sign for identification of the development for each street frontage. Such sign shall not exceed eight feet (including the masonry base) in height and 12 feet in width, and the sign face area shall not exceed 60 square feet per sign face;

(3) *Other land uses in residential zoning.* Church, school, park, or private club facilities shall be permitted one monument sign for identification purposes for each street frontage. Such sign shall not exceed eight feet (including the masonry base) in height and 12 feet in width, and the sign face area shall not exceed 60 square feet per sign face;

(4) *Manufactured home zoning.* Mobile home parks located within MH Manufactured Home Districts shall be permitted one monument sign for identification purposes for each street frontage. Such sign shall not exceed eight feet (including the masonry base) in height and 12 feet in width, and the sign face area shall not exceed 60 square feet per sign face;

(5) *Nonresidential single-tenant premises.* For single-tenant premises, one monument sign is allowed for each street frontage. The monument sign shall not exceed eight feet (including the masonry base) in height and 12 feet in width, and the sign face area shall not exceed 60 square feet per sign face;

(6) *Nonresidential multitenant premises.* For multitenant premises, one monument sign for each street frontage is allowed. The monument sign shall not exceed 12 feet in height (including the masonry base) and 16 feet in width, and the sign face area shall not exceed 80 square feet per sign face.

(b) *Masonry pylon sign.* Masonry pylon signs are allowed only on nonresidential properties with a minimum of 300 feet continuous frontage along IH-35E frontage road or any other four or more lane freeways or on F.M. 664 or Ovilla Road, except the height for such signs on F.M. 664 shall not exceed 35 feet. Masonry pylon signs are large signs with two masonry columns supporting a sign face that is surrounded by a minimum two-foot-wide masonry border and a minimum three-foot-high decorative cap on top. A 2½-foot-high masonry planter with landscaping should surround the base of the pylon sign. For multitenant premises, the sign face area shall not exceed 450 square feet and, for single-tenant premises, the sign face area shall not exceed 300 square feet. The maximum height of masonry pylon signs shall not exceed 50 feet above the adjacent pavement level. Masonry pylon signs shall be set back at least 15 feet from public right-of-way. Section 66-93(e) shows an example of a similar sign in the city.

(c) *Neon sign.* Neon signs are allowed in nonresidential zoning districts and can be used as the primary sign in lieu of a wall sign subject to the following:

(1) The sign area shall not exceed ten percent of the total sign area as would have been allowed under a wall sign;

(2) On a multitenant premises, the cumulative area of neon signs shall not exceed 25 percent of the building façade;

(3) Neon signs are permitted in nonresidential districts, provided that they shall not be erected within 100 feet of any residential district unless properly and adequately shielded so that light from such sign is not directed toward such residential district;

(4) In no case can a sign be placed closer than 15 feet from a residential property;

(5) No high-intensity lights shall be permitted as part of a sign display visible from an adjacent street;

(6) No sign shall be illuminated to intensity greater than 200 footcandles. The restrictions of luminance in this subsection shall be determined from any other premises or from any public right-of-way other than an alley;

(7) No sign shall be illuminated to such intensity or in such a manner as to cause a glare or brightness to a degree that it constitutes a hazard or nuisance.

(d) *Gasoline canopy sign.* Sign advertising fuel price and gas station's name are allowed on the canopy of gasoline pumps. The sign area shall not exceed 60 square feet per side.

(e) *Comprehensive sign package.* For any nonresidential property with a proposal of 100,000 square feet or more nonresidential development that may require a combination of different sign types and number of signs to ably serve the business and provide enough visibility for potential visitors, a case-by-case review is necessary to determine feasibility of such a sign package proposal. For example, a big box retail or grocery chain might have on-site gasoline pumps, several detached leased out-parcels, etc. It is the intent of this section to require a comprehensive review of all the signage requirements and numbers to fully accommodate this large development rather than performing a piecemeal review. The comprehensive sign package will be reviewed by city staff and processed through the planning and zoning commission and city council in a manner similar to that of a variance request under the development regulations of this Code.

(f) *Flags.* Flags are permitted, to include state, national, local, religious or institutional flags or emblems, in nonresidential zoning district classification within the city, provided the number of flagpoles does not exceed three flagpoles per platted lot with a maximum height of the flagpole not to exceed 25 feet and the maximum flag area does not exceed 40 square feet. The state flag and all other assembled flags shall be arranged in accordance with the Texas constitution and flag etiquette rules. Governmental flags shall be maintained in good repair and shall be externally lit at night. Institutional or other uses allowed in a residential

zoning may have flags subject to the provisions of this section. Residential lots in a residential subdivision are allowed one flagpole not to exceed 25 feet in height and maximum flag area not to exceed 30 square feet.

Schedule of Permanent Signs by Zoning Districts*

Zoning District	*Allowable Sign Types*	*Total Number of Signs Allowed*
All residential zones	Wall and/or monument sign	1 per street frontage
Nonresidential zones (no freeway frontage)	Wall or neon sign and monument sign, inflatable sign	1 wall sign per parcel, per business
		1 monument sign per street frontage
Nonresidential zones (with freeway frontage)	Wall or neon sign and monument or pylon sign or pole sign, inflatable sign	1 wall sign per parcel, per business
		1 monument or pylon sign per street frontage
Nonresidential zones	Comprehensive sign package, Vehicular Sign	Reviewed on a case-by-case basis"

* For specific regulations regarding each sign type, refer to the respective subsections under section 66-65 and this section.

(g) *Pole signs.* On-premises pole signs may be permitted on properties with at least 200 feet of continuous frontage along and adjacent to the I-35E corridor and shall be subject to the regulations of the Texas Highway Beautification Act, Outdoor Advertising Signs, and this Code. Off-premises pole signs are prohibited. Only one pole sign may be permitted for each 200 feet of roadway frontage along the I-35E corridor. Pole signs shall not exceed 50 feet in height, shall not be attached to or supported by any part of a building, and shall not be configured such that the sign is located between two and ten feet above average grade where located within 15 feet of an adjacent roadway. The overall surface area of each face of the sign shall not exceed 300 square feet. Additional regulations are as follows:

(1) A pole sign having a surface area of 50 square feet or less for each face of the sign and serving as on-premises directional signage may be located at least five feet from an adjacent public right-of-way;

(2) A pole sign having a surface area of more than 50 square feet but not greater than 150 square feet for each face of the sign and serving as on-premises directional signage may be located at least 15 feet from an adjacent public right-of-way;

(3) A pole sign having a surface area of more than 150 square feet for each face of the sign may not be located within the applicable zoning setback line or with 25 feet from the adjacent right-of-way, whichever is greater.

(h) *Vehicular signs.*

(1) A special use permit (SUP) shall be required to attach any sign to a trailer, skid or similar mobile structure, where the primary use of such structure is to provide a base for such sign or constitute the sign itself. This subsection does not restrict the identification signs on vehicles used for bona fide transportation activity;

(2) Signs attached to or upon vehicles shall require an SUP where any such vehicle is allowed to remain parked in the same location or in the same vicinity for frequent or extended periods of time, where it is apparent to be one of using the vehicle and signs for the purposes of advertising an establishment, service or product. Vehicles operating under a city franchise shall be excluded from this subsection;

(3) Signs placed on or affixed to vehicles and/or trailers which are parked on public right-of-way, public property or private property, so as to be visible from a public right-of-way, where the apparent purpose is to advertise a product or direct people to a business or activity on the nearby property, are allowed only by SUP.

(Code 1996, § 15.01.063; Ord. No. O-07-21, 5-4-2021; Ord. No. O-06-25, § 2, 3, 5, 4-1-2025)

Sec. 66-67. Temporary signs.

(a) *Garage sale sign.* Garage sale signs shall follow the requirements as specified in chapter 6, article IX, as amended.

(b) *Grand opening sign.* For grand openings, pennants, flags, streamers, searchlights, and one banner not to exceed 50 square feet in area may be displayed one time for a maximum of 30 days. All signs must be removed after the 30-day period. Small balloons less than 14 inches in diameter (one or a cluster) are exempt from sign permit requirements and are permitted at the time of grand opening or national holidays. If another grand opening or advertising event is required for the same business, then signs associated with such event, including the event itself, should be processed under a special events permit as outlined under section 66-39(g).

(c) *New development/project sign.* On-premises signs identifying any new development (commercial, retail, office, mixed use, etc.) in the city shall not exceed six feet in height and the sign face shall not exceed 16 square feet. Such development signs are allowed for up to one year after the building permit has been issued or until the certificate of occupancy (CO) is issued whichever comes first. One sign is permitted per project and should be set back at least 20 feet from public right-of-way.

(d) *Model home sign.* Signs identifying model homes and model home centers, including sales offices, shall be permitted one per builder/developer in the subdivision. Model home signs shall not exceed 24 square feet in area and four feet in height.

(e) *Kiosk sign plaza.*

(1) Kiosk sign plazas provide a uniform, coordinated method of providing homebuilders, developers and municipalities a means of utilizing directional signs, while minimizing the negative impacts to the city and its residents. Sign plaza installation should be reviewed and processed through the planning and permit division of the city as outlined in article II of this chapter. Each identification panel shall be four feet by 18 inches. The dimension of kiosk sign shall follow the schedule below:

a. Three-subdivision identification panel: six feet by four feet (24 square feet of sign area) kiosk sign;

b. Four-subdivision identification panel: eight feet by four feet (32 square feet of sign area) kiosk sign;

c. Five-subdivision identification panel: ten feet by four feet (40 square feet of sign area) kiosk sign;

d. Six-subdivision identification panel: 12 feet by four feet (48 square feet of sign area) kiosk sign;

(2) Section 66-93(f) shows some examples of similar sign kiosks present at another city within the Dallas-Fort Worth Metroplex. Once more than 60 percent of all lots are sold in these subdivisions, the kiosk sign plaza should be removed. The location and number of these plazas are restricted to one each for every major arterial intersection which are: intersection of Bear Creek and S. Uhl Road, intersection of Hampton and Bear Creek, intersection of Bear Creek and Westmoreland Road, intersection of Bear Creek and Cockrell Hill Road, intersection of Hampton and Ovilla Road, intersection of Ovilla and S. Uhl Road; total six sign plazas within the city limits.

(f) *Informational zoning change sign.* Temporary informational signs are required to be installed by applicants for a change to the zoning category on a parcel of land. The city shall charge a fee as provided in the city fee schedule to provide signs related to a zoning change application, if the applicant so desires. These informational signs shall be up at least seven days before the case is heard by the planning and zoning commission and at least ten days before it is heard by the city council. After the application has received a second reading at the city council, such signs shall be removed from the property.

(g) *Inflatable signs.*

(1) Inflatable signs must be set back a minimum of ten feet from any property line;

(2) Inflatable signs are allowed for three ten-day periods per calendar year. Permit periods may not run consecutively;

(3) Placement of inflatable signs in rights-of-way is prohibited;

(4) Signs and their anchors or attachments shall not be placed in such a way as to create a traffic hazard;

(5) A minimum of 30 days must elapse between expiration and issuance of a new permit;

(6) The air- or gas-filled device must be anchored to a building, structure, device, object or the ground and used for advertising purposes on a temporary basis.

(Code 1996, § 15.01.064; Ord. No. O-18-12, 9-18-2012; Ord. No. O-06-25, § 4, 4-1-2025)

Secs. 66-68—66-92. Reserved.

ARTICLE IV. ILLUSTRATIONS

Sec. 66-93. Illustration of different sign types.

(a) Examples of wall signs.



(b) Examples of canopy/awning signs.



(c) Examples of attached neon signs.



(d) Examples of monument signs.



(e) Examples of masonry pylon sign and masonry pylon sign in monolithic form.



(f) Kiosk sign plaza.



(Code 1996, § 15.01.091; Ord. No. O-18-12, 9-18-2012)

Sec. 66-94. Typical on-premises sign types.

(a) *Freestanding signs.* Freestanding signs are usually perpendicular to viewer's line of sight, may be double or multi-faced and contain thematic embellishment and integral covers or cladding to conceal structural supports:









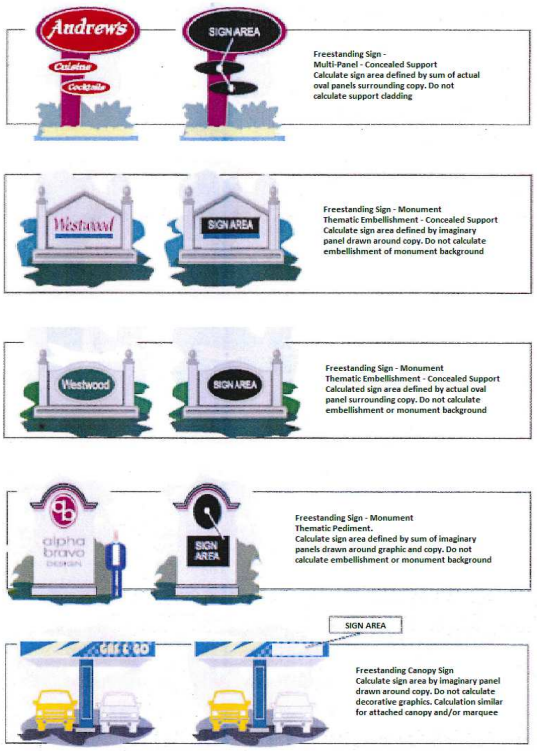
(b) *Building signs.* Examples of building signs are provided below.



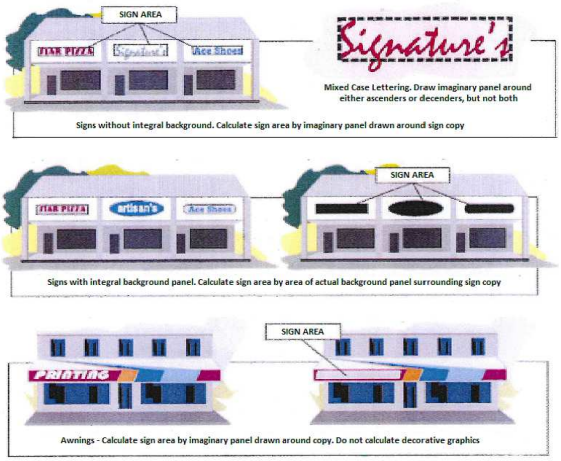
(Code 1996, § 15.01.092; Ord. No. O-18-12, 9-18-2012)

Sec. 66-95. Sign area computational methodology.

(a) *Ground signs.* Methodology for computing the area of ground signs is provided below.



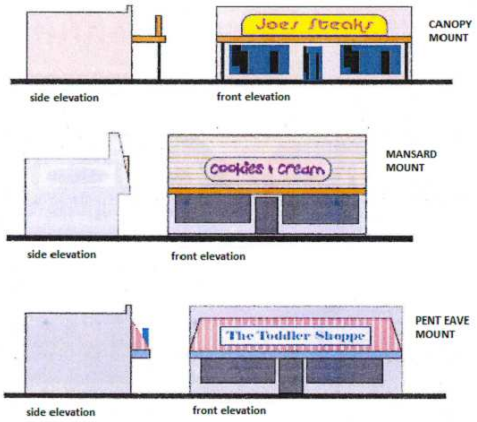
(b) *Wall/fascia signs.* Examples of wall/fascia signs are provided below.



(Code 1996, § 15.01.093; Ord. No. O-18-12, 9-18-2012)

Sec. 66-96. Fascia signs on roof-like projections (not roof signs).

Examples of fascia signs on roof-like projections (not roof signs) are provided below.



(Code 1996, § 15.01.094; Ord. No. O-18-12, 9-18-2012)

Chapter 67

RESERVED

Chapter 68

SOIL EROSION AND SEDIMENT CONTROL

Article I. In General

Sec. 68-1. Findings of fact.
Sec. 68-2. Statement of purpose.
Sec. 68-3. Scope of authority.
Sec. 68-4. Warning and disclaimer of liability.
Sec. 68-5. Related ordinances.
Sec. 68-6. Lands to which this chapter applies.
Sec. 68-7. Variances.
Sec. 68-8. Responsibilities of owners.
Sec. 68-9. Duties of city manager.
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Article II. Control Plan

Sec. 68-41. Purpose; soil and water protection measures.
Sec. 68-42. Methods of reducing erosion and sedimentation.
Sec. 68-43. Effect of approval.
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Article III. Subdivision Standards

Sec. 68-75. Standards for new subdivisions.
Sec. 68-76. Surety for permanent erosion controls in new subdivisions.
Secs. 68-77—68-95. Reserved.

Article IV. Erosion Nuisances

Sec. 68-96. Offense of failing to prevent a public erosion nuisance.
Sec. 68-97. Notice provisions.
Sec. 68-98. Abatement by city.

ARTICLE I. IN GENERAL

Sec. 68-1. Findings of fact.

The city has in the past experienced significant soil erosion and sedimentation problems. Large quantities of earth have been displaced from private property onto drainage easements, storm drains and other public places, access easements, public easements and public rights-of-way. Erosion is a dangerous activity in that it contaminates water supplies and water resources. Excessive sedimentation clogs watercourses, drainage easements and storm drains, and causes flooding which results in substantial damage to public and private lands. These problems result in a serious threat to the health, safety and general welfare of the community.

(Code 1996, § 3.15.001; Ord. No. O-08-11, 7-18-2011)

Sec. 68-2. Statement of purpose.

This chapter sets forth the minimum performance standard necessary to protect against erosion and sedimentation problems within the city and to establish the various public and private responsibilities for providing this protection. It is the intent of this chapter to set forth performance standards which all erosion and sedimentation controls must, at a minimum, meet. It shall be the duty and responsibility of all persons, firms or corporations to which this chapter applies to design and implement erosion and sedimentation control measures which meet the performance standards contained in this chapter. Further, it is the purpose of this chapter to:

(1) Protect human life, health and property;

(2) Minimize expenditures of public money for cleaning sediment out of streets, sidewalks, storm drains and watercourses;

(3) Ensure that those who expose soil to possible erosion losses are minimizing those soil losses;

(4) Preserve the natural beauty and aesthetics of the community;

(5) Prevent the pollution of streams, ponds and other watercourses by sediment;

(6) Provide for restoration of sites to reduce the negative environmental impacts of construction activity.

(Code 1996, § 3.15.002; Ord. No. O-08-11, 7-18-2011)

Sec. 68-3. Scope of authority.

(a) The provisions of this chapter apply to:

(1) Any person, firm, corporation or business proposing to develop land or improve property within the city;

(2) Any person, firm, corporation or business currently developing land or improving property within the city; and

(3) Any person, firm, corporation or business who own, possesses, is in custody of, or exercises control of, property within the city.

(b) This chapter applies to individual building structures, subdivisions, excavations and fill operations, all development and all other similar development activities.
(Code 1996, § 3.15.003; Ord. No. O-08-11, 7-18-2011)

Sec. 68-4. Warning and disclaimer of liability.

The planning considerations given in this chapter for erosion controls rely on a degree of erosion and sedimentation control and flood protection that is considered reasonable for regulatory purposes and that is based on scientific, engineering, and economic considerations. This chapter does not imply that erosion and sedimentation controls will survive inundation by runoff from storms or that land below such controls will be free from flooding or flood damages. This chapter shall not create liability on the part of the city, or any officer or employee thereof, for any flood damages, or erosion or sedimentation damages, whether to persons or property, that result from reliance on this chapter or any administrative decision lawfully made thereunder.
(Code 1996, § 3.15.016; Ord. No. O-08-11, 7-18-2011)

Sec. 68-5. Related ordinances.

Besides this chapter, the city has other regulations and specifications possibly affecting erosion and sedimentation control. In the event of a conflict between this chapter and any other ordinances of the city, the most restrictive provision shall govern.
(Code 1996, § 3.15.004; Ord. No. O-08-11, 7-18-2011)

Sec. 68-6. Lands to which this chapter applies.

All properties (lands) within the city are subject to this chapter.
(Code 1996, § 3.15.005; Ord. No. O-08-11, 7-18-2011)

Sec. 68-7. Variances.

The city council may grant a written variance from the provisions of this chapter if strict adherence to requirements will result in unnecessary hardship and not fulfill the intent of this chapter. The owner shall submit a written request for a variance to the city. The request shall state the specific variances sought and reasons for requesting the variance. The city shall not grant a variance unless and until sufficient specific reasons justifying the variance are provided by the owner.
(Code 1996, § 3.15.008; Ord. No. O-08-11, 7-18-2011)

Sec. 68-8. Responsibilities of owners.

The owner, builder, developer, tenant, or any other person, firm, or corporation who owns, possesses, is in custody of, or exercises control of property shall be responsible for any silt, mud, or sands transported from the property by drainage. The intent of this chapter is that

owners, builders, and developers make provisions for preventing erosion and sedimentation problems at such time as their property is proposed for development, use, or modification, and to continue such preventive measures during the actual construction and development of the property. Additionally, all persons, firms, or corporations who, after construction and development, own, possess, are in custody of, or exercise control of, the property are responsible for preventing the erosion and sedimentation problems addressed by this chapter.
(Code 1996, § 3.15.011; Ord. No. O-08-11, 7-18-2011)

Sec. 68-9. Duties of city manager.

The city manager or designee is hereby appointed to administer and implement this chapter. The duties of the city manager or designee shall include, but not be limited to:

(1) Inspecting sites to determine compliance with this chapter;

(2) Determining if sureties shall be exercised. If so, the city manager shall arrange for the work to be done, and if not, the city manager shall return the sureties to the applicant; and

(3) Determining if a stop work order shall be issued and, if so, when the stop work order shall be removed from the project or construction, and work allowed to commence or recommence.

(Code 1996, § 3.15.010; Ord. No. O-08-11, 7-18-2011)

Sec. 68-10. Stop work orders.

All development, improvement, and construction on any land which is in violation of the provisions of this chapter may be halted and stopped by order of the city manager. No stop work order may be issued until the notice provisions of this chapter are fully complied with by the city and the owner or agent of the premises is given reasonable time period to correct the public erosion nuisance and to clean up and remove the offending and burdensome sedimentation.
(Code 1996, § 3.15.018; Ord. No. O-08-11, 7-18-2011)

Sec. 68-11. Penalty.

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in a sum not to exceed $500.00, and a separate offense shall be deemed committed upon each day during or on which violation occurs or continues.
(Code 1996, § 3.15.019; Ord. No. O-08-11, 7-18-2011)

Secs. 68-12—68-40. Reserved.

ARTICLE II. CONTROL PLAN

Sec. 68-41. Purpose; soil and water protection measures.

The objective of the erosion and sedimentation control plan is to prevent public erosion nuisances. The prevention of public erosion nuisances can be promoted, in part, by the following goals:

(1) Reduce sedimentation in streams, creeks, lakes, waterways, storm drains, etc.;

(2) Protect the quality of the water in the city;

(3) Provide, protect, and preserve wildlife habitat;

(4) Provide for restoration of sites to reduce the negative environmental impacts of construction activity.

(Code 1996, § 3.15.013; Ord. No. O-08-11, 7-18-2011)

Sec. 68-42. Methods of reducing erosion and sedimentation.

(a) In order to implement the objectives of the control plan, the following design considerations are necessary:

(1) The size of disturbed areas shall be limited to the greatest extent possible;

(2) Any disturbed area shall be stabilized as soon as possible.

(b) For construction activities in waterways, the following additional requirements must be met:

(1) At the end of each working day, the contractor shall remove all loose excavated material from the channel;

(2) No construction or fill materials can be stored within the limits of the channel. All equipment and materials storage and staging areas must have erosion controls;

(3) Rock berms or sandbag berms shall be used to entrap sediment;

(4) Flooding potential should be considered when locating the control measures;

(5) Controls are required to intercept silt from all disturbed areas;

(6) The velocities of stormwater runoff shall be kept below the erosive level;

(7) Street areas and areas disturbed by development activity shall be protected from upstream runoff;

(8) Stormwater runoff shall be captured and filtered/drained;

(9) The extent of sediment leaving the project site shall be minimized;

(10) Flooding hazards and silt removal costs associated with excessive sediment accumulation in storm drains and waterways shall be reduced;

(11) The concentration of stormwater runoff shall be reduced and street flow shall be promoted to greatest extent possible;

(12) All disturbed areas shall be revegetated with a rapid, vigorous growth of long-term vegetation composed of a mixture of grasses, forbs and woody plants;

(13) A sedimentation or filtration pond shall be provided to maintain and improve water quality;

(14) Erosion control plans should be phased to accommodate for changes in drainage patterns that occur during development;

(15) The silt leaving a construction site on the wheels of construction vehicles shall be reduced by providing vehicle washing areas or established construction entrances and exits;

(16) Existing vegetation shall be preserved and protected to the greatest extent possible;

(17) Planning should consider the natural topography and soil condition in an attempt to limit the erosion potential;

(18) Erosion/sedimentation controls shall be designed to harmonize with natural character of the lands;

(19) When storm drain inlets must be protected, a perimeter filtration dike shall be used (triangular filtration dike or hay bale dike).

(c) The considerations listed in subsections (a) and (b) of this section are illustrative only and are not to be considered an exhaustive list of criteria effective erosion and sedimentation plans should address in order to prevent a public erosion nuisance.

(d) It shall be the sole responsibility of the applicant to prepare and submit an erosion and sedimentation control plan which meets the requirements of the city and this chapter. The plan shall include sufficient information to evaluate the environmental characteristics of the affected areas, the potential impacts of the proposed grading on water resources, and the effectiveness and acceptability of measures proposed to minimize soil erosion and off-site sedimentation.

(e) The applicant shall certify on the drawings that all clearing, grading, drainage, construction, and development shall be conducted in strict accordance with the plan.
(Code 1996, § 3.15.014; Ord. No. O-08-11, 7-18-2011)

Sec. 68-43. Effect of approval.

(a) It is to be understood that the approval of an erosion and sedimentation control plan by the city does not constitute recognition by the city that the erosion and sedimentation control plan will prevent any, or all, public erosion nuisances.

(b) By approval of the erosion and sedimentation control plan, the city does not warrant that the erosion and sedimentation control plan will be sufficient to prevent a public erosion nuisance, and the city waives no rights to pursue any legal remedies, both under this chapter and all other applicable ordinances and laws.

(c) If for any reason, after an erosion and sedimentation control plan is approved by the engineering department, a public erosion nuisance occurs on property addressed by the erosion and sedimentation control plan, the approval of the erosion and sedimentation control plan shall not be a defense or bar to prosecution under this chapter.
(Code 1996, § 3.15.015; Ord. No. O-08-11, 7-18-2011)

Secs. 68-44—68-74. Reserved.

ARTICLE III. SUBDIVISION STANDARDS

Sec. 68-75. Standards for new subdivisions.

In addition to those requirements for subdivisions found in this Code, all applicants for subdivision of land shall submit to the city manager an erosion and sedimentation control plan for approval prior to the commencement of construction. The erosion and sedimentation control plan shall be included in the engineering construction plans.
(Code 1996, § 3.15.012; Ord. No. O-08-11, 7-18-2011)

Sec. 68-76. Surety for permanent erosion controls in new subdivisions.

(a) The applicant shall provide a surety in the form of cash, certificate of deposit, surety bond, or irrevocable letter of credit acceptable to the city to ensure that vegetative cover and other permanent erosion control measures are installed, maintained, and functioning properly up to a two-year period from the date of final acceptance of the dedicated streets or utilities by the city. This surety shall be given to the city before the final acceptance of the streets or utilities. This surety shall be in the amount estimated by the developer, which is 100 percent of the cost of constructing and maintaining the permanent erosion controls for a two-year period.

(b) However, such estimate is subject to review by the city manager and may be rejected, and the surety not accepted, if the city manager deems the estimate not to be a reasonable approximation of the costs of constructing and maintaining the erosion controls.

(c) Should the vegetative cover die or become sparse, or the erosion controls fail to be maintained or are not functioning during this two-year period, the city may notify applicant in writing. The applicant has ten days after being notified to begin correcting the problems. If no corrections are started, the city may make the necessary repairs by exercising the surety or billing the applicant.

(d) If, at the end of the two-year period, the vegetative cover is still not established or is sparse, or the erosion controls are not functioning, the city may exercise the surety and have the erosion controls installed and established. The above procedures for ensuring that vegetation is established shall apply to all projects, whether or not the vegetation is the long-term maintenance responsibility of the city.

(e) Any vegetative cover which is planted and is a permanent part of the improvement project will not be accepted by the city until the growth has been established and maintained by the developer for a two-year period from the date of final acceptance of the subdivision. After the two-year period has elapsed, the owner of the property shall be responsible for maintaining the erosion controls in good working order.

(f) If any future owner modifies or disturbs the erosion controls for the area, that owner must restore or replace the permanent erosion controls at the conclusion of the disturbing activity.
(Code 1996, § 3.15.017; Ord. No. O-08-11, 7-18-2011)

Secs. 68-77—68-95. Reserved.

ARTICLE IV. EROSION NUISANCES

Sec. 68-96. Offense of failing to prevent a public erosion nuisance.

(a) A public erosion nuisance is an occurrence where erosion of, or sediment from, one location causes an unsafe, bothersome, or unsightly condition on public property and public rights-of-way. An unsafe, bothersome or unsightly condition or burden includes silt, mud or similar debris originating on one property but being deposited onto a second off-site property which is public property or a public right-of-way from which the city may have to remove or clean up the deposit due to liability, statutory, aesthetic, drainage or property damage concerns. Examples include, but are not limited to:

(1) Excessive sedimentation in storm drains, drainage easements and watercourses caused by erosion; and

(2) Excessive sedimentation on public streets, sidewalks, alleys, easements and other rights-of-way caused by erosion.

(b) It is unlawful for any person, firm or corporation which owns, possesses, is in custody of or exercises control of property to permit a public erosion nuisance to occur on the property; provided, however, that it is not a violation of this article if erosion and sedimentation occurs upon private property and is deposited upon private property. Only erosion and sedimentation which impacts upon public property and public rights-of-way are governed by this article.
(Code 1996, § 3.15.006; Ord. No. O-08-11, 7-18-2011)

Sec. 68-97. Notice provisions.

(a) It shall be the duty of the appointed city manager or designee to give 48 hours' notice in writing to the owner or agent in charge of any premises believed to be in violation of this article to correct the public erosion nuisance and to clean up and remove the offending and burdensome sedimentation.

(b) A notice of less than 48 hours may be given in the event that the city manager decides, in the judgment of the city manager, that the situation believed to be in violation of this chapter poses a substantial and immediate threat to public health, safety, and welfare.
(Code 1996, § 3.15.007; Ord. No. O-08-11, 7-18-2011)

Sec. 68-98. Abatement by city.

(a) If the owner of any lot, tract, parcel of land, or a portion thereof, situated within the corporate limits of the city shall fail to comply with this article, then the city manager, or designee, shall notify such owner by letter, addressed to the owner at the address shown on the last approved tax rolls of the city or at any residence or business structure located on subject property or at the last known address. The mailing of notice in accordance with any of the above shall satisfy this section. In the alternative, the city may notify the owner by publication in the city's official newspaper on one occasion.

(b) At the expiration of ten days after notification or publication, the city may enter upon such premises and may do such work as is necessary, or cause the same to be done, in order that the premises may comply with the requirements set forth within this chapter.

(c) A statement of the cost incurred by the city to abate such condition shall be mailed to the owner of the premises, which statement shall be paid within 30 days of the date of the mailing thereof.

(d) If the statement has not been paid within such period, the city manager or the appointed city manager may file a statement with the Dallas County clerk of the expenses incurred to abate such condition on the premises, and the city shall have a privileged lien on any lot, tract or parcel of land upon which such expense is incurred, together with ten percent on the delinquent amount from the date such payment is due. For any such expenditure and interest, suit may be instituted and recovery and foreclosure had in the name of the city and the statement so made, or a copy thereof shall be prima facie proof of the amount expended in any such work performed by the city.

(e) The city manager or designee shall file a statement of expenses incurred, giving the amount of such expenses and the date on which the work was done or improvements made, with the county clerk; and the city shall have a privileged lien on such lots or real estate upon which the work was done or improvements made to secure the expenditures so made, in accordance with the provisions of V.T.C.A., Health and Safety Code ch. 342, which lien shall be second only to tax liens and liens for street improvements. The lien amount shall bear ten percent interest from the date the statement was filed.

(f) In addition, for any such expenditures and interests, suit may be instituted, and recovery and foreclosure of the lien may be had in the name of the city; and the statement of expenses or a certified copy thereof, shall be prima facie proof of the amount expended for such work or improvements.
(Code 1996, § 3.15.009; Ord. No. O-08-11, 7-18-2011)

Chapter 69

RESERVED

Chapter 70

STORMWATER MANAGEMENT AND CONTROL

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ARTICLE I. IN GENERAL

Sec. 70-1. Definitions.

For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning, and any words not herein defined shall be construed in the context used and by ordinary interpretation and not as a word of art:

Agricultural stormwater runoff means any stormwater runoff from orchards, cultivated crops, pastures, range lands, and other non-point source agricultural activities, but not discharges from concentrated animal feeding operations as defined in 40 CFR 122.23 or discharges from concentrated aquatic animal production facilities as defined in 40 CFR 122.24.

Clean Water Act (CWA) means the Federal Water Pollution Control Act or the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq.

Code enforcement official means a city employee or person or entity acting under a contract with the city, authorized to enforce the provisions of this article and city ordinances, including, but not limited to, the building official, inspector, code enforcement officer, code compliance officer, or designee.

Construction site notice means a signed and certified submission to the operator of the MS4 (i.e., the city) from an operator of a small construction activity identifying coverage pursuant to the construction general permit.

Contaminated means containing a harmful quantity of any substance.

Contamination means the presence of or entry into a public water supply system, the MS4, surface waters in the state, or waters of the United States of any substance which may be deleterious to the public health or the quality of the water, as determined by, or pursuant to, federal or state law.

Conveyance means curbs, gutters, human-made channels and ditches, drains, pipes, and other constructed features designed or used for flood control or to otherwise transport stormwater runoff.

Discharge means any addition or introduction of any pollutant, stormwater, or any other substance whatsoever into the MS4, surface waters in the state, or waters of the United States.

Discharger means any person who causes, allows, permits, or is otherwise responsible for a discharge, including, without limitation, any operator of a construction site or industrial facility.

Environmental Protection Agency (EPA) means the U.S. Environmental Protection Agency, the regional office thereof, any federal department, agency, or commission that may succeed to the authority of the EPA, and any duly authorized official of the EPA or such successor agency.

Facility means any building, structure, installation, process, or activity from which there is or may be a discharge of a pollutant.

Fertilizer means a solid or non-solid substance or compound that contains an essential plant nutrient element in a form available to plants and is used primarily for its essential plant nutrient element content in promoting or stimulating growth of a plant or improving the quality of a crop, or a mixture of two or more fertilizers. The term "fertilizer" does not include the excreta of an animal, plant remains, or a mixture of those substances, for which no claim of essential plant nutrients is made.

Fire code means the International Fire Code as adopted by the city.

Fire department means the city fire department or any duly authorized representative thereof.

Fire protection water means any water, and any substances or materials contained therein, used by any person other than the fire department to control or extinguish a fire.

Garbage means solid waste consisting of putrescible animal and vegetable waste materials resulting from the handling, preparation, cooking, and consumption of food, including waste materials from markets, storage facilities, handling, and sale of produce and other food products.

Groundwater infiltration means groundwater that enters a municipal separate storm sewer system (including sewer service connections and foundation drains) through such means as defective pipes, pipe joints, connections, or utility holes.

Harmful quantity means the amount of any substance that will cause pollution of surface waters in the state or waters of the United States, or that will cause lethal or sub-lethal adverse effects on representative, sensitive aquatic monitoring organisms, upon their exposure to samples of any discharge into surface waters in the state, waters of the United States, or the MS4, as determined by, or pursuant to, federal or state law.

Herbicide means a substance or mixture of substances used to destroy a plant or to inhibit plant growth.

Household hazardous waste means waste from materials utilized for residential or housekeeping purposes containing regulated substances which, either singularly or by their interaction with other wastes or by their accumulation in the MS4, becomes injurious or potentially injurious to human, plant, or animal life, or property. For the purposes of this article, the term "household hazardous wastes" includes, but is not limited to, paint, paint thinners, paint solvents, bleaches, and drain cleaners.

Illicit connection means any human-made conveyance connecting an illicit discharge directly to a municipal separate storm sewer.

Illicit discharge means any discharge to a municipal separate storm sewer that is not entirely composed of stormwater.

Industrial activity means any activity subject to the multi-sector general permit.

Large construction activity means construction activities, including clearing, grading, and excavating, that result in land disturbance of equal to or greater than five acres of land. The term "large construction activity" also includes the disturbance of less than five acres of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than five acres of land. The term "large construction activity" does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, and original purpose of a ditch, channel, or other similar stormwater conveyance. The term "large construction activity" does not include the routine grading of existing dirt roads, asphalt overlays of existing roads, the routine clearing of existing rights-of-way, and similar maintenance activities.

Municipal separate storm sewer system (MS4) means a separate storm sewer system owned or operated by the United States, a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law, such as a sewer district, flood control district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, that discharges to surface waters in the state.

National Pollutant Discharge Elimination System (NPDES) means the federal program under which the administrator of the U.S. Environmental Protection Agency can authorize discharges of waste to waters of the United States according to section 402 of the Clean Water Control Act and may also delegate this permitting authority to the state.

No exposure certification (NEC) means a written submission to the executive director of TCEQ from an applicant for the multi-sector general permit notifying the applicant's intent to obtain a conditional exclusion from permit requirements by certifying that there is no exposure of industrial material or activities to precipitation or runoff.

Notice of change (NOC) means written notification from a permittee pursuant to the multi-sector general permit or the construction general permit to the executive director of TCEQ providing changes to information that was previously provided to TCEQ in a notice of intent (NOI) or no exposure certification (NEC) form.

Notice of intent (NOI) means a written submission to the executive director of TCEQ from an applicant requesting coverage under the multi-sector general permit or the construction general permit.

Notice of termination (NOT) means a written submission to the executive director of TCEQ from a permittee authorized under the multi-sector general permit or the construction general permit requesting termination of coverage.

NPDES permit means a permit issued by the EPA that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Operator means the person who, either individually or taken together, meets the following two criteria:

(1) They have operational control over the facility specifications (including the ability to make modifications in specifications); and

(2) They have the day-to-day operational control over those activities at the facility necessary to ensure compliance with pollution prevention requirements and any permit conditions.

Owner means the person who owns a facility or part of a facility.

Pesticide means a substance or mixture of substances intended to prevent, destroy, repel, or mitigate any pest, or any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant (as those terms are defined in V.T.C.A., Agriculture Code § 76.001).

Pollutant means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, filter backwash, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into any surface waters in the state. The term "pollutant" does not include tail-water or runoff water from irrigation or rainwater runoff from cultivated or uncultivated rangeland, pastureland, and farmland. The term "pollutant" includes sediment.

Pollution means the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any surface waters in the state that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property or to public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

Property means all privately owned, occupied, or unoccupied property, including vacant land, or a building designed or used for residential, commercial, business, industrial, or religious purposes. The term "property" shall also include a yard, ground, wall, driveway, fence, porch, steps, or other structure appurtenant to the property or otherwise known as curtilage.

Publicly owned treatment works (POTW) means a treatment works, as defined by section 212 of the Clean Water Act, owned by the city or other public entity, including any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any sewers, pipes, and other conveyances which convey wastewater to a treatment plant.

Regulated construction activity means a large construction activity or a small construction activity, as those terms are defined herein.

Release means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the MS4, surface waters in the state, or waters of the United States.

Rubbish means nonputrescible solid waste, excluding ashes, consisting of both combustible and noncombustible waste materials. The term "combustible rubbish" includes paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, brush, or similar materials; the term "noncombustible rubbish" includes glass, crockery, tin cans, aluminum cans, and similar materials that will not burn at ordinary incinerator temperatures (1,600 degrees Fahrenheit to 1,800 degrees Fahrenheit).

Small construction activity means construction activities, including clearing, grading, and excavating that results in land disturbance of equal to or greater that one acre and less than five acres of land. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres of land. The term "small construction activity" does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, and original purpose of a ditch, channel, or other similar stormwater conveyance. The term "small construction activity" does not include the routine grading of existing dirt roads, asphalt overlays of existing roads, the routine clearing of existing rights-of-way, and similar maintenance activities.

Small municipal separate storm sewer system (small MS4) means refers to a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catchbasins, curbs, gutters, ditches, human-made channels, or storm drains):

(1) Owned or operated by the United States, a state, city, town, borough, county, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law, such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the Clean Water Act;

(2) Designed or used for collecting or conveying stormwater;

(3) Which is not a combined sewer;

(4) Which is not part of a publicly owned treatment works (POTW) as defined in 40 CFR 122.2; and

(5) Which was not previously authorized under an NPDES or a TPDES individual permit as a medium or large municipal separate storm sewer system, as defined at 40 CFR 122.26(b)(4) and (7).

The term "small municipal separate storm sewer system" includes systems similar to separate storm sewer systems at military bases, large hospitals or prison complexes, and highways and other thoroughfares. The term "small municipal separate storm sewer system" does not include separate storm sewers in very discrete areas, such as individual buildings. A very discrete system also includes storm drains associated with certain

municipal offices and education facilities serving a nonresidential population, where those storm drains do not function as a system, and where the buildings are not physically interconnected to an MS4 that is also operated by that public entity.

Solid waste means any garbage, rubbish, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semi-solid, or containing gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations, and from community and institutional activities.

Stormwater and *stormwater runoff* means rainfall runoff, snow melt runoff, and surface runoff and drainage.

Stormwater pollution prevention plan (SWPPP) means a plan required by either the construction general permit or the multi-sector general permit which describes and ensures the implementation of practices that are to be used to reduce the pollutants in stormwater discharges associated with construction or other industrial activity at the facility.

Surface water in the state means lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, wetlands, marshes, inlets, canals, the Gulf of America inside the territorial limits of the state (from the mean high-water mark (MHWM) out 10.36 miles into the Gulf), and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or nonnavigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or subject to the jurisdiction of the state; except that waters in treatment systems which are authorized by state or federal law, regulation, or permit, and which are created for the purpose of waste treatment are not considered to be water in the state.

Texas pollutant discharge elimination system (TPDES) means the state program for issuing, amending, terminating, monitoring, and enforcing permits, and imposing and enforcing pretreatment requirements, under Clean Water Act sections 307, 318, 402, and 405, and the state water code and administrative code.

TPDES general permit for stormwater discharges associated with construction activity or *the construction general permit (CGP)* means the construction general permit issued by TCEQ on February 15, 2008, TPDES General Permit No. TXR150000, as it exists and as it may be renewed or amended.

TPDES general permit for stormwater discharges associated with industrial activity or *the multi-sector general permit (MSGP)* means the multi-sector general permit issued by TCEQ on August 14, 2006, TPDES General Permit No. TXR050000, as it exists and as it may be renewed or amended.

TPDES general permit for stormwater discharges from small municipal separate storm sewer systems or *the small MS4 general permit* means the small MS4 general permit issued by TCEQ on August 13, 2007, TPDES General Permit No. TXR040000, as it exists and as it may be renewed or amended.

TPDES permit means a permit issued by TCEQ that authorizes the discharge of pollutants to surface waters in the state or waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Uncontaminated means not containing a harmful quantity of any substance, as determined by, or pursuant to, federal or state law.

Used oil or *used motor oil* means any oil that has been refined from crude oil or synthetic oil that, as a result of use, storage, or handling, has become unsuitable for its original purpose because of impurities or the loss of original properties but that may be suitable for further use and is recyclable in compliance with state and federal law.

Waste treatment systems.

(1) The term "waste treatment systems" means systems, including treatment ponds or lagoons designed to meet the requirements of the CWA (other than cooling ponds as defined in 40 CFR 423.11(m) which also meet the criteria of this definition), that are not waters of the United States. This exclusion applies only to human-made bodies of water which were neither originally created in waters of the United States (such as disposal areas in wetlands) nor resulted from the impoundment of waters of the United States.

(2) Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, the final authority regarding CWA jurisdiction remains with the EPA.

Waters of the United States or *waters of the U.S.* means:

(1) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

(2) All interstate waters, including interstate wetlands;

(3) All other waters, such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds that the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce, including any such waters:

   a. Which are or could be used by interstate or foreign travelers for recreational or other purposes;

   b. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or

   c. Which are used or could be used for industrial purposes by industries in interstate commerce;

(4) All impoundments of waters otherwise defined as waters of the United States under this definition;

(5) Tributaries of waters identified in subsections (1) through (4) of this definition;

(6) The territorial sea; and

(7) Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in subsections (1) through (6) of this definition.

Yard waste means leaves, grass clippings, yard and garden debris, and brush that results from landscape maintenance and land-clearing operations.
(Code 1996, § 13.10.001; Ord. No. O-16-08, 6-16-2008)

Sec. 70-2. Abbreviations.

The following abbreviations, when used in this chapter, shall have the designated meanings:

CFR means Code of Federal Regulations.

CGP means construction general permit, TPDES General Permit TXR150000.

CWA means Clean Water Act.

EPA means U.S. Environmental Protection Agency.

MS4 means municipal separate storm sewer system.

MSGP means multi-sector general permit, TPDES General Permit No. TXR050000.

NEC means no exposure certification.

NOC means notice of change.

NOI means notice of intent.

NOT means notice of termination.

NPDES means National Pollutant Discharge Elimination System.

POTW means publicly owned treatment works.

SWMP means stormwater management program.

SWPPP means stormwater pollution prevention plan.

TCEQ means Texas Commission on Environmental Quality.

TPDES means Texas Pollutant Discharge Elimination System.
(Code 1996, § 13.10.002; Ord. No. O-16-08, 6-16-2008)

Sec. 70-3. Applicability.

This chapter, including any amendments or revisions thereto, shall apply to all water entering the MS4 generated on any developed and undeveloped lands lying within the city.
(Code 1996, § 13.10.003; Ord. No. O-16-08, 6-16-2008)

Sec. 70-4. Administration.

The code enforcement official shall administer, implement, and enforce the provisions of this chapter. Any powers granted or duties imposed upon the code enforcement official may be delegated by the code enforcement official to persons or entities acting in the beneficial interest of or in the employ of the city.
(Code 1996, § 13.10.004; Ord. No. O-16-08, 6-16-2008)

Sec. 70-5. Regulatory consistency.

This article shall be construed to ensure consistency with the Clean Water Act and the state water code, and amendments thereto, or any applicable implementing regulations.
(Code 1996, § 13.10.005; Ord. No. O-16-08, 6-16-2008)

Sec. 70-6. Ultimate responsibility of discharger.

The standards set forth herein and promulgated pursuant to this chapter are minimum standards; therefore, this chapter does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants into surface waters in the state or waters of the United States caused by said person. This chapter shall not create liability on the part of the city, or any agent or employee thereof, for any damages that result from the discharger's reliance on this article or any administrative decision lawfully made thereunder.
(Code 1996, § 13.10.006; Ord. No. O-16-08, 6-16-2008)

Sec. 70-7. General prohibition.

(a) No person shall, and it shall be an offense to, introduce or caused to be introduced into the municipal separate storm sewer system (MS4) any discharge that is not composed entirely of stormwater.

(b) It is an affirmative defense to any enforcement action for violation of subsection (a) of this section that the discharge was composed entirely of one or more of the following categories of discharges:

(1) A discharge authorized by, and in full compliance with, a TPDES permit or an NPDES permit (other than the TPDES permit authorizing discharges from the MS4);

(2) A discharge or flow from water line flushing, but not including a discharge from water line disinfection by superchlorination or other means unless it contains no harmful quantity of total residual chlorine (TRC) or any other chemical used in line disinfection;

(3) A discharge or flow from runoff or return flow from landscape irrigation, lawn irrigation, and other irrigation utilizing potable water, groundwater, or surface water sources;

(4) A discharge or flow from a potable water source not containing any harmful substances or material from the cleaning or draining of a storage tank or other container;

(5) A discharge or flow from a diverted stream;

(6) A discharge or flow from rising groundwaters and springs;

(7) Uncontaminated groundwater infiltration (as defined by 40 CFR 35.2005(20)) to the MS4;

(8) A discharge or flow from uncontaminated pumped groundwater;

(9) An uncontaminated discharge or flow from foundation and footing drains;

(10) A discharge or flow from air conditioning condensation that is unmixed with water from a cooling tower, emissions scrubber, emissions filter, or any other source of pollutant;

(11) An uncontaminated discharge or flow of water from crawl space pumps;

(12) A discharge or flow from individual residential vehicle washing;

(13) A discharge or flow from wetlands and riparian habitats;

(14) A discharge or flow of swimming pool water that contains no harmful quantity of chlorine, muriatic acid, or other chemical used in the treatment or disinfection of the swimming pool water or in pool cleaning;

(15) A discharge or flow from street wash water that is not contaminated with any soap, detergent, degreaser, solvent, emulsifier, dispersant, or any other harmful cleaning substance;

(16) A discharge or flow from firefighting activities by the fire department (firefighting activities do not include washing of trucks, runoff water from training activities, test water from fire suppression systems, and similar activities);

(17) A discharge or flow of fire protection water that does not contain oil or hazardous substances or materials that the fire code requires to be contained and treated prior to discharge, in which case treatment adequate to remove harmful quantities of pollutants must have occurred prior to discharge;

(18) Agricultural stormwater runoff; and

(19) A discharge or flow from other similar occasional incidental non-stormwater discharges, as determined by the city manager.

(c) No affirmative defense shall be available under subsection (b) of this section if:

(1) The discharge or flow in question has been determined by the code enforcement official to be a source of a pollutants or pollution to surface waters in the state, waters of the United States, or the MS4;

(2) Written notice of such determination has been provided to the discharger; and

(3) The discharge has continued after the expiration of the time given in the notice to cease the discharge. The correctness of the code enforcement official's determination that a discharge is a source of a pollutant or pollutants may be reviewed in any administrative or judicial enforcement proceeding in accordance with city ordinances and state law, as may be applicable.

(Code 1996, § 13.10.007; Ord. No. O-16-08, 6-16-2008)

Sec. 70-8. Specific prohibitions and requirements.

(a) The specific prohibitions and requirements in this section are not inclusive of all the discharges prohibited by the general prohibition in section 70-7.

(b) A person commits an offense if the person introduces or causes to be introduced into the MS4 any harmful quantity of any substance.

(c) A person commits an offense if the person introduces or causes to be introduced into the MS4 any discharge that causes or contributes to causing the city to violate a water quality standard or the city's authorization pursuant to the small MS4 general permit for discharges from its MS4.

(d) A person commits an offense if the person dumps, spills, leaks, pumps, pours, emits, empties, discharges, leaches, disposes, or otherwise introduces or causes to be introduced, allows, or permits to be introduced any of the following substances into the MS4:

(1) Any used motor oil, antifreeze, or any other motor vehicle fluid;

(2) Any industrial waste;

(3) Any hazardous waste, including household hazardous waste;

(4) Any domestic sewage or septic tank waste, grease trap waste, or grit trap waste;

(5) Any garbage or rubbish;

(6) Any wastewater from a commercial carwash facility; from any vehicle washing, cleaning, or maintenance at any new or used automobile or other vehicle dealership, rental agency, body shop, repair shop, or maintenance facility; or from any washing, cleaning, or maintenance of any business or commercial or public service vehicle, including a truck, bus, or heavy equipment, by a business or public entity that operates more than ten such vehicles;

(7) Any direct discharge of a pesticide or fertilizer;

(8) Any wastewater from the washing, cleaning, de-icing, or other maintenance of aircraft;

(9) Any wastewater from a commercial mobile power washer or from the washing or other cleaning of a building exterior that contains any soap, detergent, degreaser, solvent, or any other harmful cleaning substance;

(10) Any wastewater from commercial floor, rug, or carpet cleaning;

(11) Any wastewater from the wash-down or other cleaning of pavement that contains any harmful quantity of soap, detergent, solvent, degreaser, emulsifier, dispersant, or any other harmful cleaning substance; or any wastewater from the wash-down or other cleaning of any pavement where any spill, leak, or other release of oil, motor fuel, or other petroleum or hazardous substance has occurred, unless all harmful quantities of such released materials has been previously removed;

(12) Any effluent from a cooling tower, condenser, compressor, emissions scrubber, emissions filter, or the blow-down from a boiler;

(13) Any ready-mix concrete, mortar, ceramic, or asphalt base material or hydro-mulch material, or material from the cleaning of commercial vehicles or equipment containing, or used in transporting or applying, such material;

(14) Any runoff or wash-down water from any animal pen, kennel, or fowl or livestock containment area containing more than five animals;

(15) Any filter backwash from a swimming pool, fountain, or spa;

(16) Any swimming pool water containing any harmful quantity of chlorine, muriatic acid, or other chemical used in the treatment or disinfection of the swimming pool water or in pool cleaning;

(17) Any discharge from water line disinfection by superchlorination or other means if it contains any harmful quantity of chlorine or any other chemical used in water line disinfection;

(18) Any fire protection water containing oil or hazardous substances or materials that the fire code in this Code requires to be contained and treated prior to discharge, unless treatment adequate to remove pollutants occurs prior to discharge (this prohibition does not apply to discharges or flow from firefighting activities by the fire department as further set forth herein);

(19) Any water from a water curtain in a spray room used for painting vehicles or equipment;

(20) Any contaminated runoff from a vehicle salvage yard, junkyard, auto repair activities, or storage of vehicles on unimproved surfaces;

(21) Any substance or material that will damage, block, or clog the MS4;

(22) Any release from a petroleum storage tank (PST), or any leachate or runoff from soil contaminated by a leaking PST, or any discharge of pumped, confined, or treated wastewater from the remediation of any such PST release, unless the discharge satisfies all of the following criteria:

a. Compliance with all state and federal standards and requirements;

b. No discharge containing a harmful quantity of any pollutant; and

c. No discharge containing more than 50 parts per billion of benzene; 500 parts per billion combined total quantities of benzene, toluene, ethylbenzene, and xylene (BTEX); or 15 milligrams per liter of total petroleum hydrocarbons (TPH).

(e) Yard waste regulation.

(1) A person commits an offense if the person:

a. Discharges, deposits, discards, or dumps, or causes or allows to be discharged, deposited, discarded, or dumped any grass clippings, leaf litter, brush cuttings, or animal waste into the MS4;

b. Places or causes to be placed or dropped, grass clippings, leaf litter, brush cuttings, or animal waste within any street in the corporate limits of the city in such a manner that the same may be washed by the flow of water into the MS4;

(2) It shall be a defense to prosecution that these wastes occurred naturally or from normal landscape maintenance (e.g., leaves falling from trees, grass clippings left on lawns). Intentionally sweeping or blowing grass clippings or leaves into the streets or gutters is prohibited.

(f) A person commits an offense if the person introduces or causes to be introduced into the MS4 any harmful quantity of sediment, silt, earth, soil, or other material associated with clearing, grading, excavation, or other construction activities, or associated with filling or other placement or disposal of soil, rock, or other earthen materials, in excess of what could be retained on-site or captured by employing sediment and erosion control measures to the maximum extent practicable.

(g) Illicit connection regulation.

(1) The construction, use, maintenance, or continued existence of illicit connections to the MS4 is prohibited;

(2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(h) A person commits an offense if the person causes or allows any pavement wash water from a service station to be discharged into the MS4 unless such wash water has passed through a properly functioning and maintained grease, oil, and sand interceptor before discharge into the MS4.

(i) A person commits an offense if the person:

(1) Discharges used oil into the MS4 or a sewer, drainage system, septic tank, surface water, groundwater, or watercourse;

(2) Knowingly mixes or commingles used oil with solid waste that is to be disposed of in a landfill or knowingly directly disposes of used oil on land or in a landfill; or

(3) Applies used oil to a road or land for dust suppression, weed abatement, or other similar use that introduces used oil into the environment.

(Code 1996, § 13.10.008; Ord. No. O-16-08, 6-16-2008)

Sec. 70-9. Nuisance and general violation.

(a) An actual or threatened discharge to the MS4 that violates or would violate this article is declared to be a nuisance.

(b) A line conveying sewage or designed to convey sewage that is connected to the MS4 is declared to be a nuisance.

(c) Notwithstanding any other provision herein to the contrary, the code enforcement official shall not be required to provide written notice or a warning prior to taking criminal enforcement action or any other legally available enforcement action.

(d) If the city mails notice in accordance with the provisions stated in this article, and the notice is returned "refused" or "unclaimed," said notice shall be deemed delivered for purposes of enforcement action as provided herein.

(Code 1996, § 13.10.009; Ord. No. O-16-08, 6-16-2008)

Sec. 70-10. Submission of NOI or construction site notice to city.

(a) The operator of a facility, including construction sites, required to have a TPDES permit to discharge stormwater associated with industrial activity or regulated construction activity shall submit a copy of the NOI, construction site notice, NOC, NOT, or NEC to the director of municipal services at the same time the operator submits the original NOI, NOC, NOT, or NEC to the TCEQ or is required to submit the construction site notice to the operator of the MS4 (i.e., the city) by the construction general permit.

(b) The copy of the NOI, construction site notice, NOC, NOT, or NEC may be delivered to the director of municipal services either in person or by mailing it to: Notice of Intent to Discharge Stormwater, Director of Municipal Services, City of Glenn Heights 1938 South Hampton, Glenn Heights, Texas 75154.

(c) A person commits an offense if the person operates a facility that is discharging stormwater associated with an industrial activity or a regulated construction activity without having submitted a copy of the NOI or the construction site notice to do so to the director of municipal services.

(Code 1996, § 13.10.010; Ord. No. O-16-08, 6-16-2008)

Sec. 70-11. Modification of stormwater pollution prevention plans.

(a) The city manager may require any operator of a facility to modify the facility's stormwater pollution prevention plan (SWPPP) if in the best professional judgment of the city manager, the SWPPP does not comply with this article or with the requirements of the facility's TPDES or NPDES permit to discharge stormwater associated with an industrial activity or a regulated construction activity.

(b) The deficiencies in a facility's SWPPP will be identified in writing, and the city manager will give the facility operator a reasonable amount of time, not to exceed 30 days, to make the necessary changes in the SWPPP.
(Code 1996, § 13.10.011; Ord. No. O-16-08, 6-16-2008)

Sec. 70-12. Right of entry; inspection and sampling.

(a) The code enforcement official shall have the right to enter the premises of any person discharging stormwater to the MS4, to surface waters in the state, or to waters of the United States to determine if the discharger is complying with all requirements of this article. Dischargers shall allow the code enforcement official ready access to all parts of the premises for purposes of inspection, sampling, records examination, and copying, and for the performance of any additional duties. Dischargers shall make available to the code enforcement official, upon request, any SWPPPs, modifications thereto, self-inspection reports, monitoring records, compliance evaluations, NOIs, construction site notices, NOCs, NOTs, NECs, and any other records, reports, and other documents related to compliance with this article.

(b) Where the discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the code enforcement official will be permitted to enter without delay for the purposes of performing the official's responsibilities.

(c) The code enforcement official shall have the right to set up on the discharger's property, or require installation of, such devices as are necessary to conduct sampling or metering of the discharger's operations, at the discharger's sole cost and expense.

(d) The code enforcement official may require any discharger to the MS4, surface waters in the state, or waters of the United States to conduct specified sampling, testing, analysis, and other monitoring of its stormwater dischargers, and may specify the frequency and parameters of any such required monitoring, at the discharger's sole cost and expense.

(e) The code enforcement official may require the discharger to install monitoring equipment, as necessary, at the discharger's sole cost and expense. The facility's sampling and monitoring equipment, as required by this section, shall be maintained at all times in a safe and proper operating condition by the discharger at the discharger's sole cost and expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

(f) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected or sampled shall be promptly removed by the discharger at the written or verbal request of the code enforcement official and shall not be replaced. The costs of clearing such access shall be borne by the discharger.

(g) Unreasonable delays in allowing the code enforcement official access to the discharger's premises shall be a violation of this article.

(h) If entry onto the property is refused, the code enforcement official shall have every recourse provided by law, including, but not limited to, an administrative search warrant or an injunction to secure entry. If the owner, operator, discharger, or person in control of the property cannot be identified or located, the code enforcement official shall be authorized to enter the property to the extent allowed by, and in accordance with, law.
(Code 1996, § 13.10.012; Ord. No. O-16-08, 6-16-2008)

Sec. 70-13. Administrative enforcement remedies.

(a) *Warning notice.* When the code enforcement official finds that any person has violated, or continues to violate, any provision of this article, or any order issued hereunder, the code enforcement official may serve upon that person a written warning notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation or resolution of the matter in response to the warning notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the warning notice. Nothing in this subsection shall limit the authority of the code enforcement official to take any action, including emergency action or any other enforcement action, without first issuing a warning notice.

(b) *Notification of violation.* When the code enforcement official finds that any person has violated, or continues to violate, any provision of this article, or any order issued hereunder, the code enforcement official may serve upon that person a written notice of violation. Within ten days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention of reoccurrence thereof, to include specific required actions, shall be submitted by the alleged violator to the code enforcement official. If the alleged violator denies that any violation occurred or contends that no corrective action is necessary, an explanation of the basis of any such denial or contention shall be submitted to the code enforcement official within ten days of receipt of the notice. Submission of an explanation or plan in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the code enforcement official to take any action, including emergency action or any other enforcement action, without first issuing a notice of violation.

(c) *Consent orders.* The city manager may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any person responsible for noncompliance with any provision in this article or any order issued hereunder. Such documents may include specific action to be taken by the person to correct

the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to subsections (e) and (f) of this section and shall be judicially enforceable.

(d) *Show cause hearings.* The city manager may order any person who has violated, or continues to violate, any provision of this article, or any order issued hereunder, to appear before the city manager and show cause why a proposed enforcement action should not be taken. Notice shall be served on the alleged violator specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the alleged violator show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten days prior to the hearing. Such notice may be served on any authorized representative of the alleged violator. The hearing shall be conducted pursuant to the rights and procedures specified in section 70-16. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the alleged violator, including, but not limited to, criminal or injunctive relief.

(e) *Compliance orders.* When the city manager finds that any person has violated, or continues to violate, any provision of this article, or any order issued hereunder, the city manager may issue an order to the violator directing that the violator come into compliance within a specified time period. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the MS4, surface waters in the state, and waters of the United States. A compliance order may not extend the deadline for compliance established by a state or federal standard or requirement, nor does a compliance order relieve the person of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the violator, including, but not limited to, criminal or injunctive relief.

(f) *Emergency cease-and-desist orders.*

(1) When the city manager finds that any person has violated, or continues to violate, any provision of this article, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violations have caused or contributed to an actual or threatened discharge to the MS4, surface waters in the state, or waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the city manager may issue an order to the violator directing the violator to immediately cease-and-desist all such violations and directing the violator to:

   a. Immediately comply with all requirements of this article; and

   b. Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations or terminating the discharge.

(2) Any person notified of an emergency order directed to said person under this subsection (f) shall immediately comply and stop or eliminate the discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the city manager may take such steps as deemed necessary to prevent or minimize harm to the MS4, surface waters in the state, or waters of the United States, or endangerment to persons or to the environment. The city manager may allow the person to recommence the discharge when it has been demonstrated to the satisfaction of the city manager that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this article. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the city manager within five days of the receipt of the emergency order. Issuance of an emergency cease-and-desist order shall not be a bar against, or a prerequisite for, taking any other action against the violator.

(Code 1996, § 13.10.013; Ord. No. O-16-08, 6-16-2008)

Sec. 70-14. Emergency suspension of utility service and MS4 access.

(a) The city may, without prior notice, suspend water service, sanitary sewer service, or MS4 discharge access to a person discharging to the MS4, surface waters of the state, waters of the United States, or the POTW when such suspension is necessary to stop an actual or threatened discharge which:

(1) Presents or may present imminent and substantial danger to the environment or to the health or welfare of persons; or

(2) Presents or may present imminent and substantial danger to the MS4, surface waters in the state, or waters of the United States.

(b) When the code enforcement official determines that city-provided water or sanitary sewer service or MS4 access needs to be suspended pursuant to subsection (a) of this section, the code enforcement official shall request the city manager to do so.

(c) As soon as is practicable after the suspension of service or MS4 access, the code enforcement official shall notify the violator of the suspension in person or by registered mail or certified mail (return receipt requested) and shall order the violator to cease the discharge immediately. When time permits, the code enforcement official should also attempt to notify the violator prior to suspending service or access.

(d) If the violator fails to comply with an order issued under subsection (c) of this section, the city manager may take such steps as the city manager deems necessary to prevent or minimize damage to the MS4, surface waters in the state, or waters of the United States, or to minimize danger to persons.

(e) The city shall not reinstate suspended services or MS4 access to the violator until:

(1) The violator presents proof, satisfactory to the city manager, that the noncomplying discharge has been eliminated and its cause determined and corrected;

(2) The violator pays the city for all costs the city incurred in responding to, abating, and remediating the discharge or threatened discharge; and

(3) The violator pays the city for all costs the city will incur in reinstating service or access.

(f) A violator whose service or access has been suspended or disconnected may appeal such enforcement action to the city manager, in writing, within ten days of notice of the suspension in accordance with section 70-16.

(g) The city may obtain a lien against the property to recover its response costs pursuant to the procedure set out in section 70-17.

(h) The remedies provided by this section are in addition to any other remedies set out in this article. Exercise of this remedy shall not be a bar against, nor a prerequisite for, taking other action against a violator.
(Code 1996, § 13.10.014; Ord. No. O-16-08, 6-16-2008)

Sec. 70-15. Nonemergency suspension of utility service and MS4 access.

(a) The city may terminate the city-provided water supply, sanitary sewer connection, or MS4 access of any person discharging to the MS4 in violation of this article, if such termination would abate or reduce the illicit discharge.

(b) The code enforcement official will notify a violator of the proposed termination of its water supply, sanitary sewer connection, or MS4 access. The violator may petition the city manager for a reconsideration and hearing pursuant to section 70-16.

(c) The city shall not reinstate suspended services or MS4 access to the discharger until:

(1) The violator presents proof, satisfactory to the city manager, that the noncomplying discharge has been eliminated and its cause determined and corrected; and

(2) The violator pays the city for all costs the city will incur in reinstating service or MS4 access.

(d) The remedies provided by this section are in addition to any other remedies set out in this article. Exercise of this remedy shall not be a bar against, nor a prerequisite for, taking other action against a violator.

(e) A person commits an offense if the person reinstates, causes to reinstate, permits or receives a benefit from the reconnection of the water service, sanitary sewer service, or MS4 access to premises terminated pursuant to this section, without the prior approval of the city manager.
(Code 1996, § 13.10.015; Ord. No. O-16-08, 6-16-2008)

Sec. 70-16. Right to reconsideration and hearing.

(a) Any person subject to a compliance order under section 70-13(e), an emergency cease-and-desist order under section 70-13(f), an emergency suspension of utility service or MS4 access under section 70-14, or a nonemergency suspension of utility service or MS4 access under section 70-15 may petition the city manager to reconsider the basis of the order or suspension within ten days of the affected person's notice of issuance of such an order or suspension.

(b) Failure to submit a timely written petition for reconsideration shall be deemed to be a waiver of any further right to administrative reconsideration or review of the order or suspension.

(c) In the petition, the petitioning party must indicate the provisions of the order or suspension objected to, the reasons for the objections, any facts that are contested, the evidence that supports the petitioning party's view of the facts, any alternative terms of an order that the petitioning party would accept, and whether the petitioning party requests a hearing on its petition.

(d) The effect of any compliance order under section 70-13(e) or nonemergency suspension of utility service or MS4 access under section 70-15 shall be stayed pending the city manager's reconsideration of the petition, and any hearing thereon, unless the city manager expressly makes a written determination to the contrary. The effectiveness of any emergency cease-and-desist order under section 70-13(f) or emergency suspension of utility service or MS4 access under section 70-14 shall not be stayed pending the city manager's reconsideration, or any hearing thereon, unless the city manager expressly and, in writing, stays the emergency order or emergency suspension of utility service or MS4 access.

(e) Within 15 days of the submittal of a petition for reconsideration, the city manager shall either:

(1) Grant the petition and withdraw or modify the order or suspension accordingly;

(2) Deny the petition, without hearing if no material issue of fact is raised; or

(3) If a hearing has been requested and a material fact has been raised, set a hearing on the petition.

(f) The city manager may also set a hearing if the city manager determines that a show cause hearing should be conducted, if grounds exist to revoke or suspend a permit issued under this article, or if grounds exist to terminate utilities on a nonemergency basis.

(g) Written notice of any hearing set by the city manager pursuant to subsection (e) or (f) of this section, shall be served on the petitioning party personally or by registered or certified mail (return receipt requested) at least ten days prior to the hearing. Such notice may be served on any authorized representative of the petitioning party.

(h) The notice shall specify the date, time, and place of the hearing. Notice that is mailed shall be deemed received three days after it is placed in a mail receptacle of the U.S. Postal Service.

(i) No decision may be rendered at a hearing by reason of the petitioning party's/alleged violator's failure to appear unless proof of actual service is shown.

(j) The city manager may conduct the hearing and take evidence, or may designate any employee of the city or any specially designated attorney or engineer to:

(1) Issue in the name of the city notices of hearing requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing;

(2) Take evidence; and

(3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the city manager for action thereon. At any hearing held pursuant to this section, testimony taken is under oath and recorded. For purposes of this section, the city manager or designee shall be empowered to administer oaths and to promulgate procedural rules for the conduct of the hearing. Any party is entitled to present the party's case or defense by oral or documentary evidence and to conduct such cross examination as may be required for a full and true disclosure of the facts. A transcript will be made available to any party to the hearing upon payment of the usual charges thereof.

(k) Whenever any deadline specified in this section falls upon a Saturday, Sunday, or a city-recognized holiday, the deadline shall be the next regular city business day.

(l) The date of an order or ruling required to be made under this section shall be deemed to be the date it is signed.

(m) Decisions shall be based on a preponderance of the evidence. The city shall have the burden of proof in all hearings.

(n) After the city manager has reviewed the evidence, the city manager shall either grant or deny the petition or grant the petition in part and deny it in part. The city manager shall make written findings of fact and conclusions of law and shall issue a written decision without undue delay. The city manager may modify the order as is appropriate based upon the evidence and arguments presented at the hearing and the city manager's action on the petition. Further orders and directives as are necessary and appropriate may be issued.

(o) A hearing shall exhaust all administrative remedies of the petitioning party/alleged violator.

(Code 1996, § 13.10.016; Ord. No. O-16-08, 6-16-2008)

Sec. 70-17. Nuisance abatement.

(a) Unless specifically stated otherwise, any nuisance as defined within this article is declared a public nuisance if it exists within the corporate limits of the city or within 5,000 feet of such limits.

(b) The code enforcement official may give notice to cease, abate, remove or otherwise remedy a nuisance immediately to:

(1) The owner of property upon which a nuisance is located or from which a nuisance originated or is emanating. If the person creating, allowing, or maintaining the nuisance is not the owner of the property, notice shall also be given to such person;

(2) Any person creating, allowing, or maintaining a nuisance;

(3) Any person with care, custody or control over the premises containing such nuisance.

(c) The notice must be given:

(1) Personally to the owner/person in writing; or

(2) By letter addressed to the owner/person at the owner's/person's post office address and sent registered or certified mail (return receipt requested). However, if personal or registered or certified mail service cannot be obtained or the owner's/person's post office address is unknown, notice may be given:

a. By publication in the official newspaper of the city at least twice within ten consecutive days;

b. By posting the notice on or near the front door of each building on the property to which the nuisance relates; or

c. By posting the notice on a placard attached to a stake driven into the ground on the property to which the nuisance relates, if the property contains no buildings.

(d) The notice may order the owner/person to undertake and implement any appropriate action:

(1) To remediate or abate any adverse effects of the nuisance upon the MS4, the surface waters in the state, the waters of the United States, or any other aspect of the environment; or

(2) To restore any part of the MS4, the surface waters in the state, the waters of the United States, or any other aspect of the environment that has been harmed.

(e) Such remedial, abatement, and restoration action may include, but not be limited to:

(1) Monitoring, assessment, and evaluation of the adverse effects and determination of the appropriate remedial, abatement, or restoration action;

(2) Confinement, removal, cleanup, treatment, and disposal of any discharged or released pollution or contamination;

(3) Prevention, minimization, or mitigation of any damage to the public health, welfare, or the environment that may result from the nuisance; and

(4) Restoration or replacement of city property or natural resources damaged by the nuisance.

(f) The notice may direct that the remediation, abatement, or restoration be accomplished on a specified compliance schedule or be completed within a specified period of time. An order issued under this section does not relieve the violator of liability for any violation, including any continuing violation.

(g) If the owner/person does not comply with the notice within ten days of service, the code enforcement official may enter any public or private property containing the nuisance and do any work necessary to abate the nuisance, except the demolition of buildings, unless otherwise permitted in accordance with other state law or ordinances.

(h) If the immediate abatement of the nuisance is deemed necessary by the code enforcement official to protect the environment or the public health, safety, or welfare from an imminent and substantial endangerment, the code enforcement official may, without complying with the notice provisions of this section or without waiting the ten-day period, enter the subject property and do or cause to be done any work necessary to abate the nuisance and remediate and restore the environment.

(i) The city manager shall conduct an abatement hearing, if a person required to receive notice, requests, not later than the 30th day after the date of the abatement, and the person files a written request to the city for the abatement hearing. An abatement hearing must be held not later than the 20th day after the date of the request for a hearing is filed. The person may testify, and present evidence through witnesses or tangible documents relating to the city's abatement.

(j) After abating the nuisance, the code enforcement official may inform the owner/person in a notice sent registered or certified mail (return receipt requested) that if the owner/person commits another violation of the same kind or nature that poses a danger to the environment or to the public health and safety on or before the first anniversary date of the original notice, the city may without further notice correct the violation at the owner's expense and assess the expense against the owner's property.

(k) All costs incurred by the city to abate a nuisance and remediate and restore the environment, including the cost of giving notice as required, shall be initially paid by the city and charged to the owner of the property.

(l) To obtain a lien against the property, the code enforcement official shall file a statement of expenses with the county clerk for the county in which the property is located. The lien statement shall state the name of the owner, if known, and the legal description of the property. The lien shall be security for the costs incurred and interest accruing at the rate of ten percent on the amount due from the date of payment by the city.

(m) The lien is inferior only to:

(1) Tax liens; and

(2) Liens for street improvements.

(n) A lien may not be filed against real estate protected by the homestead provisions of the Texas constitution, except as otherwise may be permitted by applicable law.
(Code 1996, § 13.10.017; Ord. No. O-16-08, 6-16-2008)

Sec. 70-18. Civil penalties.

(a) The city may enforce the provisions of this article pursuant to the applicable provisions of V.T.C.A., Local Government Code ch. 54, which provides for the enforcement of municipal ordinances.

(b) A civil penalty in an amount not to exceed $5,000.00 per violation of this article may be imposed. Each violation of a particular section of this article shall constitute a separate offense, and each day an offense continues shall be considered a new violation for purposes of enforcing this article.
(Code 1996, § 13.10.018; Ord. No. O-16-08, 6-16-2008)

Sec. 70-19. Criminal penalties.

(a) It shall be an offense and a violation of this article for any person to intentionally or knowingly violate the provisions of this article, or fail to comply with any requirement set forth herein, including, but not limited to:

(1) Installing or maintaining sampling or monitoring equipment;

(2) Causing or attempting to cause or create a nuisance as defined herein.

(b) A conviction for a violation of this article shall be deemed a misdemeanor. A person convicted of a violation of this article shall be fined in an amount not to exceed $2,000.00 per violation, such offense being a violation of the health and safety ordinances of the city. Each violation of a particular section of this article shall constitute a separate offense, and each day an offense continues shall be considered a new violation for purposes of enforcing this article.
(Code 1996, § 13.10.019; Ord. No. O-16-08, 6-16-2008)

Sec. 70-20. Injunction.

Any violation of any provision of this article that constitutes an immediate danger or threat to the health, safety, and welfare of the public may be enjoined in a suit brought by the city for such purposes.
(Code 1996, § 13.10.020; Ord. No. O-16-08, 6-16-2008)

Sec. 70-21. Remedies nonexclusive.

The remedies provided for in this article are not exclusive of any other remedies that the city may have under state or federal law or other city ordinances. The city may take any, all, or any combination of these actions against a violator. The city is empowered to take more than one enforcement action against any violator. These actions may be taken concurrently. (Code 1996, § 13.10.021; Ord. No. O-16-08, 6-16-2008)

Secs. 70-22—70-45. Reserved.

ARTICLE II. DESIGN CRITERIA

Sec. 70-46. Purpose.

(a) The purpose of this article is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-construction stormwater runoff and nonpoint source pollution associated with new development and redevelopment.

(b) It has been determined that development and redevelopment alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, soil erosion, stream channel erosion, nonpoint source pollution, and sediment transport and deposition, as well as reduce groundwater recharge. These changes in stormwater runoff contribute to increased quantities of waterborne pollutants and alterations in hydrology which are harmful to public health and safety as well as to the natural environment. These effects can be managed and minimized by applying proper design and well planned controls to manage stormwater runoff from development sites.

(c) It has been determined by the city that proper management of construction-related and post-construction stormwater runoff will minimize damage to public and private property and infrastructure, safeguard the public health, safety, and general welfare, and protect water and aquatic resources.

(d) This article seeks to meet its general purpose through the following specific objectives and means:

(1) Establishing decision-making processes for development that protect the integrity of watersheds and preserve the health of water resources;

(2) Minimizing changes to the predevelopment hydrologic response for new development and redevelopment in their post-construction state in accordance with the requirements of this article for the applicable design storm in order to reduce flooding, stream bank erosion, and nonpoint and point source pollution, as well as to maintain the integrity of stream channels, aquatic habitats and healthy stream temperatures;

(3) Establishing minimum post-construction stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;

(4) Establishing design and review criteria for the construction, function, and use of structural stormwater best management practices (BMPs) that may be used to meet the minimum post-development stormwater management standards;

(5) Encouraging the use of better management and site design practices, such as the use of vegetated conveyances for stormwater and preservation of green space, buffers and other conservation areas to the maximum extent practicable;

(6) Establishing provisions for the long-term responsibility for and maintenance of structural and nonstructural stormwater BMPs to ensure that they continue to function as designed, are maintained appropriately, and pose minimum risk to public safety; and

(7) Establishing administrative procedures for the submission, review, approval and disapproval of stormwater management plans, for the inspection of approved projects, and to ensure appropriate long-term maintenance.

(Code 1996, § 13.10.041; Ord. No. O-09-11, 7-18-2011)

Sec. 70-47. Definitions.

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

Best management practices (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and structural or managerial practices, used singly or in combination, to achieve water quality protection goals.

Buffer means a natural or vegetated area through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants.

Buffer widths means viewed aerially, the stream buffer width is measured horizontally on a line perpendicular to the surface water, landward from the top of the bank on each side of the stream.

Built-upon area (BUA) means that portion of a development project that is covered by impervious or partially impervious surface, including, but not limited to, buildings; such as tennis courts. The term "built-upon area" does not include wooden slatted deck or the water area of a swimming pool.

Development means new development created by the addition of built-upon area to land void of built-upon area as of the effective date of the ordinance from which this article is derived.

Disturbance means any use of the land by any person or entity which results in a change in the natural cover or topography of the land.

Drainage area means that area of land that drains to a common point on a project site.

Larger common plan of development or sale means any contiguous area where multiple separate and distinct construction or land disturbing activities will occur under one plan. A plan is any announcement or piece of documentation (including, but not limited to, public notice or hearing, drawing, permit application, zoning request, or site design) or physical demarcation (including, but not limited to, boundary signs, lot stakes, or surveyor markings) indicating that construction activities may occur on a specific plot.

Nonpoint source (NPS) pollution means forms of pollution caused by sediment, nutrients, organic and toxic substances originating from land use activities and carried to lakes and streams by surface runoff.

Owner means the legal or beneficial owner of land, including, but not limited to, a fee owner, mortgagee or vendee in possession, receiver, executor, trustee, or long-term or commercial lessee, or any other person or entity holding proprietary rights in the property or having legal power of management and control of the property. A secured lender not in possession of the property does not constitute an owner, unless the secured lender is included within the meaning of the term "owner" under another description in this definition, such as management entity.

Redevelopment means rebuilding activities on land containing built-upon area as of the effective date of the ordinance from which this article is derived.

Stormwater management design criteria means the stormwater management design criteria (Exhibit A to Ordinance No. O-09-11) for the city approved for use for the proper implementation of the design requirements for the city. All references herein to the stormwater management design criteria are the latest published edition or revision.

Stormwater management permit means a permit required for all development and redevelopment unless exempt pursuant to this article, which demonstrates compliance with this article.

Top of bank means the landward edge of the stream channel during high water or bank full conditions at the point where the water begins to overflow onto the floodplain.

Total suspended solids (TSS) means total suspended matter in water which includes particles collected on a filter with a pore size of two microns as measured by Standard Method 2540-D, which is commonly expressed as a concentration in terms of milligrams per liter (mg/L) or parts per million (ppm).
(Code 1996, § 13.10.042; Ord. No. O-09-11, 7-18-2011)

Sec. 70-48. Requirements.

(a) *Applicability and jurisdiction.*

(1) *Generally.* The requirements of this article shall apply to all developments of the city and redevelopments within the corporate limits or in the extraterritorial jurisdiction, unless one of the following exceptions applies to the development or redevelopment as of the effective date of the ordinance from which this article is derived:

a. Preliminary subdivision plan application or, in the case of minor subdivisions, the construction plan for required improvements, submitted and accepted for review;

b. Zoning use application submitted and accepted for review for uses that do not require a building permit;

c. Valid building permit issued, so long as the permit remains valid, unexpired, and unrevoked; or

d. Common law vested right established (e.g., the substantial expenditure of resources (time, labor, money) based on a good faith reliance upon having received a valid governmental approval to proceed with a project).

(2) *Exemptions.*

a. Development that cumulatively disturbs less than one acre and is not part of a larger common plan of development or sale is exempt from the provisions of this article;

b. Redevelopment or expansion that cumulatively disturbs less than one acre and is not part of a larger common plan of development or sale is exempt from the provisions of this article;

c. Redevelopment or expansion that results in no net increase in built-upon area and provides equal or greater stormwater control that the previous development is exempt from the requirements of this article;

d. Development and redevelopment that disturb less than one acre are not exempt if such activities are part of a larger common plan of development or sale, even though multiple, separate or distinct activities take place at different times on different schedules;

e. Activities exempt from permit requirements of section 404 of the Federal Clean Water Act, as specified in 40 CFR 232 (primarily, ongoing farming and forestry activities).

(3) *No development or redevelopment until permit is issued.* No development or redevelopment shall occur except in compliance with the provisions of this article or unless exempted. No development for which a permit is required pursuant to this article shall occur except in compliance with the provisions, conditions, and limitations of the permit.

(b) *Interpretation.*

(1) *Meaning and intent.* All provisions, terms, phrases, and expressions contained in this article shall be construed according to the general and specific purposes set forth in section 70-46. If a different or more specific meaning is given for a term defined elsewhere in this Code, the meaning and application of the term in this article shall control for purposes of application of this article;

(2) *Interpretation authority.* The city manager or designee has authority to interpret this article. Any person may request an interpretation by submitting a written request to the city manager or designee who shall respond in writing within 30 days. The city manager or designee shall keep on file a record of all written interpretations of this article;

(3) *Delegation of authority.* Any act authorized by this article shall be carried out by the city manager or the city manager's designee;

(4) *Measurement and computation.* Disturbed area refers to the amount of horizontal land area contained inside the limits of the land disturbance. Lot area refers to the amount of horizontal land area contained inside the limits of the lot lines of a lot or site.

(c) *Stormwater management design criteria.*

(1) *Reference to stormwater management design criteria.*

a. The city manager or designee shall use the policy, criteria, and information, including technical specifications and standards, in the stormwater management design criteria as the basis for decisions about stormwater management permit and about the design, implementations and performance of structural and nonstructural stormwater BMPs;

b. The stormwater management design criteria includes a list of acceptable stormwater treatment practices, including the specific design criteria for each stormwater practice. Stormwater treatment practices that are designed and constructed in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards of this article and the Federal Phase II Stormwater Rules. Failure to construct stormwater treatment practices in accordance with these criteria may subject the violator to a civil penalty as described in section 70-52;

(2) *Relationship of stormwater management design criteria to other laws and regulations.* If the specifications or guidelines of the stormwater management design criteria are more restrictive or apply a higher standard than other laws or regulations, that fact shall not prevent application of the specifications or guidelines in the stormwater management design criteria;

(3) *Changes to standards and specifications.* Standards, specifications, guidelines, policies, criteria, or other information in the stormwater management design criteria

in affect at the time of acceptance of a complete application shall control and shall be utilized in reviewing the application and in implementing this article with regard to the application;

(4) *Amendments to stormwater management design criteria.* The stormwater management design criteria may be updated and expanded from time to time, based on advancements in technology and engineering, improved knowledge of local conditions, or local monitoring or maintenance experience.

(d) *Relationship to other laws, regulations and private agreements.*

(1) *Conflict of laws.* This article is not intended to modify or repeal any other article, rule, regulation or other provision of law. The requirements of this article are in addition to the requirements of any other ordinance, rule, regulation or other provision of law, and when this article imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human or environmental health, safety, and welfare, shall control;

(2) *Private agreements.* This article is not intended to revoke or repeal any easement, covenant, or other private agreement. However, where the regulations of this article are more restrictive or impose higher standards or requirements than such easement, covenant, or other private agreement, then the requirements of this article shall govern. Nothing in this article shall modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not legitimize any failure to comply with this article. In no case shall the city be obligated to enforce the provisions of any easements, covenants, or agreements between private parties.

(e) *Effective date and transitional provisions.*

(1) *Effective date.* This article shall take effect upon adoption;

(2) *Final approvals, complete applications.* All development and redevelopment projects for which complete and full applications were submitted to the city prior to the effective date of the ordinance from which this article is derived shall be exempt from complying with the provisions of this article;

(3) *Violations continue.* Any violation of the provisions of this article existing as of the effective date of the ordinance from which this article is derived shall continue to be a violation under this article and be subject to penalties and enforcement unless the use, development, construction, or other activity complies with the provisions of this article.

(Code 1996, § 13.10.043; Ord. No. O-09-11, 7-18-2011)

Sec. 70-49. Administration procedure.

(a) *Review and decision-making entities.*

(1) *Designation.* A city manager or designee shall be designated by the city for the purpose of administering and enforcing this article;

(2) *Powers and duties.* In addition to the powers and duties that may be conferred by other provisions of the city's zoning ordinance and other laws, the city manager or designee shall have the following powers and duties under this article:

a. To review and approve or disapprove applications submitted pursuant to this article;

b. To make determinations and render interpretations of this article;

c. To establish application requirements and schedules for submittal and review of applications and appeals;

d. To enforce this article in accordance with its enforcement provisions;

e. To maintain records, maps, and official materials as they relate to the adoption, amendment, enforcement, or administration of this article;

f. To provide expertise and technical assistance upon request to the city and its board of adjustment;

g. To designate appropriate other persons who shall carry out the powers and duties of the city manager;

h. To provide information and recommendations relative to variances and information as requested by the board of adjustment in response to appeals;

i. To take any other action necessary to administer the provisions of this article.

(b) *Review procedures.*

(1) *Permit required; must apply for permit.* A stormwater management permit is required for all development and redevelopment unless exempt pursuant to this article. A permit may only be issued subsequent to a properly submitted, reviewed and approved permit application, pursuant to this section.

(2) *Effect of permit.*

a. A stormwater management permit shall govern the design, installation and construction of stormwater management and control practices on the site, including structural BMPs and elements of site design for stormwater management other than structural BMPs;

b. The permit is intended to provide a mechanism for the review, approval and inspection of the approach to be used for the management and control of stormwater for the development or redevelopment site consistent with the requirements of this article, whether the approach consists of structural BMPs or other techniques, such as low-impact or low-density design. Compliance after project construction is ensured by the maintenance provision of this article.

(3) *Authority to file applications.* All applications required pursuant to this article shall be submitted to the city manager or designee by the landowner or duly authorized agent or anyone having interest in the property by reason of a written contract with the owner.

(4) *Establishment of application requirements, schedule and fees.*

a. *Application contents and form.* The city manager or designee shall establish requirements for the content and form of all applications and shall amend and update those requirements from time to time. At a minimum, the stormwater management permit application shall describe in detail how post-construction stormwater runoff will be controlled and managed, the design of all stormwater facilities and practices, and how the proposed project will meet the requirements of this article;

b. *Submission schedule.* The city manager or designee shall establish a submission schedule for applications. The schedule shall establish deadlines by which complete applications must be submitted for the purpose of ensuring that there is adequate time to review applications, and that the various stages in the review process are accommodated;

c. *Permit review fees.* The city establishes a permit fee as provided in the city fee schedule, plus all actual costs associated with the professional review of the plans. If an application is withdrawn prior to review and inspection the city may refund this fee minus reasonable administrative costs. This fee may be amended and updated as deemed necessary from time to time.

(5) *Submittal of complete application.* Applications shall be submitted to the city manager or designee pursuant to the application submittal schedule in the form established by the city manager or designee, along with the appropriate fee established pursuant to this section. An application shall be considered as timely submitted only when it contains all elements of a complete application pursuant to this article, along with the appropriate fee. If the city manager finds that an application is incomplete, the applicant shall be notified of the deficient elements and shall be provided with an opportunity to submit a complete application. However, the submittal of an incomplete application shall not suffice to a deadline contained in the submission schedule established above.

(6) *Review.* Within three weeks after a complete application is submitted, the city manager or designee shall review the application and determine whether the application complies with the standards of this article. On projects which will require a floodplain development permit, the review time will be extended to four weeks. The following guidelines will be considered:

a. *Approval.* If the city manager or designee finds that the application complies with the standards of this article, the city manager shall approve the application and issue a stormwater management permit to the applicant. The city manager may impose conditions of approval as needed to ensure compliance with this article. The conditions shall be included in the permit as part of the approval;

b. *Failure to comply.* If the city manager or designee finds that the application fails to comply with the standards of this article, the city manager shall notify the applicant and shall indicate how the application fails to comply. The applicant shall have an opportunity to submit a revised application;

c. *Revision and subsequent review.* A complete revised application shall be reviewed by the city manager or designee within 15 working days after its resubmittal and shall be approved, approved with conditions or disapproved. If a revised application is not resubmitted within 60 calendar days from the date the applicant was notified, the application shall be considered withdrawn, and a new submittal for the same or substantially the same project shall be required along with the appropriate fee.

(c) *Applications for approval.*

(1) *Concept plan and consultation meeting.* Before a stormwater management permit application is submitted, the city manager or landowner or the landowner's duly authorized agent or anyone having interest in the property by reason of a written contract with the owner may request consultations on a concept plan for the post-construction stormwater management system to be utilized in the proposed development project. This consultation meeting should take place at the time of the preliminary plan of the subdivision or other early step in the development process. The purpose of this meeting is to discuss the post-construction stormwater management measures necessary for the proposed project, as well as to discuss and assess constraints, opportunities and potential approaches to stormwater management designs before formal site design engineering is commenced. Local watershed plans and other relevant resource protection plans may be consulted in the discussion of the concept plan. At the time of concept plan submittal, the following information should be included in the concept plan:

a. *Existing condition/proposed site plans.* Existing conditions and proposed site layout sketch plans, which illustrate, at a minimum, existing and proposed topography; perennial and intermittent streams; mapping of predominant soils from soil surveys; boundaries of existing predominant vegetation and proposed limits of clearing and grading; and location of existing and proposed roads, buildings, parking areas and other impervious surfaces;

b. *Natural resource inventory.* A written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project. This description should include a discussion of soil conditions, forest cover, geologic features, topography, wetlands, and native vegetative areas on the site, as well as the location and boundaries of other natural feature protection and conservation areas, such as lakes, ponds, floodplains, stream buffers and other setbacks (e.g., drinking water well setbacks, septic systems setbacks, etc.). Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development;

c. *Stormwater management system concept plan.* A written or graphic concept plan of the proposed post-construction stormwater management system, including preliminary selection and location of proposed structural stormwater controls; low-impact design elements; location of existing and proposed conveyance systems, such as grass channels, swales, and storm drains; flow paths; location of all floodplain/floodway limits; relationship of site to upstream and downstream properties and drainages; and preliminary location of proposed stream channel modifications, such as bridge or culvert crossings.

(2) *Stormwater management permit application.*

a. The stormwater management permit application shall detail how post-construction stormwater runoff will be controlled and managed and how the proposed project will meet the requirements of this article, including section 70-50. All such plans submitted with the application shall be prepared by a registered state professional engineer or landscape architect;

b. The engineer or landscape architect shall perform services only in their area of competence and shall verify that the design of all stormwater management facilities and practices meets the submittal requirements for complete applications, that the designs and plans are sufficient to comply with applicable standards and policies found in the stormwater management design criteria, and that the designs and plans ensure compliance with this article. The submittal shall include all of the information required in the submittal checklist established by the city manager or designee. Incomplete submittals shall be treated pursuant to subsection (b)(5) of this section.

(3) *As-built plans and final approval.* The applicant shall certify that the completed project is in accordance with the approved stormwater management plans and designs and shall submit actual as-built plans for all stormwater management facilities or practices after final construction is completed. Failure to provide approved as-built plans within the frame specified by the city manager may result in assessment of penalties as specified in section 70-52. At the discretion of the city manager, performance securities or bonds may be required for stormwater management facilities or practices until as-built plans are approved. As-built plans shall show the final design specifications for all stormwater management facilities and practices and the filed location, size, depth, and planted vegetation of measures, controls and devices, as installed. The designer of the management measures and plans shall certify, under seal, that the as-built stormwater management plans and designs and comply with the requirements of this article. Final as-built plans and a final inspection and approval by the city manager are required before a project is determined to be in compliance with this article. At the discretion of the city manager, certificates of occupancy may be withheld pending receipt of as-built plans and the completion of a final inspection and approval of a project.

(d) *Approvals.*

(1) *Effect of approval.* Approval authorizes the applicant to go forward with only the specific plans and activity authorized in the permit. The approval shall not be construed to exempt the applicant from obtaining other applicable approvals from local, state, and federal authorities;

(2) *Time limit/expiration.* A stormwater management permit and accompanying plan approved under the provisions of this article shall remain valid for a period of three years from the date of approval. If no work on the site in furtherance of the plan has commenced within the three-year period, the permit and plan approval will become null and void and a new application will be required to develop the site. If work on the site in furtherance of the plan has commenced that involves any utility installations or street improvements except grading, the permit and plan shall remain valid and in force and the project may be completed in accordance with the approved plan. Any permit granted under this subsection shall expire and be subject to renewal requirements 12 months from the date of issuance. A 30-day grace period shall be granted after permit expiration before the permittee is considered in violation of this article.

(e) *Appeals.*

(1) *Right of appeal.* Any aggrieved person affected by any decision, order, requirement, or determination relating to the interpretation or application of this article may file an appeal to the city manager first. The city manager will have two weeks to review and render a decision. If the aggrieved person is not satisfied with the city manager's decision, order, requirement, or determination, the person may file an appeal to the board of adjustment for the city within 30 days.

(2) *Filing of appeal and procedures.* Appeals shall be taken within the specified time period by filing a notice of appeal and specifying the grounds for appeal on forms provided by the city. The city manager shall forthwith transmit to the board of adjustment all documents constituting the record on which the decision appealed was taken. The hearing conducted by the board of adjustment shall be conducted in the nature of a quasi-judicial proceeding in accordance with the city's zoning ordinance.

(3) *Statutory exceptions.*

a. The city manager, subject to the approval of the city council, may grant exceptions from the buffer requirements of this article as well as the deed restrictions and protective covenant requirements as follows:

1. Unnecessary hardships would result from strict application of this article;

2. The hardships result from conditions that are peculiar to the property, such as location, size, or topography of the property;

3. The hardships did not result from action taken by the petitioner;

4. The requested exception is consistent with the spirit, purpose, and intent of the act; will protect water quality; will secure public safety and welfare; and will preserve substantial justice. Merely proving that the exception would permit a greater profit from the property shall not be considered adequate justification for the exception;

b. Notwithstanding subsection (e)(3)a of this section, exceptions shall be granted in any of the following instances:

1. When there is a lack of practical alternatives for a road crossing, railroad crossing, bridge, airport facility, or utility crossing, as long as it is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of BMPs;

2. When there is a lack of practical alternatives for a stormwater management facility; a stormwater management pond; or a utility, including, but not limited to, water, sewer, or gas construction and maintenance corridor, as long as it is located 15 feet landward of all perennial and intermittent surface waters and as long as it is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of BMPs;

3. A lack of practical alternatives may be shown by demonstrating that, considering the potential for a reduction in size, configuration, or density of the proposed activity and all alternative designs, the basic project purpose cannot be practically accomplished in a manner which would avoid or result in less adverse impact to surface waters.

(Code 1996, § 13.10.044; Ord. No. O-09-11, 7-18-2011)

Sec. 70-50. Applicable development and stormwater control standards.

(a) *General standards.* All development and redevelopment to which this article applies shall comply with the standards of this section.

(b) *Development standards.*

(1) *Development standards for low-density projects.* Any drainage area within a project is considered low-density when said drainage area has less than 24 percent built-upon area. Such low-density projects shall comply with each of the following standards:

a. *Vegetated conveyances.* Stormwater runoff from the development shall be transported from the development by vegetated conveyances to the maximum extent practicable;

b. *Stream buffers.* All built-upon area shall be at a minimum of 30 feet landward of all perennial and intermittent streams. Perennial streams shall have a 200-foot undisturbed buffer and intermittent streams shall have a 100-foot undisturbed buffer. Buffer widths shall be measured horizontally on a line perpendicular to the surface water, landward from the top of the bank on each side of the stream. Allowable stream buffer uses include the following: road crossings, driveway crossings, greenway/hiking trails, bike trails, fences, utility line crossings, parallel or near parallel utility lines, flood control structures, stream and bank stabilization/restoration projects, grading and revegetation, stormwater best management practices, temporary sediment and erosion control devices, animal trails and activities permitted under section 404 of the Clean Water Act.

(2) *Development standards for high-density projects.* Any drainage area within a project is considered high-density when said drainage area has greater than or equal to 24 percent built-upon area. Such high-density projects shall implement stormwater treatment systems that comply with each of the following standards:

a. *Stormwater quality treatment volume.* Stormwater quality treatment systems shall treat the difference in the stormwater runoff from the predevelopment and post-development conditions for the one-year, 24-hour storm;

b. *Stormwater quality treatment.* All structural stormwater treatment systems used to meet these requirements shall be designed to have a minimum of 85 percent average annual removal for total suspended solids;

c. *Stormwater management design.* General engineering design criteria for all projects shall be in accordance with the city's stormwater management design criteria and shall also consider North Central Texas Council of Governments Integrated Stormwater Management Design Standards;

d. *Stream buffers.* Perennial streams shall have a 200-foot undisturbed buffer and intermittent streams shall have a 100-foot undisturbed buffer. Buffer widths shall be measured horizontally on a line perpendicular to the surface water, landward from the top of the bank on each side of the stream. Allowable stream buffer uses include the following: road crossings, driveway crossings, greenway/hiking trails, bike trails, fences, utility line crossings, parallel or near parallel utility lines, flood control structures, stream and bank stabilization/restoration projects, grading and revegetation, stormwater best management practices, temporary sediment and erosion control devices, animal trails, and activities permitted under section 404 of the Clean Water Act;

e. *Stormwater volume control.* Stormwater treatment systems shall be installed to control the difference in the stormwater runoff from the predevelopment and post-development conditions for the one-year, 24-hour storm. Runoff volume drawdown time shall be a minimum of 24 hours, but not more than 120 hours;

f. *Stormwater peak control.* For developments greater than or equal to 24 percent built-upon area, peak control shall be installed for the ten-year and 24-year, six-hour storms. Controlling the one-year, 24-hour volume achieves peak control for the two-year, six-hour storm. The emergency overflow and outlet works for any pond or wetland constructed as stormwater BMP shall be capable of safely passing a discharge with a minimum recurrence frequency as specified in the stormwater management design criteria. For detention basins, the temporary storage capacity shall be restored within 72 hours. The requirements of V.T.C.A., Water Code § 12.052 shall be met when applicable.

(c) *Stream buffer delineation.*

(1) *Determination of streams to be buffered.* The stream buffer requirements of this article shall apply if a stream is shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture (USDA) or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geological Survey (USGS). Streams that do not appear on either of the aforementioned maps shall not be subject to the aforementioned buffer requirements of this article. Streams that appear on either of the aforementioned maps shall be subject to this article, unless one of the following applies:

a. *Exemption when an on-site determination shows that streams are not present.* When a landowner or other affected party believes that the USDA or USGS stream buffer delineation maps described in this section inaccurately depict streams, the landowner shall consult with the city manager. Upon request, the city manager shall make on-site determinations. Such determinations can also be made at the discretion of the city manager in the absence of a request from a landowner or other concerned party. The buffer requirements of this article shall apply based on these determinations. Surface waters that appear on the maps shall not be subject to this article if an on-site determination by the city manager shows that they fall into one of the following categories:

1. Ditches and human-made conveyances other than modified natural streams;

2. Human-made ponds and lakes that are not intersected by a buffered stream segment and that are located outside natural drainageways;

b. *Exemption when existing uses are present and ongoing.* This article shall not apply to portions of buffers where a use is existing and ongoing according to the following:

1. A use shall be considered existing if it was present within the buffer as of the effective date of the ordinance from which this article is derived. Existing uses shall include, but not be limited to, agriculture, buildings, industrial facilities, commercial areas, transportation facilities, maintained lawns, utility lines, and on-site sanitary sewage systems. Only the portion of the buffer that contains the footprint of the existing use is exempt from

this article. Activities necessary to maintain uses are allowed, provided that no additional vegetation except that grazed or trampled by livestock and existing diffuse flow is maintained;

2. At the time the existing use is proposed to be converted to another use, this article shall apply. An existing use shall be considered converted to another use if any of the following applies:
   (i) Impervious surface is added to the buffer in locations where it did not exist previously;
   (ii) An agricultural operation within the buffer is converted to a nonagricultural use;
   (iii) A lawn within the buffer ceases to be maintained.

(2) *Stream buffer identification.* The following buffer identifications are required:

a. Streams and buffer boundaries must be clearly identified on all construction plans, including grading and clearing plans, erosion, drainage and sediment control plans and site plans;

b. Outside buffer boundaries must be clearly marked on site prior to any land disturbing activities;

c. The outside boundary of the buffer must be permanently marked at highway stream crossings;

d. Streams and buffer boundaries must be specified on all surveys and record plats;

e. Buffer boundaries as well as all buffer requirements must be specified on all surveys and record plats, on individual deeds and in property association documents for lands held in common.

(d) *Ponds.* Ponds which intersect the stream channel shall have the same buffers as the original stream measured from the top of the bank of the pond.

(e) *Standards for stormwater control measures.*

(1) *Evaluation according to contents of stormwater management design criteria.* All stormwater control measures and stormwater treatment practices (also referred to as best management practices, or BMPs) required under this article shall be evaluated by the city manager according to the policies, criteria, and information, including technical specifications, standards and the specific design criteria for each stormwater best management practice contained in the city's stormwater management design criteria and should also consider North Central Texas Council of Governments Integrated Stormwater Management Design Standards. The city manager shall determine whether these measures will be adequate to meet the requirements of this article;

(2) *Determination of adequacy; presumptions and alternatives.* Stormwater treatment practices that are designed, constructed, and maintained in accordance with the

criteria and specifications in the stormwater management design criteria will be presumed to meet the minimum water quality and quantity performance standards of this article. Whenever an applicant proposes to utilize a practice or practices not designed and constructed in accordance with the criteria and specifications in the stormwater management design criteria, the applicant shall have the burden of demonstrating that the practices will satisfy the minimum water quality and quantity performance standards of this article before it can be approved for use. The city manager may require the applicant to provide such documentation, calculations, and examples as necessary for the city manager to determine whether such an affirmative showing is made.

(f) *Deed recordation and indications on plat.* The approval of the stormwater management permit shall require an enforceable restriction on property usage that runs with the land, such as plat, recorded deed restrictions or protective covenants, to ensure that future development and redevelopment maintains the site consistent with the approved project plans. Streams and buffers boundaries must be specified on all surveys and record plats. The applicable operations and maintenance agreement with the Dallas or Ellis County register of deeds office so as to appear in the chain of title of all subsequent purchasers under generally accepted searching principles. A copy of the recorded maintenance agreement shall be provided to the city manager within 14 days following receipt of the recorded document. A maintenance easement shall be recorded for every structural BMP to allow sufficient access for adequate maintenance. The specific recordation and deed restriction requirements as well as notes to be displayed on final plats and deeds shall be contained in the city record file at city hall.
(Code 1996, § 13.10.045; Ord. No. O-09-11, 7-18-2011)

Sec. 70-51. BMP operation, maintenance, and inspection requirements.

(a) *General standards for maintenance.*

(1) *Function of BMPs as intended.* The owner of a structural BMP installed pursuant to this article shall maintain and operate the BMP so as to preserve and continue its function in controlling stormwater quality and quantity at the degree or amount of function for which the structural BMP was designed.

(2) *Single-family residential BMPs accepted for maintenance.* The city may, upon specific official city council action, accept maintenance responsibility of structural BMPs that are installed pursuant to this article following a warranty period of two years from the date of as-built certification described in section 70-49(c)(3), provided by the BMP:

a. Only serves a single-family detached residential development or townhomes all of which have public street frontage;

b. Is satisfactorily maintained during the two-year warranty period by the owners or designee;

c. Meets all the requirements of this article and the stormwater management design criteria; and

d. Includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection, maintenance, repair or reconstruction. The city manager must receive an application for transfer of maintenance responsibilities for the structural BMP along with the stormwater management permit application.

(3) *Annual maintenance inspection and report.*

a. The person responsible for maintenance of any BMP installed pursuant to this article shall submit to the city manager an inspection report from a qualified registered state professional engineer or landscape architect performing services only in such person's area of competence. The inspection report shall contain all of the following:

1. The name of address of the landowner;

2. The recorded book and page number of the lot of each structural BMP;

3. A statement that an inspection was made of all structural BMPs;

4. The date the inspection was made;

5. A statement that all inspected structural BMPs are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this article; and

6. The original signature and seal of the engineer, surveyor, or landscape architect;

b. All inspection reports shall be on forms supplied by the city manager that are contained in the city record file at city hall. An original inspection report shall be provided to the city manager beginning one year from the date of as-built certification and each year thereafter on or before the anniversary date of the as-built certification.

(b) *Operation and maintenance agreement.*

(1) *Generally.* At the time that as-built plans are provided to the city manager as described in section 70-49(c)(3) and prior to final approval of a project for compliance with this article, but in all cases prior to placing the BMPs in service, the applicant or owner of the site must execute an operation and maintenance agreement that shall be binding on all current and subsequent owners of the site, portions of the site, and lots or parcels served by the structural BMP. Failure to execute an operation and maintenance agreement within the timeframe specified is a violation of this article. Until the transference of all property, sites, or lots served by the structural BMP, the original owner or applicant shall have primary responsibility for carrying out the following provisions of the maintenance agreement:

a. At the discretion of the city engineer, certificates of occupancy may be withheld pending receipt of an operation and maintenance agreement;

b. The operation and maintenance agreement shall require the owner to maintain, repair and, if necessary, reconstruct the structural BMP, and shall state the terms, conditions, and schedule of maintenance for the structural BMP. In addition, it shall grant to the city a right of entry in the event that the city manager has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the structural BMP; however, in no case shall the right of entry, of itself, confer an obligation on the city to assume responsibility for the structural BMP. Standard operation and maintenance agreements for BMPs shall be developed by the city manager;

c. The operation and maintenance agreement must be approved by the city manager prior to plan approval, and it shall be referenced on the final plat and shall be recorded by the applicant or owner with the Dallas County registrar of deeds upon final plat approval as described in section 70-50(f). A copy of the recorded maintenance agreement shall be given to the city manager within 14 days following its recordation.

(2) *Special requirement for homeowners' and other associations.* For all structural BMPs required pursuant to this article and that are to be or are owned and maintained by a homeowners' association, property owners' association, or similar entity, the required operation and maintenance agreement shall include all such maintenance provisions and responsible parties.

(c) *Inspection program.*

(1) Inspections and inspection programs by the city may be conducted or established on any reasonable basis, including, but not limited to, routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in BMPs; and evaluating the condition of BMPs;

(2) If the owner or occupant of any property refuses to permit such inspection, the city manager shall proceed to obtain an administrative search warrant. No person shall obstruct, hamper or interfere with the city manager while carrying out the manager's official duties.

(d) *Performance security for installation and maintenance.* The city may require the submittal of a performance security or bond with surety, cash escrow, letter of credit or other acceptable legal arrangement prior to issuance of a permit.

(e) *Records of installation and maintenance activities.* The owner of each structural BMP shall keep records of inspections, maintenance, and repairs for at least five years from the date of creation of the record and shall submit the same upon reasonable request to the city manager.

(f) *Nuisance.* The owner of each BMP, whether structural or nonstructural, shall maintain it so as not to create a nuisance condition.

(g) *Maintenance easement.* Every structural BMP installed pursuant to this article shall be made accessible for adequate inspection, maintenance, reconstruction and repair by a maintenance easement. The easement shall be recorded as described in section 70-50(f) and its terms shall specify who may make use of the easement and for what purposes.

(h) *Renewals.* Permit renewal requirements, and conditions of renewal are as follows:

(1) The post-construction stormwater permit shall be renewed biannually and certified by a professional engineer;

(2) The owner/developer shall submit a post-construction stormwater permit renewal packet within 30 days of expiration of the permit. The renewal packet shall include:

a. A completed renewal form;

b. A completed certificate of proper operation; and

c. An as-built certification by a professional engineer;

(3) The city shall conduct, at its discretion, an inspection of the structural stormwater quality control prior to approval of the renewal request. Inspection results shall be used as part of the evaluation process for the renewal request.

(i) *Exemptions.* Any new development or redevelopment project that has or will have permit coverage under the state pollutant discharge elimination system industrial stormwater permit issued by the Texas Commission on Environmental Quality (TCEQ). In lieu of the post-construction stormwater permit, the owner/developer/operator shall submit an industrial activity certification (to be provided by the city manager) and any one of the following:

(1) A copy of the application for an individual permit from the TCEQ or the U.S. Environmental Protection Agency (EPA) for stormwater discharges associated with industrial activity at the facility;

(2) A copy of the permit issued by the TCEQ or EPA for stormwater associated industrial activity at the facility;

(3) A statement of commitment to file an application for an individual permit from the TCEQ for stormwater discharges associated with industrial activity at the facility;

(4) A statement of commitment to file an NOI for coverage under a general permit for stormwater discharges associated with industrial activity issued by the TCEQ.

(Code 1996, § 13.10.046; Ord. No. O-09-11, 7-18-2011)

Sec. 70-52. Violations and enforcement.

(a) *Generally.*

(1) *Authority to enforce.* The provisions of this article shall be enforced by the city manager, designee or any authorized agent of the city. Whenever this section refers to the city manager, it includes designee as well as any authorized agent of the city;

(2) *Violation unlawful.* Any failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by this article, or the terms or conditions of any permit or other development or redevelopment approval or authorization granted pursuant to this article, is unlawful and shall constitute a violation of this article;

(3) *Each day a separate offense.* Each day that a violation continues shall constitute a separate and distinct violation or offense;

(4) *Responsible persons/entities.* Any person who erects, constructs, reconstructs, alters (whether actively or passively), or fails to erect, construct, reconstruct, alter, repair or maintain any structure, BMP, practice, or condition is violation of this article, as well as any person who participates in, assists, directs, creates, causes, or maintains a condition that results in or constitutes a violation of this article, or fails to take appropriate action, so that a violation of this article results or persists; or any other person, who has control over, or responsibility for, the use or development of the property on which the violation occurs shall be subject to the remedies, penalties, or enforcement actions in accordance with this section. For the purposes of this article, responsible persons shall include, but not be limited to:

a. *Person maintaining condition resulting in or constituting violation.* Any person who participates in, assists, directs, creates, causes, or maintains a condition that constitutes a violation of this article, or fails to take appropriate action, so that a violation of this article results or persists;

b. *Responsibility for land or use of land.* The owner of the land on which the violation occurs, any tenant or occupant of the property, any person who is responsible for stormwater controls or practices pursuant to a private agreement or public document, or any person, who has control over, or responsibility for, the use, development or redevelopment of the property.

(b) *Inspections and investigations.*

(1) *Authority to inspect.* The city manager shall have the authority, upon presentation of proper credentials, to enter and inspect any land, building, structure, or premises to ensure compliance with this article, or rules or orders adopted or issued pursuant to this article, and to determine whether the activity is being conducted in accordance with this article and the approved stormwater management plan, stormwater management design criteria and whether the measures required in the plan are effective. No person shall willfully resist, delay, or obstruct the city manager while the city manager is inspecting or attempting to inspect an activity under this article;

(2) *Notice of violation and order to correct.* When the city manager finds that any building, structure, or land is in violation of this article, the city manager shall notify in writing the responsible person/entity. The notification shall indicate the nature of the violation, contain the address or other description of the site upon which the violation occurred or is occurring, or the necessary action to abate the violation, and give a deadline for correcting the violation. The notice shall, if required, specify a date by which the responsible person/entity must comply with this article, and advise that the responsible person/entity is subject to remedies or penalties or that failure to correct the violation within the time specified will subject the responsible person/entity to remedies or penalties as described in subsection (c) of this section. In determining the measures required and the time for achieving compliance, the city manager shall take into consideration the technology and quantity of work required and shall set reasonable and attainable time limits. The city manager may deliver the notice of violation and correction order personally, by certified mail or registered mail, return receipt requested, or by any means authorized for the service of documents. If a violation is not corrected within a reasonable period of time, as provided in the notification, the city manager may take appropriate action, as provided in subsection (c) of this section, remedies and penalties, to correct and abate the violation and to ensure compliance with this article;

(3) *Extension of time.* A responsible person/entity who receives a notice of violation and correction order, or the owner of the land on which the violation occurs, may submit to the city manager a written request for an extension of time for correction of the violation. On determining that the request included enough information to show that the violation cannot be corrected within the specified time limit for reasons beyond the control of the responsible person/entity requesting the extension, the city manager may extend the time limit as is reasonably necessary to allow timely correction of the violation, up to, but not exceeding 60 days. The city manager may grant 30-day extensions in addition to the foregoing extension if the violation cannot be corrected within the permitted time due to circumstances beyond the control of the responsible person/entity violating this article. The city manager may grant an extension only by written notice of extension. The notice of extension shall state the date prior to which correction must be made, after which the violator will be subject to the penalties described in the notice of violation and correction order;

(4) *Penalties assessed concurrent with notice of violation.* Penalties may be assessed concurrently with a notice of violation for any of the following, in which case, the notice of violation shall also contain a statement of the civil penalties to be assessed, the time of their accrual, and the time within which they must be paid or be subject to collection as debt:

a. Failure to submit a stormwater management plan;

b. Performing activities without an approved stormwater management plan;

c. Obstructing, hampering or interfering with an authorized representative who is in the process of carrying out official duties;

d. A repeated violation for which a notice was previously given on the same project and to the same responsible person/entity responsible for the violation;

e. Willful violation of this article;

f. Failure to install or maintain best management practices per the approved plan;

(5) *Authority to investigate.* The city manager shall have the authority to conduct such investigations as may reasonably be deemed necessary to carry out the duties as prescribed in this article, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting. No person shall refuse entry or access to the city manager who requests entry for purpose of inspection or investigation, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with the city manager while in the process of carrying out official duties. The city manager shall also have the power to require written statements, or the filing of reports under oath as part of an investigation;

(6) *Enforcement after time to correct.* After the time has expired to correct a violation, including any extensions if authorized by the city manager, the city manager shall determine if the violation is corrected. If the violation is not corrected, the city manager may act to impose one or more of the remedies and penalties authorized by subsection (c) of this section;

(7) *Emergency enforcement.* If delay in correcting a violation would seriously threaten the effective enforcement of this article or pose an immediate danger to the public health, safety, or welfare, then the city manager may order the immediate cessation of a violation. Any person so ordered shall cease any violation immediately. The city manager may seek immediate enforcement, without prior written notice, through any remedy or penalty specified in subsection (c) of this section.

(c) *Remedies and penalties.* The remedies and penalties provided for violations of this article, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

(1) *Remedies.*

a. *Withholding of certificate of occupancy.* The city manager or other authorized agent may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site and served by the stormwater practices in question until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein;

b. *Disapproval of subsequent permits and development approvals.* As long as a violation of this article continues and remains uncorrected, the city manager or other authorized agent may withhold, and the city my disapprove, any request

for permit or development approval or authorization provided for by this article or the zoning, subdivision, or building regulations, as appropriate for the land on which the violation occurs;

c. *Injunction, abatements, etc.* The city manager, with the written authorization of the city manager may institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement to correct a violation of this article. Any person violating this article shall be subject to the full range of equitable remedies provided in the general statutes or at common law;

d. *Correction as public health nuisance, costs as lien, etc.* If the violation is deemed dangerous or prejudicial to the public health or public safety, the city manager may cause the violation to be corrected and the costs to be assessed as a lien against the property;

e. *Stop work order.* The city manager may issue a stop work order to the persons violating this article. The stop work order shall remain in effect until the person has taken the remedial measures set forth in the notice of violation or has otherwise corrected the violation described therein. The stop work order may be withdrawn or modified to enable the person to take the necessary remedial measures to correct such violation;

f. *Restoration of areas affected by failure to comply.* By issuance of an order of restoration, the city manager may require persons who engaged in a land development activity and failed to comply with this article to restore the waters and land affected by such failure so as to minimize the detrimental effects of the resulting pollution. This authority is in addition to any other civil penalty or injunctive relief authorized under this article.

(2) *Civil penalties.*

a. *Violation of article.* A violation of any of the provisions of this article or rules or other orders adopted or issued pursuant to this article may subject the violator to a civil penalty. A civil penalty may be assessed from the date the violation occurs. No penalty shall be assessed until the person alleged to be in violation has been notified of the violation except as provided in subsection (b)(4) of this section in which case the penalty is assessed concurrently with a notice of violation. Refusal to accept the notice or failure to notify the city manager of a change of address shall not relieve the violator's obligation to comply with this article or to pay such a penalty;

b. *Amount of penalty.* The maximum civil penalty for each violation of this article is $2,000.00. Each day of continuing violation shall constitute a separate violation. In determining the amount of the civil penalty, the city manager shall consider any relevant mitigating and aggravating factors, including, but not limited to, the effect, if any, of the violation; the degree and extent of harm caused by the violation; the cost of rectifying the damage; whether the violator

saved money through noncompliance; whether the violator took reasonable measures to comply with this article; whether the violation was committed willfully; whether the violator reported the violation to the city manager; and the prior record of the violator in complying or failing to comply with this article or any other post-construction ordinance or law. The city manager is authorized to vary the amount of the per diem penalty based on relevant mitigating factors. Civil penalties collected pursuant to this article shall be credited to the city's general fund as nontax revenue;

c. *Notice of assessment of civil penalty.* The city manager shall determine the amount of the civil penalty and shall notify the violator of the amount of the penalty and the reason for assessing the penalty. This notice of assessment of civil penalty shall be served to violator and shall direct the violator to either pay the assessment or file an appeal within 30 days of receipt of the notice as specified in subsection (c)(2)e of this section;

d. *Failure to pay civil penalty assessment.* If a violator does not pay a civil penalty assessed by the city manager within 30 days after it is due or does not request a hearing as provided in subsection (c)(2)e of this section, the city manager shall request initiation of a civil action to recover the amount of the assessment. The civil action shall be brought in Dallas or Ellis County superior court or in any other court of competent jurisdiction. A civil action must be filed within three years of the date the assessment was due. An assessment that is appealed is due at the conclusion of the administrative and judicial review of the assessment;

e. *Appeal and remedy or penalty.* The issuance of an order of restoration or notice of assessment of a civil penalty by the city manager shall entitle the responsible party or entity to an appeal before the board of adjustment for the city if such person submits written demand for an appeal hearing within 30 days of the receipt of an order of restoration or notice of assessment of a civil penalty. The appeal of an order of restoration or notice of assessment of a civil penalty shall be conducted as described in section 70-49(e).

(3) *Criminal penalties.* Violation of this article may be enforced as a misdemeanor subject to the maximum fine permissible under state law.

(Code 1996, § 13.10.047; Ord. No. O-09-11, 7-18-2011)

Chapter 71

RESERVED

Chapter 72

SUBDIVISIONS

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ARTICLE I. IN GENERAL

Sec. 72-1. Purpose, authority, and jurisdiction.

(a) *Purpose.* The subdivision regulations as herein established for the subdivision and development of land, have been made to guide future growth and development in accordance with a comprehensive plan; to guide public and private policy and action in providing adequate and efficient transportation, water, sewerage, and other public and private requirements; and establish reasonable standards of design and procedures for subdivision and re-subdivision and to further the orderly layout of land.

(b) *Authority.* The subdivisions code is adopted pursuant to V.T.C.A., Local Government Code ch. 212, and the appropriate chapters of the city Charter which govern the subdivision of land.

(c) *Jurisdiction.* The subdivisions code shall be effective for all areas within the boundaries of the city. In addition, provisions of this Code regulating the procedures and establishment of standards for the subdivision or re-subdivision of land shall be applicable within the city, the limits of which are defined by agreement with adjoining cities, or as permitted by state statutes.
(Code 1996, § 10.01.001; Ord. No. O-10-19, 12-3-2019)

Sec. 72-2. Adoption of comprehensive plan.

The comprehensive plan, including the future land use plan, thoroughfare plan, density plan, park plan and all the maps, which are attached to Ordinance No. 749-03 and incorporated herein by reference for all purposes, is adopted by the city council as a guide and public policy. The plan is intended to constitute the comprehensive or master plan for the city for all matters relating to long-range guidance relative to zoning decisions, land subdivision, thoroughfare construction, park development and growth management.
(Code 1996, § 10.02.001; Ord. No. 749-03, 4-7-2003; Ord. No. O-01-11, 1-18-2011)

Sec. 72-3. Impact fees.

To ensure the provision of adequate water, wastewater and roadway facilities to serve new development in the city, the city has established impact fees as provided in chapter 64.

Secs. 72-4—72-24. Reserved.

ARTICLE II. PROCEDURE

Sec. 72-25. Submission and approval.

(a) *Review by city planning and zoning commission.* Prior to the issuance of any building permit, the property for which the permit is being issued shall have been platted and shall exist as an official lot or tract of record. The city planning and zoning commission shall

exercise the power and authority to administer standards established by this Code and shall approve, approve with conditions or disapprove a plan or plat within 30 days after the date the plan or plat is filed with the city.

(b) *Approval or disapproval by city council.* Within 30 days of an approval or approval with conditions by the city planning and zoning commission, the city council shall approve, approve with conditions or disapprove a plan or plat. No improvements should be initiated, or development commenced, nor contracts executed until approval by the city planning and zoning commission and the city council has been given.

(c) *Fees.* Fees as provided in the city fee schedule shall be paid upon submission of a signed application.

(d) *Preliminary plat and plans.* The developer is required to submit a preliminary plat of the subdivision to the city. Submittal shall include an application and required submittal information requesting approval accompanied by the required filing fees. The purpose of the submittal is to allow city staff to review and city planning and zoning commission to and the city council to take action for the overall platting of the tract, water and sewer service, and street patterns within the subdivision for conformance with the requirements of the city. The preliminary plat shall receive approval of the city planning and zoning commission and the city council prior to preparation of the final plat.

(e) *Final plat and plans.* The developer or engineer shall submit to the city for review of the final plat, complete construction plans, along with an application requesting approval of the plat and the required fees. The final plat shall require action by the city planning and zoning commission and approval by the city council.

(f) *Replats.* Replats shall follow the requirements of V.T.C.A., Local Government Code ch. 212. If a proposed replat requires a variance or exception, a written notice shall be mailed, no later than 15 days in advance of the public hearing by the city to each owner that is within 200 feet of the lots to be replatted. If a proposed replat does not require a variance or exception, a written notice shall be mailed, no later than 15 days after action, to each owner that is within 200 feet of the lots to be replatted. The notice of a replat approval must include the zoning designation of the property after the replat and the telephone number and e-mail address of the city.

(g) *Amending plats.* Correction of error and omissions on a plat shall follow the procedure set in V.T.C.A., Local Government Code § 212.016 in existence at the time of correction.

(h) *Pre-development meeting.* Prior to applying for a plat, the subdivider should consult with the city concerning the ultimate land use of the proposed development, the most advantageous subdivision plan, the suitability of the location of the proposed subdivision, the arrangement of streets, alleys, and lots, the layout of utility lines and availability of service from trunk mains and other regulations and policies of the city regarding development.

(i) *Letter of intent.* The subdivider shall submit a letter to the city showing the subdivider's name and address and that of the land planner, engineering consultant or surveyor and stating the intent to subdivide a particular property, briefly describing the location, amount of land, particulars as to the intended use of the property and any variances, if requested. Such letter of intent shall be accompanied by a completed application for plat approval, the appropriate fee and drawings of the plat, as indicated herein.

(j) *General development plan.*

(1) A general development plan shall be approved by the planning and zoning commission and the city council. The planning and zoning commission and the city council shall take final action on the general development plan prior to submittal of an application for a preliminary plat on subdivisions with more than four lots. The general development plan shall include:

a. The arrangement and correlation of street pattern, particularly collector streets and major street system, to provide good traffic circulation throughout the neighborhood;

b. The general location and size of school sites, park and recreation areas, and other public areas;

c. The location of shopping centers, multifamily residential, and other land uses;

d. Proposals for water, sewer, and drainage systems in relation to master plans where they exist for these facilities;

e. Proposals for service as furnished by private utility companies;

f. A summary of uses by type, number, and acreage; and

g. Identification of any floodprone areas and general proposals for such areas.

(2) Only after approval of the general development plan by the city planning and zoning commission and the city council shall the preliminary plats be prepared. If development is to take place in several phases, the general development plan should be submitted as supporting data for each part.

(Code 1996, § 10.01.002; Ord. No. O-10-19, 12-3-2019)

Sec. 72-26. Dormancy and expiration of approvals.

(a) *Validity and expiration of general development plan approval.* The approval of a general development plan shall remain in effect so long as progress is being made toward completion of the project on the subject property. If, however, a final plat for all or a part of the subject property has not been filed for recordation with the county clerk within a period of five years following the original approval of the general development plan, the general development plan's approval shall terminate and become void. Following the expiration of a

general development plan, the subdivider at any time thereafter may submit a new general development plan for city planning and zoning commission and city council action following the procedures and regulations then in effect.

(b) *Preliminary and final plat.* Dormancy and expiration of plat approvals are as follows:

(1) When a preliminary plat has been approved by the city planning and zoning commission and the city council or is otherwise deemed approved, a final plat for all or a part of the area shall be submitted within six months of the last such approval; otherwise the approval shall terminate and shall be void. However, prior to the expiration of said approval, the time for filing of the application for the final plat may be extended at the written request of the subdivider;

(2) The first filing extension (not to exceed 90 days) shall be considered and may be granted by the city manager or designee. Any further requests for extensions shall be considered by the city council;

(3) If a final plat for any portion of the area shown on the preliminary or final plat has been filed for record with the county clerk, the preliminary plat's approval shall remain valid indefinitely;

(4) If a preliminary plat expires, the general development plan, if one was approved, that underlies and forms the basis for the preliminary plat shall also expire contemporaneously with the expiration of the preliminary plat.

(c) *Submission of new general development plan.* Following the expiration of the plat, the applicant at any time thereafter may submit a new general development plan, if required, or preliminary-final plat for commission or council approval following the procedures and regulations then in effect.
(Code 1996, § 10.01.003; Ord. No. O-10-19, 12-3-2019)

Sec. 72-27. Preliminary plat administrative completeness and effective filing date.

(a) *Filing date.* The appropriate fees and number of copies of the preliminary plat shall be submitted to the city planning department, who shall note the date that the preliminary plat is received by the city. The filing is subject to the following:

(1) The preliminary plat shall not be considered to be filed with the city, until it has been determined to be administratively complete;

(2) The preliminary plat shall be considered administratively complete after it is examined and determined to be in compliance with the general and administrative provisions of these regulations;

(3) The date of determination of administrative completeness is the effective filing date for the preliminary plat;

(4) The city shall make a determination of whether the preliminary plat is administratively complete within ten days after the date the preliminary plat is received by the city and shall promptly notify the applicant of that determination.

(b) *Plat not administratively complete.* If the preliminary plat is found not to be administratively complete:

(1) The city shall inform the applicant, in writing, of the specific information or corrective action needed to render the preliminary plat administratively complete;

(2) The applicant may, within 30 days after the date that the written determination of administrative incompleteness is issued, resubmit the preliminary plat for further administrative completeness review and determination or request that the preliminary plat be scheduled for consideration by the city planning and zoning commission at the first available planning and zoning commission meeting as determined by the city secretary. A preliminary plat so placed on the city planning and zoning commission agenda that has been determined not to be administratively complete will be placed on the agenda with a recommendation of disapproval from city staff based upon the finding of administrative incompleteness;

(3) If the preliminary plat is not disapproved by the planning and zoning commission, it shall be scheduled for action by the city council;

(4) If the applicant does not resubmit the preliminary plat or request placement of the preliminary plat on the planning and zoning commission agenda within the required 30-day period provided to allow the applicant to do so, the preliminary plat will be considered withdrawn.

(c) *Administratively complete plat.* If the preliminary plat is determined to be administratively complete by the city, the preliminary plat shall be scheduled for consideration by the city planning and zoning commission at the first available city planning and zoning commission meeting following the determination of administrative completeness. Following city planning and zoning commission approval or approval with conditions the preliminary plat will be scheduled for action by the city council.
(Code 1996, § 10.01.004; Ord. No. O-10-19, 12-3-2019)

Sec. 72-28. Final plat administrative completeness and effective filing date.

(a) *Filing date.* The appropriate fees and number of copies of the final plat shall be submitted to the city planning department, who shall note the date that the final plat is received by the city. The filing date is subject to the following:

(1) The final plat shall not be considered to be filed with the city until it has been determined to be administratively complete;

(2) The final plat shall be considered administratively complete after it is examined and determined to be in compliance with the general and administrative provisions of these regulations by the city;

(3) The date of the determination of administrative completeness is the effective filing date for the preliminary plat;

(4) The city shall make a determination of whether the final plat is administratively complete within ten days after the date the final plat is received by the city and shall promptly notify the applicant of that determination.

(b) *Plat not administratively complete.* If the final plat is found not to be administratively complete:

(1) The city shall inform the applicant, in writing, of the specific information or corrective action needed to render the final plat administratively complete;

(2) The applicant may, within 30 days after the date that the written administrative completeness determination is issued, resubmit the final plat for further administrative completeness review and determination or request that the final plat be scheduled for consideration by the planning and zoning commission at the first available planning and zoning commission meeting as determined by the city secretary. A final plat so placed on the planning and zoning commission agenda that has been determined not to be administratively complete will be placed on the agenda with a recommendation of disapproval from city staff based upon the finding of administrative incompleteness;

(3) If the applicant does not resubmit the final plat or request placement of the final plat on the city planning and zoning commission agenda within the required 30-day period provided to allow the applicant to do so, the final plat will be considered withdrawn.

(c) *Administratively complete plat.* If the final plat is determined to be administratively complete by the city, the final plat shall be scheduled for consideration on the first available city planning and zoning commission agenda as determined by the date of acceptance for review and the calendar schedule as maintained by the city secretary. Following city planning and zoning commission approval or approval with conditions, the final plat will be scheduled for action by the city council.
(Code 1996, § 10.01.005; Ord. No. O-10-19, 12-3-2019)

Sec. 72-29. Preliminary plat requirements.

(a) The preliminary plat phase of land subdivision includes detailed subdivision planning, submittal, review, and approval of the preliminary plat. To avoid delay in processing the application, the subdivider's engineer or surveyor should provide the city with all information essential to determine the character and general acceptability of the proposed development. The subdivision shall be designed within the requirements for the specific zoning district within which it is located. Any change in zoning required in relation to the preliminary plat shall have been adopted by the city council prior to preliminary plat approval by the city planning and zoning commission.

(b) The following are required for preliminary plat submission:

(1) Five copies of a preliminary plat showing the general features of the proposed development;

(2) This preliminary plat shall be drawn on a scale of one inch equals 100 feet or larger and shall show the following:

a. The outline of the tract that is proposed to be subdivided, with boundary dimensions;

b. The proposed plan of subdivision, showing streets, blocks, lots, alleys, easements, building lines, parks, etc., with principal dimensions. The preliminary plat shall cover all of the tract intended to be developed whether in total or by sections;

c. The location, width, and name of existing streets and any blocks, lots, alleys, easements, building lines, watercourses, floodplain, boundary of tree cover, or other natural features in the area affected, with principal dimensions, and any other significant information on all sides for a distance of not less than 200 feet;

d. The names of proposed streets;

e. The location of the nearest existing sewers, water and gas mains, and other public utilities if any. If none near vicinity, so state;

f. An approved general development plan for drainage to include calculation of the 100-year storm for any stream, creek, or channel and the limits of any floodplain either as designated by FEMA mapping or limits as may be determined by the owner's registered professional civil engineer;

g. The proposed drainage plan shall include a topographical map in sufficient detail showing all abutting drainage areas either contributing to the stormwater flows within the proposed subdivision; preliminary, plans for drainage improvements within the proposed subdivision; and all calculations relating to the design of the drainage plan and its impact on the downstream system;

h. The name of the proposed subdivision, north point, scale, and date;

i. The name of the owner and the signature, date, and seal of the registered professional engineer, landscape architect, or registered public surveyor who has prepared the preliminary plat;

j. A vicinity sketch or key map at a scale of not more than 1,000 feet to the inch which shall show all existing subdivisions, streets, and tracts of acreage in the area;

k. The contours at not more than two-foot intervals;

l. The proposed plan of improvements and utilities to be constructed in the subdivision, prepared by a registered professional engineer, shall be shown with indication of street widths and utility line sizes. The accurate location of any existing utilities within the subdivision shall be shown on the preliminary plat;

m. One copy of the signed plat shall be returned to the developer.

(Code 1996, § 10.01.006; Ord. No. O-10-19, 12-3-2019)

Sec. 72-30. Preliminary plat review.

(a) On receipt of the preliminary plat, the city shall:

(1) Review the preliminary plat for compliance with public objectives, giving special attention to design principles and standards; to streets and thoroughfares as related to the master street plan of the comprehensive plan and to neighborhood circulation; to existing and proposed zoning and land use of the tract and adjacent tracts; and to sites required for schools, parks, and other public facilities;

(2) Distribute copies of the preliminary plat to the following offices for review as determined by the city manager or designee:

a. City departments;

b. Public utilities;

c. County engineer or school district (when concerned with a specific plat).

(b) The reviewing offices will transmit their recommendations to the city planning department. The city planner or representative of the city planning department will then summarize the recommendations of the reviewing offices and present them to the city planning and zoning commission for their consideration in action on the preliminary plat. Following city planning and zoning commission approval or approval with conditions, the preliminary plat will be scheduled for action by the city council.
(Code 1996, § 10.01.007; Ord. No. O-10-19, 12-3-2019)

Sec. 72-31. Preliminary plat approval.

If the requirements of this code have been met, the city planning and zoning commission shall render a decision within 30 days of the effective filing date of the preliminary plat. Following city planning and zoning commission action approving or approving with conditions, the preliminary plat will be scheduled for action by the city council within 30 days of such action by the city planning and zoning commission.

(1) The approval or approval with conditions of a preliminary plat by the city planning and zoning commission and the city council is the authorization to proceed with the preparation of the final plat and application to consider the final plat. Approval or approval with conditions of a preliminary plat does not constitute the acceptance of a subdivision or the improvements placed therein;

(2) The approval with conditions of a preliminary plat by the city planning and zoning commission and the city council is the approval of the plat subject to compliance with all conditions prescribed by the city council. All conditions prescribed by the planning and zoning commission and the city council shall be furnished in writing to the developer following city council action. Compliance with the conditions imposed shall be reflected on the approved preliminary plat to be submitted and on the final

plat and related documents required for consideration of the final plat. Failure to comply with the conditions imposed shall constitute disapproval of the preliminary plat;

(3) The disapproval of a preliminary plat by the city planning and zoning commission or the city council shall be final. Written notice of the reasons for disapproval shall be provided to the developer following planning and zoning commission or city council action disapproving the preliminary plat;

(4) If the developer intends to develop a proposed subdivision in sections or phases, the developer shall so state at the time of application for preliminary plat consideration;

(5) Upon city planning and zoning commission and city council approval of the preliminary plat, the developer shall provide to the city five copies of the plat, with revisions needed to comply with any conditions to which the approval was subject;

(6) One copy of the signed plat shall be returned to the developer;

(7) An approved preliminary plat shall be valid approval to proceed with the application for final plat consideration, provided that application for final plat consideration for the first section or phase is made within 12 months of the last in time of approval by the city planning and zoning commission and city council approval, and further provided that the final plat for each section or phase substantially conforms to the approved preliminary plat. Any substantial deviation in street layout or alignment, lot size or configuration, utility or drainage layout, or easement shall require submittal for consideration of a new preliminary plat;

(8) No construction shall begin on the proposed improvements in the proposed subdivision prior to approval of the final plat by the city planning and zoning commission and the city council.

(Code 1996, § 10.01.008; Ord. No. O-10-19, 12-3-2019)

Sec. 72-32. Final plat requirements.

After the preliminary plat has been approved by the city council and any or all conditions are complied with, the developer's engineer or surveyor shall prepare and file with the city a final plat which shall comply with the requirements of this Code and shall include the following:

(1) Five printed copies of the final plat, which shall be clearly legible. The final plat shall be drawn to a scale of one inch equals 100 feet or larger in ink on Mylar® or other acceptable permanent material, with all figures and letters legible. One copy of the original shall be on Mylar® or other acceptable permanent material;

(2) The final plat shall be proper for filing for record in the office of the county clerk with the following information given:

a. The names of the owner and developer;

b. The name of the licensed land surveyor who prepared the plat;

c. The name of the proposed subdivision and any adjacent subdivisions;

d. The names of streets (to conform whenever possible to existing street names);

e. The numbers of lots and blocks, in accordance with a systematic arrangement;

f. The north point, date, acreage being subdivided, and scale. All plats shall be on a scale on one inch equals 100 feet or larger;

g. An accurate boundary survey of the property, with bearings and distances referenced to the corner of an existing survey or established subdivisions, with complete and accurate field notes of said boundaries. The lines with dimensions of all adjacent lands and alleys, and easements in adjacent subdivisions shall be shown in dashed lines;

h. The location of proposed lots, streets, alleys, easements, building setback lines (both front and side streets), and other features;

i. All necessary dimensions, including linear, angular and curvilinear, and other surveying information necessary to reproduce the plat on the ground with the linear and curvilinear dimensions shown in feet and decimals of a foot;

j. The angular dimensions shall be shown by true bearings. The length of all straight lines, deflection angles, radii, tangents, and central angle of curves shall be shown. All curve information shall be shown for the centerline of the street. Dimensions shall be shown from all angle points and points of curve of lot lines. All lots on curves shall be shown with curve length dimensions based on arc definitions;

k. All survey monuments shall be shown on the plat;

l. All deed restrictions that are to be filed with the plat;

m. Certification by a registered public surveyor, licensed by the state, in the form approved from time to time by the city council, placed on the plat;

n. Certificate of approval by the city council in the form approved from time to time by the city council placed on plat in manner that will allow filling in of the certificate;

o. An instrument of dedication, signed and acknowledged by the owner and by all other parties who have a mortgage or lien interest in the property, showing all restrictions, reservations, or easements, if any, to be imposed and reserved in connection with the addition;

p. Receipt showing that all taxes are paid;

q. The final plat submitted to the city planning and zoning commission and city council to be filed for record with the county clerk shall not show construction or physical features unless so unusual as to be of significance; except that the shoreline of water areas shall be shown with the date surveyed;

r. Two copies of each of the following:

1. Construction plans and specifications for subdivision improvements;
2. Report of soil tests and pavement designs;
3. Drainage study report as required by this Code;
4. Executed copies of paving and utility contracts before commencing construction.

(Code 1996, § 10.01.009; Ord. No. O-10-19, 12-3-2019)

Sec. 72-33. Final plat review.

On receipt of the final plat, the city shall check the final plat for completeness and conformity to the approved preliminary plat and prepare and submit a written recommendation to the city planning and zoning commission.

(Code 1996, § 10.01.010; Ord. No. O-10-19, 12-3-2019)

Sec. 72-34. Final plat approval.

(a) (1) Upon filing of said final plat with the city by the developer, the city planning and zoning commission shall take action thereon within 30 days. Said action may consist of approval, approval with conditions, or disapproval. Reasons for disapproval or conditional approval shall be stated by the city planning and zoning commission in writing following city planning and zoning commission action in compliance with state law;

(2) Following city planning and zoning commission action approving or approving with conditions, the final plat will be scheduled for action by the city council within 30 days of such city planning and zoning commission action. City council action thereon may consist of approval, approval with conditions, or disapproval. Reasons for disapproval or conditional approval shall be stated by the city council in writing following city council action in compliance with state law. When a final plat is approved with conditions, ten revised prints shall be submitted showing compliance with the conditions.

(b) After the final plat has been approved and has been fully and properly endorsed, the city secretary shall file the plat with the county clerk.

(c) If the public improvements for a subdivision have not been constructed and accepted by the city, and a corresponding final plat for that subdivision filed in the map and plat records of the appropriate county within 18 months from the date of final plat approval by the city, the final plat shall be null and void and shall conclusively be deemed to be withdrawn, without further action by the city; provided, however, this provision shall not apply to final plats approved by the city prior to January 6, 1997. An approved, unexpired final plat may be extended once for a period not to exceed 12 months pursuant to the following provisions:

(1) The city council may extend the approval of the final plat for good cause shown by the applicant, if there has been no significant change in development conditions affecting the subdivision plan and the plat continues to comply with all applicable standards and ordinances;

(2) A request for an extension of time to complete final public improvements for a subdivision pursuant to these provisions shall be submitted to the city no later than the date the final plat expires. The request shall be in writing and the application shall state the reason and justification for the requested extension.

(Code 1996, § 10.01.011; Ord. No. O-10-19, 12-3-2019)

Sec. 72-35. Replat or vacation of recorded plat.

Procedures as set forth in this article shall be followed in replatting of platted property or the abandonment of a recorded subdivision.

(Code 1996, § 10.01.012; Ord. No. O-10-19, 12-3-2019)

Sec. 72-36. Subdivision improvements.

(a) Concurrent with the final plat, the developer shall submit construction plans for the development of all public improvements proposed in the subdivision or section thereof. Said construction plans are to be submitted to the city.

(b) Upon approval of the submitted construction plans and any required agreements between the city and subdivider, appropriate construction documents for all facilities will be filed with the city.

(c) Upon completion of all public subdivision improvements, the following shall be submitted to the city: Two sets of as-built construction plans, a maintenance bond covering all improvements in the amount of 100 percent of the total construction costs to be in effect for a period of one year from date of acceptance of improvements, any pro rata contracts, and a listing of final quantities for any city costs for participation in oversized facilities.

(d) Following the completion of the subdivision improvements and final inspections, the subdivision improvements shall be submitted for approval and acceptance by the city who shall notify developer in writing of said final acceptance.

(Code 1996, § 10.01.013; Ord. No. O-10-19, 12-3-2019)

Sec. 72-37. Construction plans.

Construction plan and profile sheets for all public improvements shall be reviewed prior to construction and approval of the final plat. Construction plans and profiles shall be drawn on sheets measuring 24 inches by 36 inches. Each sheet shall include north point, scale, and date. Benchmark description to sea level datum shall be included with the plans.

(1) Each sheet shall show the seal and signature of the registered professional engineer licensed by the state who prepared the plans and shall include the following, unless specifically approved otherwise by the city:

a. A plan and profile of each street with top of curb grades shown. Scale shall be one inch equals 20 feet horizontally, and appropriate vertical scale;

b. The cross section of proposed streets, alleys, and sidewalks showing the width and type of pavement, base and subgrade, and location within the right-of-way;

c. A plan and profile of proposed sanitary sewers, with grades and pipe sized indicated and showing locations of utility holes, cleanouts, and other appurtenances, and a cross section of embedment;

d. A plan of the proposed water distribution system showing pipe sizes and location of valves, fire hydrants, fittings and other appurtenances, with a section showing embedment;

e. A plan to scale of all areas contributing stormwater runoff or drainage within and surrounding the proposed subdivision. Such plan shall indicate size of areas, storm frequency and duration data, amounts of runoff, points of concentration, and other data necessary to adequately design drainage facilities for the area;

f. A plan and profile of proposed storm sewers, showing hydraulic data, pipe grades and sizes, utility holes, inlets, pipe connections, culverts, outlet structures, bridges, and other structures;

g. Profile views of individual improvements shall have no more than two improvements on one sheet unless specifically approved by the city. The project engineer is responsible for the accuracy, completeness, and conformance to city standards.

(2) The purpose of the city review is to ensure conformance to city policies and standards. However, the city review is limited to facts as presented on submitted plans. The city takes no project engineering responsibility. The engineer certifying the plans is the engineer responsible for the accuracy and completeness of the documents submitted for review and actual construction.

(3) The city reserves the right to require plan corrections when actual conditions in the field are found to be contrary to or omitted from the previously submitted plan.

(Code 1996, § 10.01.014; Ord. No. O-10-19, 12-3-2019)

Secs. 72-38—72-62. Reserved.

ARTICLE III. DEVELOPMENT EXPIRATION DATES

Sec. 72-63. 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 content clearly indicates a different meaning:

Development means the subdivision of land or the construction, reconstruction, conversion, or the structural alteration, relocation or enlargement of any buildings or structures; and any use or extension of the use of land.

Dormant means, with regard to an individual permit for a project, means that no progress has been made towards completion of the project for a period of two years and, with regard to a project in general, shall mean that no progress has been made towards completion of the project for a period of five years.

Permit or series of permits means a license, certificate, approval, registration, consent, permit, contract or other agreement for construction or other form of authorization required by law, rule, regulation, order, or ordinance that a person must obtain from the city to perform an action or initiate, continue, or complete a project for which the permit is sought. All permits required for a project are considered to be a single series of permits. Preliminary plans and related subdivision plats, site plans, and all other development permits for land covered by the preliminary plans or subdivision plats are considered collectively to be one series of permits for a project.

Progress towards completion of a project includes any one of the following:

(1) An application for a final plat or plan is submitted to the city;

(2) A good-faith attempt is made to file with the city an application for a permit necessary to begin or continue towards completion of the project;

(3) Costs have been incurred for developing the project, including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve, in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of five percent of the most recent appraised market value of the real property on which the project is located;

(4) Fiscal security is posted with the city to ensure performance of an obligation required by the city; or

(5) Utility connection fees or impact fees for the project have been paid to a regulatory agency.

Project means an endeavor over which the city exerts its jurisdiction and for which one or more permits are required to initiate, continue, or complete the endeavor.
(Code 1996, § 10.01.041; Ord. No. O-06-15, 7-21-2015)

Sec. 72-64. Development permit expiration.

An individual permit for a development project shall become dormant and expire if, for a period of two years subsequent to the original permit application being filed with the city, no progress is made towards completion of the project. Should any other provision of this Code or applicable law provide a shorter expiration period for a particular permit, the law providing for the shorter expiration period shall apply notwithstanding this section.
(Code 1996, § 10.01.042; Ord. No. O-06-15, 7-21-2015)

Sec. 72-65. Development project expiration.

A development project shall become dormant and expire if, for a period of five years subsequent to the first application for a permit being filed with the city, no progress has been made towards completion of the project.
(Code 1996, § 10.01.043; Ord. No. O-06-15, 7-21-2015)

Sec. 72-66. New permit application required.

Upon a permit expiring pursuant to this article, any person seeking to initiate, continue, or complete a project for which an expired permit is required, shall be required to file a new permit application with the city and shall be subject to all policies, rules, ordinances and laws in effect at the time the new permit application is filed.
(Code 1996, § 10.01.044; Ord. No. O-06-15, 7-21-2015)

Secs. 72-67—72-90. Reserved.

ARTICLE IV. EFFECT OF DEDICATION ON PLATS

Sec. 72-91. Effect of approval of plat.

Approval of a plat or replat is not considered the acceptance of any proposed dedication of property therein and does not impose on the city any duty regarding the maintenance or improvement of dedicated parts unless and until:

(1) The city council votes affirmatively to accept the dedication, such vote is reflected in the official minutes of the city, and it is stated in writing on the plat that the dedication is accepted by the city;

(2) The city makes an actual appropriation of the dedicated parts by entry;

(3) The city makes an actual appropriation of the dedicated parts by use; or

(4) The city makes an actual appropriation of the dedicated parts by improvement.

(Code 1996, § 10.04.001; Ord. No. O-15-12, 7-3-2012)

Sec. 72-92. Appropriation by entry.

Appropriation of the dedicated parts by entry shall mean that the city occupies and continues to occupy the property in a manner consistent with the purpose for which it was dedicated. Mere ingress into the property on one or more occasions by city officials, employees, or representatives shall not constitute appropriation by entry that accomplishes acceptance of dedication.
(Code 1996, § 10.04.002; Ord. No. O-15-12, 7-3-2012)

Sec. 72-93. Appropriation by use.

Appropriation of the dedicated parts by use shall mean that the city utilizes and continues to utilize the property in a manner consistent with the purpose for which it was dedicated.

One or more isolated occurrences involving utilization of the property by a city official, employee, or representative shall not constitute appropriation by use that accomplishes acceptance of dedication.
(Code 1996, § 10.04.003; Ord. No. O-15-12, 7-3-2012)

Sec. 72-94. Appropriation by improvement.

Appropriation of the dedicated parts by improvement shall mean that the city expends public money and resources for the purpose of improving the property in a manner consistent with the purpose for which it was dedicated. One or more isolated occurrences involving city expenditures or action that benefits the property, particularly if the primary purpose of such expenditure or action was in connection with other property or a project unrelated to the purpose of the dedication shall not constitute appropriation by improvement that accomplishes acceptance of dedication.
(Code 1996, § 10.04.004; Ord. No. O-15-12, 7-3-2012)

Sec. 72-95. Interpretation of article.

(a) Any question about the extent to which any action or expenditure of the city constitutes or constituted appropriation of the property that accomplished acceptance of dedication shall be resolved in favor of nonacceptance.

(b) The mere budgeting or setting aside of funds for any purpose that may be construed as an intended appropriation of a dedicated part by entry, use, or improvement of any dedicated property on any plat or replat, without actual expenditure of such funds and actual entry, use, or improvement shall not be construed as acceptance of the dedicated part.

(c) Adoption of a motion, resolution, or ordinance for a purpose that may be construed as appropriation of a dedicated part by entry, use, or improvement of any dedicated property on any plat or replat which is subsequently repealed or rescinded prior to actual entry, use or improvement shall not amount to acceptance of the dedicated part.
(Code 1996, § 10.04.005; Ord. No. O-15-12, 7-3-2012)

Sec. 72-96. City responsibility following acceptance of dedication.

After acceptance of the dedication of part or all of property dedicated on a plat or replat is accomplished in a manner described in this section, the city shall be responsible for maintaining and improving the part or property in a manner consistent with similar property in the city that was acquired for or dedicated to the public for a similar use, but the city shall not be obligated to do so to any particular level, degree, or amount, it being solely the province of the city council and city manager of the city to determine the extent to which such part or property shall be maintained and improved.
(Code 1996, § 10.04.006; Ord. No. O-15-12, 7-3-2012)

Chapter 73

RESERVED

Chapter 74

ZONING

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ARTICLE I. IN GENERAL

Sec. 74-1. Purpose, authority, and jurisdiction.

(a) The zoning regulations established in this chapter have been made in accordance with an adopted comprehensive plan for the purpose of promoting the health, safety, morals and general welfare of the city. They have been designed to lessen the congestion in the streets; to secure safety from fire, panic and other dangers; to ensure adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, circulation, water, sewage, schools, parks, and other public requirements. They have been made with reasonable consideration for, among other things, 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.

(b) This chapter is adopted pursuant to V.T.C.A., Local Government Code ch. 211, and the appropriate articles of the city Charter which govern the zoning of land.

(c) This chapter shall be effective for all areas within the territorial city limits and corporate boundaries of the city.
(Code 1996, ch. 14, exh. 14A, art. I, §§ 3—5)

Sec. 74-2. Definitions.

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

Accessory building means a subordinate building or a portion of the main building located on the same lot as the main building, the use of which is incidental to that of the dominant use of the building or premises and not exceeding the maximum lot coverage. Accessory buildings must meet all requirements of the zoning district in which they are located. Accessory buildings generally include parking garages, adjacent farm structures, home workshops and tool houses, storage sheds, home greenhouses, etc. Farms with working barns may be exempt if the land is subject to an agricultural use exemption. Proof of receipt of such an exemption from the applicable appraisal district must be available for inspection. Accessory buildings may only exist in conjunction with a primary structure and may not be constructed in the absence of a primary structure, unless provided by ordinance. In the event a primary structure is destroyed, the accessory building may continue to exist in the absence of the primary structure for six months, provided a primary structure is being reconstructed. Failure to timely construct a primary structure requires the removal of the accessory structure. Accessory buildings shall not include structures commonly known as sea boxes, PODs, trailer containers, railroad boxes and the like.

Accessory residence/guest house means living quarters within a detached accessory building located on the same premises with the main building, for use by temporary guests

of the occupants of the premises, such quarters having no kitchen facilities and not rented or otherwise used as a separate dwelling and which shall not exceed 650 square feet in size (also known as guest house).

Accessory use means a use that is customarily incidental, appropriate and subordinate to the principal use of land or buildings and located upon the same lot therewith. The land and building area used for the accessory use must be significantly less than that used for the primary use and gross receipts, if any, must be significantly less than those derived from the primary use. Accessory uses must comply with the requirements of the zoning district in which they are located.

Accountant or bookkeeping office means a professional or professional office that provides financial services, including recording transactions, preparing financial statements, and managing tax obligations for individuals or other companies. These offices help ensure accurate financial records and offer insights into a business's financial health.

Administrative or corporate headquarters means the center of operations or administration for a legal entity that may conduct its primary operations in another location and designate the location as its principal place of business for legal transactions.

Airport means a place where an aircraft can land and take off, usually equipped with hangars, facilities for refueling and repair and various accommodations for passengers and regulated by state and federal entities with jurisdiction over airspace.

Alley means a minor right-of-way, dedicated to public use, which affords 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.

Americans with Disabilities Act (ADA) means the applicable federal statute and regulations relative to new construction and rehabilitation as may be required in 42 USC 1281 et seq. and implementing regulations at 28 CFR pts. 35 and 36, and similar regulations as they exist and as they may be amended.

Amortization means the required removal of a nonconformity after a stated period of time without compensation.

Amusement or video arcade, commercial, means any building, room, place or establishment, of any nature or kind and by whatever name called, that contains at least three amusement devices, such as pinball and video machines which are operated for a profit, whether the same are operated in conjunction with any other business or not, including, but not limited to, such amusement devices as coin-operated pinball machines, video games, electronic games, shuffle boards, pool tables or other similar amusement devices; provided, however, the term "amusement device," as used herein, shall not include musical devices, billiard tables which are not coin-operated, and devices designed to train persons in athletic skills or golf, tennis, baseball, archery or other similar sports. Amusement devices may be indoor or outdoor; see also *Amusement park, permanent.*

Amusement park, permanent, means an outdoor area or structure, open to the public, which provides entertainment or amusement for a fee or admission charge, including, but not limited to, batting cages, miniature golf, go-kart tracks and thrill rides.

Animal pound means an enclosure, owned by the city, under or subject to its control, to house stray or unlicensed animals captured within the city. The pound may also be used as a holding pen for animals under observation consistent with state law regulations.

Antenna, satellite dish, means an apparatus capable of receiving communications from a transmitter relay located in planetary orbit.

Antique shop, sales in building, means a retail establishment engaged in the selling of works of art, furniture or other artifacts of an earlier period, with all sales and storage occurring inside a building. Antiques are objects which show some degree of craft quality and value and are considered a collectible.

Apartment house. See *Dwelling, multiple-family.*

Asphalt paving means a composite material commonly used for construction of pavement, highways and parking lots, comprised primarily of petroleum-based products as a tar-like substance used as a binder with an aggregate base. All asphalt paving, residential driveways and parking shall conform to the standards adopted in the subdivision regulations in chapter 72 and the adopted standard construction details.

Assembly hall means a building, or part of a building, in which facilities are provided and used for such purposes as a meeting, gathering, or assembly of persons for civic, educational, political, religious, or social events, including weddings and receptions, and may include a banquet hall or fraternal organization.

Assembly of electronic instruments and devices means an industrial site where technological devices are assembled for the purpose of manipulation of voltages and electric currents through the various devices for the result of performing some useful action.

Athletic stadium or field means an athletic field or stadium owned and operated by a public agency or political subdivision for use by the general public, including a baseball field, golf course, football field or stadium which may be lighted for nighttime play.

Automobile (auto) means:

(1) A self-propelled mechanical vehicle designed for use on streets and highways for the conveying of goods and people, including, but not limited to, passenger cars, trucks, buses, motor scooters and motorcycles;

(2) A motor vehicle subject to registration under state law or any other device designed to be self-propelled or transported on a public highway.

All automobile-related businesses defined in this section include office areas.

Automobile assembly and rebuild means assembly is a system of workers and machinery in which a new product is assembled in a series of consecutive operations; typically the

product is attached to a continuously moving belt. The term "rebuilding" means the independent rehabilitation of a used automobile product. All automobile-related businesses defined in this section include office areas.

Automobile painting, body and upholstery repair means the painting, upholstery and repair or replacing of damaged auto body parts. Work takes place inside the store or garage. All automobile-related businesses defined in this section include office areas.

Automobile center means a business whose primary purpose is to stock automotive parts and accessories, and which may provide a limited amount of maintenance services. All services are inside. All automobile-related businesses defined in this section include office areas.

Automobile leasing and renting means a location where vehicles (e.g., automobiles, motorcycles and light load vehicles) are stored for leasing or rental purposes. All automobile-related businesses defined in this section include office areas.

Automobile parking lot or garage means an area or structure designed for the short-term parking of motor vehicles.

Automobile parts, sales in building (inside), means the use of any building or other premises for the primary inside display and sale of new or used parts for automobiles, panel trucks or vans, trailers, or recreation vehicles. All automobile-related businesses defined in this section include office areas.

Automobile parts, sales in open (outside), means the use of any land for the outside display and sale of new or used parts for automobiles, panel trucks or vans, trailers, or recreation vehicles. The term "automobile parts, sales in open (outside)" does not include junk or salvage yards. All automobile-related businesses defined in this section include office areas.

Automobile repair, major, means general repair or reconditioning of engines, air conditioning systems and transmissions for motor vehicles; wrecker services; collision services, including body, frame or fender straightening or repair; customizing; painting; vehicle steam cleaning; undercoating and rust-proofing; those uses listed under the definition of the term "automobile repair, minor"; and other similar uses. The car service/bay area shall be screened from view from public roads (unless the garage existed before adoption of the ordinance from which this chapter is derived). Vehicles which are inoperative or are being repaired may not remain parked outside an automobile service station for a period greater than seven days. All automobile-related businesses defined in this section include office areas.

Automobile repair, minor, means minor repair or replacement of parts, tires, tubes, and batteries; diagnostic services; minor motor services, such as grease, changing of oil, oil filters and the chassis lubrication of motor vehicles (all new oil shall be dispensed from drums, and all old oil shall be kept in sumps until removed by pumper trucks and at all times shall comply with state environmental quality laws); spark plug and filter changing; tune-ups; and automobile washing and polishing. The car service/bay area shall be screened from view

from public roads (unless the garage existed before adoption of the ordinance from which this chapter is derived). Vehicles which are inoperative or are being repaired may not remain parked outside an automobile service station for a period greater than seven days. All automobile-related businesses defined in this section include office areas.

Automobile sales lot (new) means a place of business where the primary business is the sales of new automobiles. The place of business and seller of vehicles must comply with the state department of transportation regulations and licensing requirements. All automobile-related businesses defined in this section include office areas.

Automobile sales lot (used) means a place of business where the primary business is the sales of used automobiles or light load vehicles. The place of business and seller of vehicles must comply with the state department of transportation regulations and licensing requirements. All automobile-related businesses defined in this section include office areas.

Automobile storage means:

(1) The storage on a lot or tract, which complies with the state department of licensing and regulation licensing requirements, of operable automobiles for the purpose of holding such vehicles for sale, distribution or storage;

(2) A garage, parking lot, or other facility owned or operated by a person other than a governmental entity for storing or parking ten or more vehicles per year.

Bakery and confectionery works means a manufacturing facility for the production and distribution of baked goods and confectioneries.

*Bank (*also known as *savings and loan* or *credit union)* means an establishment for the custody, loan, exchange or issue of money, the extension of credit, or the facilitating of the transmission of funds.

Bank, automatic teller, means a standalone structure or kiosk associated with a bank, for either pedestrian or vehicular transactions involving the transmission of funds.

Bar.

(1) The term "bar" means any establishment, including, but not limited to, nightclubs, licensed by the state for the sale of alcoholic beverages that derives more than 75 percent of the establishment's daily gross sales from the on-premises sale of alcoholic beverages for on-premises consumption;

(2) For purposes of this definition, the term "daily gross sales" shall be calculated using the normal selling price of all food, alcoholic beverages and other items sold in the establishment and shall reflect the price normally charged for such items in the establishment for which the daily gross sales figure is calculated, whether such item is actually sold at normal selling price or below normal price. Prices charged during promotions, happy hours, and other occasions when items are sold at reduced prices or served at no charge shall not be considered the normal selling price for calculation of daily gross sales.

Barber shop, school, or college means a place where barbering, as defined in V.T.C.A., Occupations Code ch. 1603, is practiced, offered or attempted to be practiced, except when such place is duly licensed as a barber school or college.

Basement or *cellar* means a story partly or wholly underground. For purposes of height measurement, a basement shall be counted as a story when more than one-half of its height is above the average level of the adjoining ground or when subdivided and used for commercial or dwelling purposes by other than a janitor employed on the premises.

Batch plant. See *Concrete or asphalt batching plant (permanent)* and *(temporary).*

Bath house means a structure that contains dressing rooms, showers, restrooms and toilet facilities for use with an adjacent public swimming pool, semi-public swimming pool, private swimming pool, spa-pool or public bathing place.

Battery manufacturing. See *Manufacturing process, general.*

Beauty shop means a place where cosmetology, as defined by V.T.C.A., Occupations Code ch. 1603, is practiced.

Bed and breakfast, inn or facility, means a dwelling or group of dwellings at which a meal, usually breakfast, is served and sleeping accommodations are offered and provided to not more than ten rooms or unattached units (e.g., cabins) for transient guests on a nightly basis for compensation. The term "bed and breakfast, inn or facility" does not include a hotel, motel or boardinghouse. See *Tourist home, bed and breakfast inn.*

Berm means a small, fabricated hill or elevated land typically used in place of, or in addition to, trees or shrubs to screen a business from public view or to act as a visual, light and noise buffer between uses. A rolling topography is generally created through the use of berms. Berms shall not be more than six feet from the ground to their highest point.

Big box means a structure over 45,000 square feet in size, including, but not necessarily limited to, membership warehouses and large retail businesses.

Block means a tract of land platted for urban use and generally bound by dedicated public rights-of-way, streets, or a combination of streets, parks, cemeteries, or boundary lines of local government.

Boardinghouse means a building where, for compensation and by pre-arrangement for definite periods of time, meals or lodging and meals are provided for three persons or more but not exceeding 20 persons on a weekly or monthly basis. The term "boardinghouse" does not include a hotel or motel.

Boat sales means a place of business where the primary business is the sales of new and used boats. The place of business and seller of vehicles must comply with the state department of parks and wildlife regulations and licensing requirements.

Bookbindery means a facility where books are bound. Bookbinding is the process of physically assembling a book from a number of folded or unfolded sheets of paper and usually involves attaching covers to the text block.

Bottling works means a manufacturing facility designed to place a product into a bottle for distribution.

Buffer zone means a tract of land between two differently zoned areas (e.g., a city might position a multifamily residential development between a commercial and single-family residential district).

Bufferyard means a designated area, defined in dimension, on the perimeter of a property which is required to have a screening or buffering of landscaping or screening materials installed and maintained between it and the adjacent property; normally this will be between properties with differing zoning or uses.

Building means any structure designed, built, or occupied that is intended for shelter, housing or a roofed enclosure for persons, animals or property. When separated by dividing walls without openings, each portion of such structure so separated may be deemed a separate building.

Building elevation means the view of any building or other structure from any one of four sides showing features such as construction materials, design, height, dimensions, windows, doors, architectural features and the relationship of grade to floor level.

Building height means the vertical distance from the average line of the highest and lowest points of that portion of the lot covered by the building to the highest point of coping of a flat roof, or a deck line of a mansard roof, or to the average height of the highest gable of a pitch or hip roof.

Building line means a line parallel, or approximately parallel, to the front, side or rear lot line at a specific distance therefrom, marking the minimum distance from the front, side or rear lot line that a building may be erected.

Building materials, lumber sales yards and hardware sales (inside storage), means the sale of new building materials, unfinished lumber and indoor related sales for hardware, carpet, plants, electrical and plumbing supplies, all of which are oriented to the retail customer, rather than contractor or wholesale customer. Facilities for storage are inside the building.

Building materials, lumber sales yards and hardware sales (outside storage), means the sale of new building materials, unfinished lumber and indoor related sales for hardware, carpet, plants, electrical and plumbing supplies, all of which are oriented to the retail customer, rather than contractor or wholesale customer. Facilities for storage are outside the building.

Building official means the building inspector, administrative official or other authorized designee of the city charged with responsibility for issuing permits and enforcing this chapter or city building and subdivision regulations in chapter 72.

Building, primary (main), means a building in which the principal use of the lot on which it is situated is conducted. In a residential district, the dwelling unit shall be deemed to be a main building on the lot on which it is situated.

Bus stop or shelter means a roofed structure with at least three walls located on or adjacent to the right-of-way of a street, and which is designed and used primarily for the protection, convenience and information of bus passengers.

Bus terminal means any premises for the transient housing or parking of motor-driven buses and the loading and unloading of passengers.

Business service means establishments primarily engaged in providing services, not elsewhere classified, to business enterprises on a fee contract basis, including, but not limited to, advertising agencies, computer programming and software services, and office equipment rental or leasing.

Cabinet and upholstering shop means an establishment for the production, display and sale of cabinets, furniture and soft coverings for furniture.

Camping sites means land and facilities designated and permitted as a park or site for temporary dwelling by tent, cabin or recreational vehicle, with or without electrical or plumbing infrastructure or designated pad sites.

Caretaker/guard quarters as part of permanent structure means an accessory building or portion of an accessory building located on the same lot or grounds with the main building, containing not more than one set of kitchen and bathroom facilities and used as living quarters for a person employed on the premises, and not otherwise used or designed as a separate place of abode, provided the living area of such quarters shall not exceed 650 square feet.

Carnival, temporary, means a temporary amusement park wherein a special events permit is sought for the purpose of providing entertainment from rides, sideshows and games of skill on public or private property as permitted.

Carport means a structure open on a minimum of three sides designed or used to shelter not more than three vehicles and not to exceed 24 feet on its longest dimension. Carports shall be constructed as provided by this chapter.

Carting or *express hauling* means the work of taking something away in a cart or truck, or the transportation of goods and disposing of them.

Carwash means structure used to wash motorcycles, automobiles and light load vehicles.

Carwash, automated, means facility or structure where chairs, conveyors, blowers, steam cleaners or other mechanical devices are used for the purpose of washing motorcycles, automobiles and light load vehicles and where the operation is generally performed or operated by an attendant.

Carwash, manual or self-service, means facility or structure where washing, drying and polishing of vehicles is done by the owner of the vehicle, as a self-service operation, without the use of chain conveyors, blowers, steam cleaners or other mechanical devices.

Cemetery or *mausoleum* means property used for the interring of the dead, where bodies or remains are interred in ground (cemetery) or above ground in staked vaults (mausoleum).

Certificate of occupancy means an official certificate issued by the city through the building official which indicates conformance with or approved conditional waiver from the zoning regulations and authorizes legal use and occupancy of the premises for which it is issued; may also be referred to as an occupancy permit.

Church, rectory, or *religious institution* means a building for regular assembly for religious worship which is used primarily and designed for such purpose and those accessory activities which are customarily associated therewith, and may be a place of residence for ministers, priests, nuns or rabbis on the premises, or a place of worship, including a church, synagogue, temple, mosque or other building or facility, primarily engaged in religious worship. The term "accessory activities" does not include uses such as schools, recreational facilities, day care or child care facilities, kindergartens, dormitories, or other facilities for temporary or permanent residences which are connected or related to the church or the principal building on the site, or are located on the same site, even if the curriculum or services offered as part of such use includes religious services or training.

Clothing or apparel store means a retail facility primarily in business for the sale of personal clothing, shoes and other clothing accessories.

Club includes assembly halls, private country clubs, fraternal clubs or lodges, private clubs and nightclubs, and those terms, as defined, shall govern.

Club, fraternal (fraternal lodge), means an establishment providing meeting or social facilities for a private or nonprofit association, primarily for use by members and guests. Typical uses include, but are not limited to, fraternal lodges and meeting halls.

Club, private, means a place or establishment in which alcoholic beverages are stored, possessed, mixed, consumed or served in broken or unsealed containers, as permitted by the state law, and 30 percent of the gross receipts are derived from the sale of food. Gross receipts shall be determined by an annual audit provided at the expense of the owner of the private club for review by the city council. All private clubs require a specific use permit (SUP). Private clubs shall conform to the requirements of state law, including, but not limited to, the Texas Alcohol Beverage Code and shall receive a private club permit from the state within six months after the issuance of a SUP.

College or *university* means an academic institution of higher learning accredited or recognized by the state and covering a program or series of programs of academic study.

Commercial amusement (indoor) means an amusement enterprise that is wholly enclosed within a building which is treated acoustically so that noise generated by the enterprise is not perceptible at the bounding property line, and that, for a fee or price of admission, provides activities, services or instruction for the entertainment of customers or members, but not including amusement arcades. Uses may include, but are not limited to, the following: bowling alley, ice skating rink, martial arts club, racquetball/handball club, indoor tennis court/club, indoor swimming pool or scuba diving facility, video arcade, and other similar types of uses.

Commercial amusement (outdoor). See *Amusement park, permanent.*

Commercial plant, general, means establishments other than personal service shops for the treatment or processing of products as a service on a for-profit basis, including, but not limited to, newspaper printing, laundry plants, or cleaning and dyeing plants.

Commercial school, trade school, or *vocational technical school* means establishments, other than public or parochial schools, private primary and secondary schools or colleges, offering training or instruction on a trade, art or occupation.

Commission means the planning and zoning commission of the city.

Common area means a parcel of land, or an area of water, or combination of land and water or developed facilities, complementary structures or improvements, including, but not limited to, vehicular and pedestrian access and recreational facilities within the site.

Community center, private, means a building dedicated to social or recreational, athletic, cultural or entertainment activities serving residents of a subdivision or development which is operated by an association or incorporated group for their use and benefit and not as a commercial, for-profit business.

Community center, public, means a building or complex of buildings that house cultural, recreational, athletic, or entertainment facilities owned or operated by a governmental agency or private nonprofit agency.

Community home means a community-based residential home qualified to operate by the state, a nonprofit corporation, a community center organized pursuant to state statute, or an entity which is certified by the state as a provider for a program for the intellectually disabled in accordance with V.T.C.A., Human Resources Code ch. 123. Community homes provide for persons who have mental or physical impairments that substantially limit one or more major life activities. To qualify as a community home, a home must meet the following state statutory requirements, as they may be amended:

(1) Not more than six disabled persons and two supervisory personnel may reside in the community home at the same time;

(2) The home must provide food and shelter, personal guidance, care, rehabilitation services and supervision;

(3) The home must meet all applicable licensing and other statutory requirements.

To the extent required by law, such use shall be by right in any residential district.

Community services director means an official of the city responsible for the planning and zoning functions of the city, right-of-way management, building inspections, builder/developer liaison, management of city real estate, public utility liaison and coordinating business development and retention.

Comprehensive plan means the comprehensive plan of the city and adjoining areas as adopted by the city council and the city planning and zoning commission, including all its revisions and parts, consistent with the city Charter and this Code. The comprehensive plan

provides a guide for the future development of the city with graphic and textual policies that govern the general location recommended for various land uses, transportation routes, public and private buildings, streets, parks, and other public and private developments and improvements.

Concept plan means a conceptual drawing of a proposed project or development to provide a general understanding and depiction of the intended general use.

Concrete or asphalt batching plant (permanent) means a permanent manufacturing facility for the storing of raw materials and production of concrete or asphalt.

Concrete or asphalt batching plant (temporary) means a temporary manufacturing facility for the storing of raw materials and production of concrete or asphalt during construction of a project. The plant shall be removed when the project is completed.

Concrete paving means all concrete paving, residential and nonresidential driveways and streets which shall conform to the standards adopted in the subdivision regulations in chapter 72 and the adopted standard construction details.

Construction yard (temporary) means a storage yard or assembly yard for building materials and equipment directly related to a specific construction project and subject to removal at completion of construction.

Contractor's shop and storage yard means a building, part of a building, or land area for the construction or storage of materials, equipment, tools, products, and vehicles.

Convenience store means a retail establishment providing for the sale of consumables, nonprescription drugs, small household items and gifts that are not used or consumed on the premises. Gasoline and diesel fuel may be offered for sale, provided they are not the primary source of income for the store and no more than eight pumps are offered.

Convenience store less than 2,500 square feet means a retail establishment providing for the sale of consumables, nonprescription drugs, small household items and gifts that are not used or consumed on the premises. Gasoline and diesel fuel may be offered for sale, provided they are not the primary source of income for the store and no more than eight pumps are offered. The maximum size of the establishment will be no more than 2,500 square feet, not including storage areas and administrative offices.

Corner visibility means an area to be left without obstruction such that the view of traffic is not impeded.

Country club (private) means a land area and buildings, which may include a golf course, clubhouse, dining room, swimming pool, tennis courts and similar recreational or service uses, available to members and their guests.

Court means an open, unobstructed space, bounded on more than two sides by the walls of a building. An inner court is entirely surrounded by the exterior walls of a building. An outer court has one side open to a street, alley, yard, or other permanent open space.

Coverage means the area physically covered by all buildings located on a lot or parcel, including the area covered by all overhanging roofs.

Credit access business shall have the meaning given that term in V.T.C.A., Finance Code § 393.601, and including any credit services organization that obtains for a consumer or assists a consumer in obtaining an extension of consumer credit in the form of a deferred presentment transaction or a motor vehicle title loan, as those terms are defined in V.T.C.A., Finance Code § 393.601.

Cul-de-sac means a short residential street having but one vehicular access to another street and terminated by a vehicular turnaround.

Cultural establishment means establishments, such as museums, art galleries, and botanical and zoological gardens, and other facilities of a historic, an educational or a cultural interest that possess qualities of significance in history, architecture, archeology, or reflect the cumulative deposit of knowledge, experience, beliefs, values, attitudes, meanings, hierarchies, religion, notions of time, roles, spatial relations, concepts of the universe, and material objects and possessions acquired by a group of people in the course of generations through individual and group striving.

Curbstoning means the practice of selling cars on the street or in parking lots, usually by unlicensed dealers.

Curvilinear in design means a design characteristic consisting of or bounded by curved lines; represented by a curved line.

Dairy processing means the homogenization and pasteurization of raw milk for the production of dairy products, such as milk, cheese, yogurt, ice cream, etc.

Dance hall means a building or part of a building with facilities for dancing.

Day care. Day care uses include facilities that provide care for children or adults on a regular basis away from their primary residence for less than 24 hours per day. This category does not include public or private schools or facilities operated in connection with an employment use, shopping center, or other principal use, where children are cared for while parents or guardians are occupied on the premises or in the immediate vicinity. Specific use types include, but are not limited to, the following:

Child care in residence (accessory use) or *family home* means a child care facility that regularly provides care in the caretaker's own residence for not more than six children under 14 years of age, excluding the caretaker's own children, and which provides care after school hours for not more than six additional elementary school siblings of the other children given care, but the total number of children, including the caretaker's own, does not exceed 12 at any given time. The term "child care in residence (accessory use)" shall not include overnight lodging, medical treatment, counseling or rehabilitative service establishments and does not apply to any school. Licensure/registration for such facilities shall follow the requirements set forth by the state.

Children's day care center (registered) means a facility or place designed for the care of less than six unrelated children for some period of time less than 24 hours. If such facility provides overnight care, the license must prove authorization for the same.

Dead-end street means a street, other than a cul-de-sac, with only one outlet for ingress or egress.

Density means the total number of residential units allowed upon a given tract of land, usually expressed in total number of units per gross acres of net acre.

Department store means a building or use which sells primarily general retail items. No consumption of food or beverage items occurs on site but food and beverage sales for off-site consumption are permitted.

Detached private garage means a detached accessory building or portion of the main building for the primary use as parking or temporary storage of automobiles of the occupants of the premises; if occupied by vehicles of others, it is a storage space.

Developer means a person, partnership, corporation or other legal entity owning or representing a business which is proposing or applying to construct a project or create a subdivision.

Distribution center or *warehouse* means a building or facility used for the storage and distribution of whole items/products.

District, zoning. See *Zoning district.*

Drapery manufacturing and sales means an establishment used for the production, display and sale of draperies and interior window coverings.

Drug and pharmaceutical manufacturing. See *Manufacturing process, general.*

Drugstore or *pharmacy* means a retail store whose primary purpose is to stock and sell all drug, prescription and health-related products.

Dry boat storage means the storage of boats, usually through stacking, in land-based buildings or hardstands.

Dry cleaning plant or *commercial laundry.* Dry cleaning plants primarily clean, repair, and press clothes, linens, and other fabric items that cannot be cleaned in water. Dry cleaning involves the use of a variety of chemicals to clean fabrics and must satisfy all applicable federal and state regulations associated with the use, including, but not limited to, environmental regulations.

Dry cleaning, small shop, means a custom cleaning shop or pickup station not exceeding 5,000 square feet of floor area, including, but not limited to, dry cleaning plants having no more than 5,000 square feet of floor area. The shop must satisfy all applicable federal and state regulations associated with the use, including, but not limited to, environmental regulations.

Dwelling means any building, or portion thereof, which is designed or used as living quarters for one or more families, but not including mobile homes.

Dwelling, multiple-family, means attached dwelling units designed to be occupied by three or more families living independently of one another, yet in the same structure with shared, main lobby, entrance and sidewalks. The term "multiple-family dwelling" does not include hotels or motels.

Dwelling, single-family, means a detached dwelling designed to be occupied by not more than one family.

Dwelling, single-family attached (townhouse), means a dwelling that is part of a structure containing three or more units, each designed for occupancy by one family, and which is located on a separate lot delineated by front, side and rear lot lines.

Dwelling, two-family (duplex), means a detached dwelling designed to be occupied by two families living independently of each other.

Easement means a grant of one or more of the property rights by the property owner to or for the use by the public, a corporation or another person or entity.

Easement, transportation or right-of-way, means an easement established on a lot for the purpose of prohibiting or permitting ingress or egress to vehicular traffic.

Easement, utility, means an easement granted for installing and maintaining utilities across, over, or under land, together with the right to enter the land with machinery and other vehicles necessary to maintain the utilities. See also *Public easement.*

Economic development incentive policy means a policy adopted by the city council for the attraction of long-term investment and establishment of new jobs in the city and for the enhancement of the economic base of area taxing entities.

Elderly housing, assisted living, means residential facilities for senior citizens. Services in these establishments include assistance with daily activities, such as dressing, grooming, bathing, etc., and may involve a special combination of housing supportive services, personalized assistance, and health care designed to respond to the individual needs of those who need help with activities of daily living, and includes a continuing care facility and an adult day care.

Elderly housing, retirement, means a residential complex containing single-family or multifamily dwellings designed for and principally occupied by senior citizens. Facilities may include a congregate meals program in a common dining area, but exclude institutional care, such as medical or nursing care, and are distinguished from life care retirement centers. These offer minimal convenience services but focus on attracting elderly residents so as to provide a social support system among the residents. The term "elderly housing, retirement" includes any age-restricted development which may be in any housing form, including detached and attached dwelling units, apartments, and residences, offering private and semiprivate rooms. The term "elderly housing, retirement" includes retirement homes and independent living facilities for senior citizens.

Electric products manufacturing. See *Manufacturing process, general.*

Electric transmission line (high voltage) means electrical conductors that carry electricity at voltages above 1,000 volts (one kV) for alternating current (AC) and above 1,500 volts for direct current (DC). They are used to transport electricity over long distances efficiently, minimizing energy losses during transmission.

Electrical substation means a subsidiary station in which electrical current is transformed.

Electronic and home appliance store means a retail business with household electronics (e.g., televisions, stereos, computers, etc.) and appliances (e.g., refrigerators, ovens, ranges, etc.) for sale to the public.

Electronic manufacturing. See *Manufacturing, general.*

Engineer, city, means any provider of engineering services to the city, designated by resolution or ordinance of the city council, who is duly authorized under the provisions of V.T.C.A., Occupations Code § 1001.401 et seq. to practice the profession of engineering, who and is a registered professional engineer.

Equipment rental means a location where a variety of equipment (e.g., tractors, ditching machine, scaffolding, tillers) is stored for leasing or rental purposes.

Excavation, sand/gravel, means a tract of land used primarily for the extraction of soil, sand, gravel, clay and other similar materials, other than oil and gas, which are processed and sold or used for commercial purposes, but do not include the excavation or grading necessary for the development of a lot or tract.

Extraterritorial jurisdiction (ETJ) means the unincorporated area that is contiguous to the corporate boundaries of the city within the specified distance from the corporate boundaries as specified in V.T.C.A., Local Government Code ch. 42.

Façade means all exterior walls of a building exposed to public view or that may be viewed by persons not within the building.

Family means one or more persons related by blood, marriage, or adoption, or a group not to exceed four persons not all related by blood or marriage, adoption or guardianship, occupying a dwelling unit and living as a single housekeeping unit. The term "family" does not necessarily apply during times of declared state emergencies.

Farm, ranch, garden, or *orchard* means an area of five acres or more which is used for growing usual farm products, vegetables, fruits, trees, and grain and for the raising thereon of the usual farm poultry and farm animals, such as horses, cattle, and sheep, and including the necessary accessory uses for raising, treating, and storing products raised on the premises, but not including the commercial feeding of offal or garbage to swine or other animals and not including any type of agriculture or husbandry specifically prohibited by this Code or state law.

Federal Emergency Management Agency (FEMA) means the Federal Emergency Management Agency that regulates flood emergencies and natural disasters, along with other local and federal agencies, and which is under the Federal Homeland Security Department.

Feed and grain store means an establishment for the selling of corn, grain and other foodstuffs for animals and livestock, including implements and goods related to agricultural processes, but not including farm machinery.

Feed lot means an area or building where livestock are kept while being fattened for slaughter.

Fence means a structure serving as an enclosure, a barrier, or a boundary and constructed according to city regulations; usually made of metal posts joined together by boards, wire, or rails. A fence is a structure for purposes of substandard structure minimum requirements.

Field construction office means a building or structure, of either permanent or temporary construction, used in connection with a development or construction project for housing temporary supervisory or administrative functions related to development, construction or the sale of real estate properties within active development or construction project.

Final plat means any plat of any lot, tract, or parcel of land requested to be approved by the planning and zoning commission and city council and recorded for record in the deed records of Dallas or Ellis County as required by state law.

Fireplace, appliance style, means a fixture that is designed to burn only gaseous products, natural or propane. Gases shall be vented with Type B double-wall pipe or comply with applicable building codes.

Fireplace, wood-burning, means a fireplace that is intended to burn wood, wood logs, paper log rolls, lignite, or other approved solid fuel products. Products shall be vented through approved triple-wall pipe. A wood-burning fireplace is sometimes referred to as a "brick fireplace."

Flea market means an outdoor, or partially indoor, premises with a properly issued permit by the city where the main use is the sale of new and used household goods, personal effects, tools, artwork, small household appliances, and similar merchandise, objects, or equipment, in small quantities, in broken stalls, lots or parcels, not in bulk, for the use or consumption by the immediate purchaser in a building, open air, or partly enclosed booths or stalls not within a wholly enclosed building. The term "flea market" shall not be deemed to include wholesale sales establishments or rental services establishments, but shall be deemed to include personal service establishments, food service establishments, retail service establishments, and auction establishments. The term "flea market" does not pertain to retail sidewalk sales or garage sales.

Flood insurance rate map (FIRM) means a map indicating property that lies in a floodplain, floodway or property that is otherwise susceptible to flooding due to changes in development patterns.

Floodplain means an area of land subject to inundation by a 100-year frequency flood as determined using standard engineering practices and generally as shown on the FIRM (flood insurance rate map) of the city.

Floodway means where a creek, river, stream or body of water flows and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation more than a designated height.

Floor area means the total gross square feet of floor space within the outside dimensions of a building, including each floor level, but excluding carports, residential garages and breezeways.

Floor area ratio (FAR) means the floor area of a main building on a lot, divided by the lot area.

Florist shop means an establishment for the display and retail sale of flowers, small plants and accessories.

Food or convenience store means a use which occupies less than 25,000 square feet but greater than 2,500 square feet and sells food and beverages primarily for off-site consumption but also sells other products, such as gasoline and retail items. No vehicle repair or other automotive services are provided.

Food products manufacturing. See *Manufacturing process, general.*

Foundry casting, nonferrous, means a factory that produces castings from nonferrous alloys (the alloys contain no iron). Metals are turned into parts by melting the metal into a liquid, pouring the metal into a mold and then removing the mold material or casting.

Frozen food locker means a business primarily for storing food products in a frozen state for customers.

Funeral home or *mortuary* means a place for the storage of human bodies prior to their burial or cremation, or a building used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation.

Fur goods manufacturing but no tanning, dyeing, or slaughtering. See *Manufacturing process, general.*

Furniture manufacturer. See *Manufacturing process, general.*

Furniture, home furnishings, includes retail stores selling goods for furnishing the home, including, but not limited to, furniture, floor coverings, draperies, glass and chinaware, domestic stoves, refrigerators, and other household electrical and gas appliances.

Garage apartment means a dwelling unit for one family erected in conjunction with a garage.

Garage, attached, means a building or indoor space that is a part of the main structure in which to park or keep a motor vehicle.

Garage, detached, means a building or indoor space that is separate and not a part of the main structure in which to park or keep a motor vehicle.

Garage parking (private) means an enclosed (on at least three sides) accessory building, or a part of a main building, used for storage of automobiles and used solely by the occupants and their guests.

Garage (private) means an enclosed (on at least three sides) accessory building, or a part of a main building, used for storage of automobiles and used solely by the occupants and their guests.

Garden shop, garden center, greenhouse, and *nursery* mean a facility which is engaged in the display and selling of flowers, large and ornamental plants, shrubs, trees, seeds, garden and lawn supplies, and other materials used in planting and landscaping, but not including cultivation and propagation activities outside a building. Depending on the zoning district, a limited amount of display may be outside.

Gasoline or petroleum drilling or storage shall have the meaning assigned and be subject to the regulations in the city's drilling regulations as they exist and may be amended.

Gasoline service or filling station means an establishment where automotive fuel, lubricants, and accessories are sold, and which may also provide minor vehicle repairs and maintenance services. It typically includes facilities for washing, lubricating, and servicing vehicles, but excludes body and fender work. Such establishments may also sell food, drinks, and miscellaneous merchandise at retail.

General retail means any use engaged in retail trade, including any use identified as permitted in the retail zoning district.

Glass products manufactured from previously manufactured glass means the production of glass products using previously manufactured glass tubing. This is typical in the production of glass light bulbs.

Go Green incentives means financial and procedural incentives offered by the city for development that meets or exceeds city-adopted criteria that improve the environment and quality of life while boosting the local economy. This program is adopted through this chapter.

Golf course (municipal) means a golf course owned by a municipality. A city may contract out the day-to-day operations of the course to a golf course management company but, as long as it is owned by the city, it is called a municipal golf course.

Golf course (private) means an area of 20 acres or more improved with trees, greens, fairways, and hazards, used for recreational or competitive golfing activities and which may include clubhouses.

Grocery store means a use which occupies at least 25,000 square feet and sells primarily food for primarily off-site consumption. Other items, such as retail products, beverages and gasoline, are sold but are not the primary source of revenue for the main use.

Gross floor area.

(1) The term "gross floor area" means the sum of the gross horizontal areas of all floors of a structure, measured from the exterior faces of exterior walls or from the centerline of walls separating two attached buildings.

(2) The term "gross floor area" includes the following:

a. Basements that provide structural headroom of seven feet or more;

b. Elevator shafts or stairwells at each floor;

c. Floor space used for mechanical equipment;

d. Attics, whether or not a floor has been laid, providing structural headroom of seven feet or more;

e. Floor space in interior balconies or interior mezzanines;

f. Floor space in accessory structures;

g. Floor space in enclosed porches;

h. Any floor space used for residential use, no matter where such floor space is located within the structure;

i. For commercial uses, balconies, galleries, covered or uncovered patios, decks, and commercial leased space;

j. For commercial uses, any outdoor space, whether covered or uncovered, used for seating, performance, or similar activities;

k. Floor space within an enclosed structure;

(3) The term "gross floor area" does not include the following:

a. Accessory water tanks or cooling towers;

b. Exterior balconies on residential uses;

c. Uncovered steps;

d. Basements and attics, whether or not an attic floor has been laid, providing structural headroom of less than seven feet;

e. Floor space used for required accessory off-street parking spaces;

f. Galleries located in residential uses, through arcades and breezeways.

Group home means and refers to all types of residential dwellings, whether statutorily permitted or allowed as a use in this chapter, and shall include, but not be limited to, continuing care facility, assisted living facility, community home, household care facility, rehabilitation treatment facility, and rehabilitation treatment institution. Unless otherwise required by law, the following shall apply to group homes permitted as a specific use and must be included in the ordinance granting the specific use as a condition of use:

(1) A group home may not be located within one-half mile of an existing group home;

(2) No structural or decorative alterations that will change the single-family character of existing residential use or be incompatible with surrounding residences is permitted, other than as may be required by the Americans with Disabilities Act;

(3) The residents of a group home may not keep for the use of the residents of the home, either on the premises of the home or on a public right-of-way adjacent to the home, motor vehicles in numbers that exceed the number of bedrooms in the home;

(4) A group home located in a single-family residential district may not be used so as to change the residential character of the single-family residential use or be maintained or operated so as to constitute a public nuisance as defined by this Code;

(5) A group home must have at all times a valid residential rental license issued pursuant to this Code.

Gymnastics or dance studio means a building or portion of a building used as a place of work for a gymnast or dancer or for instructional classes in gymnastics or dance.

Hauling or storage company. See *Motor freight company.*

Heavy load vehicle means a self-propelled vehicle having a manufacturer's recommended gross vehicle weight (GVW) of greater than 11,000 pounds, such as large recreational vehicles, tractor-trailers, buses, vans, and other similar vehicles. The term "truck" shall mean "heavy load vehicle" unless specifically stated otherwise.

Heavy machinery sales and storage means a building or open area, other than a right-of-way or public parking area, used for the display, sale, rental, or storage of heavy machinery, either machines in general or a group of machines which function together as a unit.

Height means a measurement taken from the base of the object on the ground to its apex or highest point. If the object being measured is attached to a building, the base of the building to the top of the object is the height.

Heliport means an area of land or a structural surface which is used, or intended for use, for the landing and taking off of helicopters, and any appurtenant areas which are used, or intended for use for heliport buildings and other heliport facilities.

Helistop means the same as a heliport, except that no refueling, maintenance, repairs or storage of helicopters is permitted.

Home improvement center means a facility for the retail sale of home, lawn and garden supplies, brick, lumber and other similar building materials.

Home occupation means any occupation or activity carried on solely by the inhabitants of a residential dwelling which is clearly incidental and secondary to the use of the dwelling for residential dwelling purposes, which does not change the character thereof, and which is conducted entirely within the main or accessory buildings, provided that no trading in merchandise is carried on and in connection with which there is no display of merchandise or advertising sign other than one nonilluminated nameplate not more than two square feet

in area attached to the main or accessory building, and no mechanical equipment is used, except such as is customary for purely domestic or household purposes, and does not create obnoxious noise or other conditions, such as odor, increased traffic, smoke or electrical interference. A beauty or barber shop, tearoom or restaurant, rest home or clinic, doctor's office or dentist's office, adult day care, tourist home, or cabinet, metal or auto repair shop, farm, ranch or similar agricultural use shall not be deemed a home occupation and must follow the restrictions and designations for any such use. An occupation, profession, domestic craft or economic enterprise which is customarily conducted in a residential dwelling, as hereinafter defined, subject to compliance with each of the following conditions:

(1) The term "residential dwelling" shall mean a detached building or structure designed, used and occupied exclusively by members of one family as a residence;

(2) No person other than members of a family who reside in the residential dwelling shall be engaged in such occupation, profession, domestic craft or economic enterprise; provided, however, the resident may engage the services of one employee;

(3) The use shall be and remain incidental and subordinate to the principal use of the residential dwelling as a family residence, and the area utilized for such occupation, profession, domestic craft or economic enterprise shall not exceed 20 percent of the total of the floor area of the residential dwelling;

(4) The residential dwelling shall maintain its residential character and shall not be altered or remodeled in order to create any type of exterior commercial appeal;

(5) No exterior storage of material, equipment or supplies used in conjunction with such occupation, profession, domestic craft or economic enterprise shall be placed, permitted or allowed on the premises occupied by the residential dwelling;

(6) No offensive noise, vibration, smoke, dust, odors, heat or glare generated by or associated with the home occupation shall extend beyond the property line of the lot or tract on which the home occupation is being conducted;

(7) The occupation, profession, domestic craft or economic enterprise shall be conducted wholly within the residential dwelling and no accessory building shall be used in conjunction therewith;

(8) Inventory for the home occupation may be stored on the premises, provided it does not exceed 20 percent of total floor area;

(9) The only equipment to be used in such occupation, profession, domestic craft or economic enterprise shall be that which is ordinarily used in a private home in a like amount and kind;

(10) A home occupation shall not generate such additional traffic as to create a traffic hazard or disturbance to nearby residents; provided, however, an additional two cars at one time shall not constitute a traffic hazard in and of itself;

(11) A home occupation may include, but not be limited to, the following types of activities:

a. Handcrafted art studios;

b. House cleaning services;

c. Instructional arts studios;

d. Professional offices, such as real estate, law office, insurance agent, tax consultant, with the exception of banking and other financial services, employment agencies, or medical or dental offices;

e. Office services who render their services off site;

f. Photography studios;

g. Private music, tutoring or similar lessons;

h. Sale of homemade goods, crafts and similar products assembled on the premises, excluding food;

i. Telephone sales businesses, online training; and

j. Seamstresses or tailors, alterations;

(12) Day care services as defined herein shall meet all applicable requirements for such activity as stated herein;

(13) Nothing shall be done to the residential dwelling to make the dwelling appear in any way as anything but a dwelling.

Hospital. See *Medical facility.*

Hospital, acute care, means an institution where sick or injured patients are given medical or surgical treatment intended to restore them to health and an active life, and which is licensed by the state.

Hospital, chronic care, means an institution where those persons suffering from illness, injury, deformity or deficiencies pertaining to age are given care and treatment on a prolonged or permanent basis and which is licensed by the state.

Hospital, rehabilitation, means an institution that provides long-term acute care, inpatient and outpatient rehabilitative services for those who have experienced a stroke, brain injury, neurological disorder or other debilitating conditions on a for-profit or not-for-profit basis, and may include physical, occupational or speech therapy.

Hotel or *motel* means a facility offering a minimum of 75 rooms for temporary lodging accommodations or guest rooms on a daily rate to the general public and providing additional services, such as restaurants, meeting rooms, housekeeping service and recreational facilities. The term "guest room" shall be defined as a room designed for the overnight lodging of hotel guests for an established rate or fee.

Hotel or motel residence means the same as hotel or motel, except such rooms are usually rented for longer periods of time (e.g., weekly or monthly). The facilities often include meeting rooms, clubhouses and recreational facilities intended for the use of the residents and their guests.

Household appliance service and repair means the maintenance and rehabilitation of appliances customarily used in the home, including, but not limited to, washing and drying machines, refrigerators, dishwashers, trash compactors, ovens and ranges, countertop kitchen appliances, vacuum cleaners and hair dryers. The term "household appliance service and repair" typically refers to businesses that fix and maintain household appliances, such as refrigerators, washing machines, ranges, dishwashers and similar devices.

Housing prefabrication or *industrialized housing.*

(1) The term "housing prefabrication" or "industrialized housing" means a residential structure that is:

a. Designed for the occupancy of one or more families;

b. Constructed in one or more modules or constructed using one or more modular components built at a location other than the permanent site; and

c. Designed to be used as a permanent residential structure when the module or the modular component is transported to the permanent site and erected or installed on a permanent foundation system.

(2) The term "industrialized housing" includes the structure's plumbing, heating, air conditioning, and electrical systems.

(3) The term "industrialized housing" does not include:

a. A residential structure that exceeds three stories or 49 feet in height as measured from the finished grade elevation at the building entrance to the peak of the roof;

b. Housing constructed of a sectional or panelized system that does not use a modular component; or

c. A ready-built home constructed in a manner in which the entire living area is contained in a single unit or section at a temporary location for the purpose of selling and moving the home to another location.

(4) For purposes of permitted residential uses, industrialized housing shall be permitted and treated as a single-family or duplex dwelling constructed on site, provided that such industrialized housing:

a. Has a value equal to or greater than the median taxable value for each single-family dwelling located within 500 feet of the lot on which the industrialized housing is proposed to be located, as determined by the most recent certified tax appraisal roll for each county in which the properties are located;

b. Has exterior siding, roofing, roof pitch, foundation fascia, and fenestration compatible with the single-family dwellings located within 500 feet of the lot on which the industrialized housing is proposed to be located;

c. Complies with municipal aesthetic standards, building setbacks, side and rear yard offsets, subdivision control, architectural landscaping, square footage, and other site requirements applicable to single-family dwellings;

d. Is securely fixed to a permanent foundation; and

e. Has all local permits and licenses applicable to other single-family or duplex dwellings.

HUD-code manufactured home sales means the use of any building or other premises for the display and retail sale of new or used HUD-code manufactured homes.

HUD-code manufactured home subdivision means any lot, tract, or parcel of land divided into two or more lots or sites for the purpose of establishing a HUD-code manufactured housing development.

HUD-code manufactured housing. See *Manufactured home.*

Impervious means surfaces that allow little water to soak into the ground or that is constructed so as to allow water runoff (e.g., buildings, cement driveways or streets).

Industrial, general, means establishments engaged in the manufacturing or transformation of materials into new products. These establishments are usually described as plants and factories and characteristically use power-driven machines and materials-handling equipment. Manufacturing production is usually carried on for the wholesale market, rather than for direct sale to the domestic customers.

Industrial park means a large tract of land that has been planned, developed and operated as an integrated facility for a number of individual industrial uses, with special attention to circulation, parking, utility needs, aesthetics, and compatibility.

Infrastructure means the large-scale public systems, services, and facilities of a city or region that are necessary for development and economic activity, including power and water supplies, public transportation, telecommunications, roads, and schools.

Instrument and meter manufacturing. See *Manufacturing process, general.*

Integrated stormwater management (ISWM) means a way of managing stormwater to mitigate the negative impacts of development by integrating the management of the quality of stormwater with quantity management, as well as integrating stormwater considerations into the earliest stages of the development and site planning process.

Jail, prison, or *holding facility* means a place for the short-term confinement of persons in lawful detention, either persons accused of or awaiting trial under local jurisdiction or persons convicted of crimes. The facilities shall be owned and operated by governmental entities with proper jurisdiction and meet all applicable federal and state regulations governing the use.

Jewelry and watch manufacturing. See *Manufacturing process, general.*

Kennel means an establishment with pens in which more than four dogs or domesticated animals are housed, groomed, bred, boarded, trained or sold for commercial purposes. The pens may be indoor or outdoor dependent upon the zoning district in which they are located. The use must meet all applicable state and local regulations for the humane care and treatment of animals and may not constitute or create a nuisance.

Key shop or *locksmith* means a business whose primary purpose is to make or repair locks and/or make keys.

Kindergarten or *nursery school (private)* means a child care facility offering a program of four hours or less per day for children who have passed their second birthday but who are under seven years of age.

Kiosk means a small, freestanding, one-story structure having a maximum floor area of 350 square feet and used for commercial purposes or the posting of temporary information or posters, notices and announcements. If a kiosk is to be occupied, it shall have a minimum floor area of 25 square feet.

Laboratory, medical, means an area where medical testing and analysis are performed under sterile conditions to assist in diagnosis and treatment of illnesses.

Laboratory, scientific or research, means an establishment that engages in research, testing or evaluation of materials or products, but not necessarily medical-related.

Landscaping means material, such as, but not limited to, grass, ground covers, shrubs, vines, or trees, and non-living durable material commonly used in the aesthetic and appealing presentation of living garden materials, such as, but not limited to, rocks, pebbles, sand, walls or fences, but excluding paving.

Laundromat or *self-serve washateria* means a facility where patrons wash, dry or dry clean clothing and other fabrics in machines operated by the patron.

Lawn/yard means an open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward. In measuring a lawn/yard for the purpose of determining the width of the side yard, the depth of a front yard or the depth of a rear yard, the shortest horizontal distance between the lot lines and the main building shall be used.

Lawn/yard, front, means a lawn/yard located in front of the elevation of a building and extending across a lot between the side yard lines and being the minimum horizontal distance between the front property line and the outside wall of the main structure.

Lawn/yard, side, means a lawn/yard between the building and sideline of the lot and extending from the front lot line to the rear lot line and being in the minimum horizontal distance between a side lot line and the outside wall of the side of the main structure.

Leather goods fabrication means all establishments engaged in tanning, curing, and finishing hides and skins, leather converters and establishments manufacturing finished leather and artificial leather products and some similar products made of other materials.

Leather goods shop means an establishment whose primary retail product for sale is that of leather goods. Leather goods may also be sold in combination with other merchandise in a department store or other general retail store.

Library (public) means any institution for the loan or display of books, tapes, objects of art or science which is sponsored by a public or responsible quasi-public agency and which institution is open and available to the general public.

Light fabrication and assembly means construction by combining or assembling diverse, typically standardized parts to create or make a finished product, including packaging of such products, and incidental storage, sales and distribution of such products, but excluding basic industrial processing.

Light industrial means manufacturing and fabricating establishments with limited external impact, small in size, with no heavy manufacturing or specialized industrial processes, generally related to the assembly, disassembly, fabricating, finishing, manufacturing, packaging, repairing or processing of materials, such as printing, commercial laundry, photographic processing, building maintenance shops, metal work, millwork and cabinetry work.

Light load vehicle means a self-propelled vehicle having a manufacturer's recommended gross vehicle weight (GVW) not greater than 11,000 pounds and having no more than two axles, such as pickup trucks, vans, recreational vehicles, campers and other similar vehicles, but not including automobiles and motorcycles.

Light manufacturing means manufacturing of finished products or parts, predominantly from previously prepared materials, including fabrication, assembly, and packaging of such products, and incidental storage, sales and distribution of such products, but excluding basic industrial processing.

Light sheet metal products (enclosed building) means the process of sheet metal fabrication, which can include shearing, cutting, duplicating, contouring, forming, rolling, welding, bending, stamping, drawing, machine assembling and finishing. Finished products can range from small components (with a value of $1.00 each) to machines that are 30 feet high (valued at $400,000.00), as well as weld-fabricated subassemblies and assemblies. See *Manufacturing process, general,* or *Light industrial.*

Limousine means any chauffeured motor vehicle for general passenger use with a rated passenger capacity of not more than 15 passengers and which operates on a prearranged appointment basis only whereby such prearrangement is made not less than one hour in advance of the time transportation is to begin. At no time shall such a vehicle operate on a call-and-demand basis as a taxicab.

Loading space means an off-street space or berth used for the delivery and loading or unloading of vehicles.

Lot or *lot of record* means any tract or parcel or a part of a recorded subdivision which is occupied or intended to be occupied by one main building, or a group of main buildings, and accessory building and uses, including such open spaces as are required by this chapter, the remaining chapters of this Code, or state law, and having its principal frontage on a public street or officially approved place. A lot shall be part of a subdivision, the plat of which has been recorded in the office of the county clerk of Dallas County or Ellis County.

Lot area means the total area, measured on a horizontal plane, included within lot lines, and exclusive of any private or public right-of-way or alley. The term "lot area" means that portion of a platted tract that may be developed.

Lot depth means the mean horizontal distance between the front and rear lot lines.

Lot frontage means that dimension, line or side of a lot or portion of a lot abutting on a street, excluding the side dimension, line or side of a corner lot.

Lot, corner, means a lot that has at least two adjacent sides abutting for their full lengths on a street, if the interior angle at the intersection of such two sides is less than 135 degrees.

Lot, double frontage, means a lot having a frontage on two non-intersecting streets, as distinguished from a lot.

Lot, flag or panhandle, means a lot having access to a street by means of a parcel of land having a depth greater than its frontage and having a width less than the minimum required lot width, but not less than 35 feet. Flag or panhandle lots are generally prohibited in new subdivisions, where lots shall front directly off a public or private street. Any nonconforming lot shall go before the zoning board of adjustment prior to any plat approval.

Lot, interior, means a lot other than a corner lot.

Lot, key, means a corner lot that is so designed that the lots located directly behind it face the side street of the corner lot and are not separated by an alley shall be considered a key lot.

Lot, platted or legal, means a parcel of land which, in order to obtain a building permit or utility service, in accordance with city requirements, has been mapped, charted, surveyed, planned or replatted, and which record contains a description of the subdivided land with ties to permanent landmarks or monuments and has been filed of record with the county clerk of Dallas County or Ellis County.

Lot, through, means a lot, other than a corner lot, having frontage on two parallel or approximately parallel streets.

Lot line, front, means the narrower side of the lot abutting a street. Where two lot lines abutting streets are of equal length, the owner shall have a choice in designating which shall be the lot frontage. For a lot which has a boundary line which does not abut the front street

line, is not a rear lot line and lies along the same general directional orientation as the front and rear lot lines, the line shall be considered a front lot line in establishing minimum setback lines.

Lot line, rear, means the lot line farthest from and most parallel to the front lot line. For triangular lots, the point opposite the front lot line shall be considered the rear lot line and have a value of zero.

Lot line, side, means any lot line not the front or rear lot line.

Lot lines means the lines bounding a lot as defined herein.

Lot width means the horizontal distance measured between side lot lines parallel to the front lot line and measured from the point on the building line which is closest to the front lot line.

Main building means the buildings on a lot which are occupied by the main or primary use.

Manufactured home or *HUD-code manufactured home* means a structure, constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems. All references in this chapter to manufactured housing or manufactured homes shall be references to HUD-code manufactured housing, unless otherwise specified. The term "manufactured home" does not include a recreational vehicle as that term is defined by 24 CFR 3282.8(g). Any structure with less than the length or width specified in this definition, or pre-dating June 15, 1976, generally known as a mobile home, shall not be allowed in a HUD-code manufactured home park or within the corporate city limits as provided herein and allowed by law. HUD-code manufactured homes shall be governed by separate provisions of this Code. Also referred to as "HUD-code home."

Manufactured housing unit. See *Manufactured home* or *HUD-code manufactured home.*

Manufacturing process, general, means an establishment engaged in basic processing and manufacturing of materials or products predominantly from extracted or raw materials, excluding those generally classified as hazardous or objectionable, such as chemical warehousing and manufacturing, fat rendering plants, meat packing plants, petroleum refineries, slaughterhouses and tanneries. Uses restricted from other zoning districts but permitted in the I and C districts, as specifically indicated by the use chart under section 74-352 are manufacturing and industrial uses which do not emit dust, smoke, odor, gas, fumes, or present a possible hazard beyond the bounding property lines of the lot or tract upon which the uses are located, and which do not generate noise or vibration at the

boundary of the lot or tract which is generally perceptible in frequency or pressure above the ambivalent level of noise or vibration in the adjacent area. The uses include toys, jewelry, watches, electronics, plastics and candy.

Manufacturing, general. See *Light industrial.*

Masonry includes:

(1) Approved: hard fired (kiln fired) clay brick, natural stone, granite, marble, hammered or split-face finished concrete, load-bearing units, pre-cast concrete panels or tilt walls (painted, fluted or exposed aggregate), hard fired clay tile, cement-based stucco;

(2) Alternate material: glass walls or glass blocks, cementitious fiber board, acrylic matrix (three-component finish system consisting of 100 percent acrylic matrix ceramically colored aggregate and sealer or 100 percent synthetic plaster having two types of application, spraying or troweling).

Masonry construction means that form of construction comprised of brick, stone, granite, marble, concrete, hollow clay tile, concrete block or tile, brick, veneer, exterior plasters (including stucco), or other similar building units or materials or combination of these materials laid up unit by unit and set in mortar.

Massage establishment means any place of business in which massage therapy is practiced by a massage therapist, as defined by state law. The term "massage therapy," as a health care service, means the manipulation of soft tissue for therapeutic purposes. The term "massage therapy" includes, but is not limited to, effleurage (stroking), petrissage (kneading), tapotement (percussion), compression, vibration, friction, nerve strokes, and Swedish gymnastics, either by hand or with mechanical or electrical apparatus for the purpose of body massage. Massage therapy may include the use of oil, salt glows, heat lamps, hot and cold packs, and tub, shower or cabinet baths. Equivalent terms for massage therapy are massage or therapeutic massage. The term "massage therapy" does not include diagnosis, the treatment of illness or disease, or any service or procedure for which a license to practice medicine, chiropractic, physical therapy, or podiatry is required by law.

Master plan means graphic and textual form policies which govern the future development of the city and which consist of various components governing specific geographic areas and functions and services of the city. These are generally presented by the city's land use, thoroughfare and park plans.

Medical facility includes the following:

Animal clinic means an establishment in which animals are admitted for examination and medical treatment. The establishment may or may not have outside kennels for housing such animals depending upon the district in which it is located. The term "animal clinic" does not include pet shops.

Dental clinic or *medical clinic* means a facility or group of offices for one or more physicians for the examination and treatment of ill and afflicted human outpatients, provided that patients are not kept overnight except under emergency circumstances.

Health center means a facility primarily utilized by a health unit for providing public health services, including related facilities, such as laboratories, clinics and administrative offices operated in connection therewith.

Hospital means an institution that provides medical, surgical or psychiatric care and treatment for the sick or injured, including related facilities, such as laboratories, outpatient departments, training facilities, central services facilities, and staff offices which are an integral part of the facilities.

Sanitarium means an institution providing health facilities for inpatient medical treatment or treatment and recuperation making use of natural therapeutic agents.

Medical supplies store means an establishment that provides access to various medical supplies, in particular for the purchase and use by individuals and not hospitals. The supplies would include wheelchairs, walkers, bandages, etc.

Miniature golf, driving range, and *putting course.*

(1) The term "miniature golf" means a novelty golf game played with a putter on a miniature course usually having tunnels, bridges, sharp corners, and obstacles.

(2) The terms "driving range" and "putting course" mean golf practice facilities that are included at most golf courses; however, driving ranges can also commonly operate as a standalone business away from golf courses. Typically, a driving range will consist of a large, open field with teeing ground at one end. Golfers line up side-by-side pounding golf balls out into the field. The landing area may be, literally, an empty field; or it may include target greens and yardage markers. Most ranges sell buckets of balls of varying sizes and prices. Many driving ranges also have practice putting greens and may have areas for chipping, pitching and bunker practice.

Mini-warehouse means small individual storage units for rent or lease, restricted solely to the storage of items. The conduct of sales, business or any other activity within the individual storage units, other than storage, shall be prohibited.

Mobile home means a dwelling constructed before June 15, 1976, designed to be transported on its own chassis on the highway in one or more sections by a prime mover and which is constructed with a base section so as to be independently self-supporting and not requiring a permanent foundation for year-round living and which includes the plumbing, heating, air conditioning and electrical systems. Mobile homes are prohibited in any zoning district in the city. When the term "mobile home" is used in this chapter as a header or descriptor but not referring to the prohibited dwelling, it shall refer to a HUD-code home.

Mobile home display and sale means the offering for sale, storage, or display of trailers or HUD-code homes on a parcel of land but excluding the use of such facilities as dwellings either on a temporary or permanent basis.

Mobile home park, trailer park or *RV park* means a parcel of land which is designed, improved or intended to be used for short- or long-term occupancy by HUD-code homes, trailers or RVs in designated spaces. The facility may include a residence for the owner or manager, utility hookups, accessory structures, playgrounds and open space areas, small, fenced areas and similar amenities. Manufactured home parks are governed by separate provisions set out in chapter 18, article II.

Mobile home space means a plot of ground within a HUD-code home park, trailer, park, RV park or HUD-code home subdivision which is designated for the accommodation of one HUD-code home, trailer or RV unit.

Mobile home subdivision means a parcel of land which is designed, platted, improved and intended for the long-term placement of individually owned HUD-code manufactured homes on platted lots which can be purchased outright by the owners of the HUD-code homes. Facilities may include a residence for the owner/manager of the premises, utility hookups, accessory structures, playgrounds and open space areas, fenced yard areas for pets and other similar amenities.

Model home means a dwelling in a developing subdivision, located on a legal lot of record, that is limited to temporary use as a sales office for the subdivision and to provide an example of the dwellings which have been built or which are proposed to be built within the same subdivision.

Modular home or *industrialized housing* means a structure or building module as defined by statute and under the jurisdiction and control of the state department of labor and standards, installed and used as a residence by a consumer, transportable in one or more sections on a temporary chassis or other conveyance device, and designed to be used on a permanent foundation system. The term "modular home" includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. The term "modular home" does not include a mobile home or HUD-code manufactured housing as defined by statute; nor does it include building modules incorporating concrete or masonry as the primary structural component. The defining characteristic is that a modular home is assembled at the site as a permanent structure that is not designed to be moved once it is in place.

Monopole means a style of freestanding antenna-supporting structure that is composed of a single shaft usually composed of two or more hollow sections that are in turn attached to a foundation. This type of antenna-supporting structure is designed to support itself without the use of guy wires or other stabilization devices. These structures are mounted to a foundation that rests on or in the ground or on a building's roof.

Mortuary or *funeral parlor.* See *Funeral home* or *mortuary.*

Motor freight company means an establishment or enterprise that uses trucks (as contrasted with railroad trains) to ship freight.

Motor raceway or *racetrack* means a track for racing automobiles or motorcycles.

Motor vehicle. See *Automobile (auto).*

Motorcycle means a usually two-wheeled self-propelled vehicle having one or two saddles or seats, and which may have a sidecar attached. For purposes of this chapter, motorbikes, motor scooters, mopeds, and similar vehicles are classified as motorcycles.

Motorcycle sales and service means the display, sale and servicing, including repair work, of motorcycles.

Multiple-family building. See *Dwelling, multiple-family.*

Multiple-family residence. See *Dwelling, multiple-family.*

Multi-use entertainment complex means any building or group of buildings and facilities for indoor sports activities, instructional services, competitions, tournaments and league activities, expositions, trade and antique shows, concessions for food service, retail sales, and youth and senior programs.

Municipal building means any public service building of the municipal government, including city hall, police and fire, but excluding storage yards, utility shops and equipment centers.

Municipal facility or use means any area, land, building, structure or facility which is owned, used, leased or operated by the city.

Municipal services director means an official of the city responsible for the city's engineering department, water delivery, wastewater collection, road maintenance, parks and solid waste collection. In the absence of a public works director, the city manager or appointed representative shall have responsibility over the engineering department.

Municipal utilities means utility services provided to the citizens of the city by the municipality or provided under contract with the municipality as designated by this Code. Specifically, those municipal utilities include, but may not be limited to, water distribution, wastewater and solid waste collection.

Museum or *art gallery (private)* means an institution for the collection, display, sale and distribution of objects of art or science which is operated by a private individual or entity and provides admittance to the facility with or without fee.

Music or art studio means an establishment where music or art is taught, including dance and photography.

Musical instruments, toys, novelties, rubber and metal stamps manufacturing. See *Manufacturing process, general.*

Neighborhood service uses, not greater than 5,000 square feet means an establishment whose purpose is to provide neighborhood services but the size of which is less than 5,000 square feet. The establishment may be a dry cleaning dropoff/pickup station, photo-mart, prescription drugstore, etc.

Newspaper printing means an establishment other than a personal service shop for the treatment or processing of print media products as a service on a for-profit basis.

Nightclub means an establishment where there is live entertainment, dancing, karaoke, or televised, recorded or other performing entertainers.

Nonconforming means a building, structure, or use of land lawfully occupied at the time of the effective date of the ordinance from which this chapter is derived or amendments thereto, but which does not conform to the use regulations of the district in which it is situated and shall be governed by the regulations contained in this chapter.

Novelty manufacturing. See *Manufacturing, general.*

Novelty shop or *gift shop* means a shop that sells miscellaneous articles appropriate as gifts.

Nursing home means a licensed by the state for the aged or chronically or incurably ill person under the following limitations:

(1) Five or more such persons not of the immediate family are provided with food and shelter or care for compensation, but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured;

(2) A use providing bed care and inpatient services for persons requiring regular medical attention but excluding a facility providing surgical or emergency medical services and excluding a facility providing care for alcoholism, drug addiction, mental disease, or communicable disease;

(3) A facility established for profit or nonprofit, which provides nursing care and related medical services on a 24-hour per day basis to two or more individuals because of illness, disease, or physical or mental infirmity;

(4) Provides care for those persons not in need of hospital care;

(5) Convalescent care;

(6) Nursing facility or skilled nursing facility.

Obsolete zoning district means zoning districts that have existed in prior zoning ordinances and have been removed from this chapter and shall not be applied to any property in the city from and after the date of the ordinance from which this chapter is derived, consistent with state law.

Occupancy means the use or intended use of the land or buildings by proprietors or tenants.

Off-street parking incidental to main use means off-street parking spaces provided in accordance with the requirements of this chapter, located on the lot or tract occupied by the main use or within 150 feet of such lot or tract, and located within the same zoning district as the main use or in an adjacent parking district.

Office center means a building or complex of buildings used primarily for conducting the affairs of a business, profession, service, industry or government, or like activity, that may include ancillary services for office workers, such as a restaurant, coffee shop, newspaper or candy stand.

Office, professional and general administrative, means a room or group of rooms used for the provision of executive, management, or administrative services. Typical uses include administrative offices, and services, including real estate, accountant, bookkeeping, insurance, property management, investment, personnel, travel, secretarial services, telephone answering, and business offices of public utilities, organizations and associations; but excluding medical facilities.

Office showroom means an establishment with no more than 25 percent of its total floor area devoted to storage and warehousing, but not accessible to the general public. The remaining area may include retail and wholesale sales areas, sales offices and display areas for products sold and distributed from the storage and warehousing areas.

Office warehouse means an establishment with more than 25 percent of the total floor area devoted to storage and warehousing, but not generally accessible to the public.

Officially approved place of access means access, other than a dedicated street, to a property which is approved by the city.

Oilfield equipment storage yard means a facility for the purpose of storing oilfield equipment, such as pumps, pump jack stands, pipes, tanks, valves and fittings. No exploration or pumping is allowed at this site.

Open space means an area that is intended to provide light and air, for environmental, scenic, or recreational purposes, which may include, but is not limited to, lawns, decorative plantings, bikeways, walkways, outdoor recreation areas, wooded areas, greenways, and watercourses. The term "open space" also includes any land, water, or submerged land that is provided for, preserved for, or used for park or recreational purposes, conservation of land or other natural resources, cultural, historic or scenic purposes; assisting in the shaping of the character, direction and timing of community development or wetlands.

Open storage, outside storage or *outdoor storage* means the keeping or storing, outside a building, in an unroofed area of any goods, material, merchandise, or equipment on a lot or tract for more than 24 hours.

Optical goods manufacturing. See *Manufacturing process, general.*

Outside display means outside temporary display of finished goods that are specifically intended for retail sale but not displayed outside overnight.

Outside display/storage for motorcycles sales means the use of any land area for the display and sale of new or used motorcycles, related products and parts for motorcycles.

Outside display/storage for new boat sales and service means the use of any land area for the display and sale of new or used boats, related products, services and parts for boats.

Outside display/storage for trailers for hauling, rental and sales means the use of any land area for the display and sale of new or used trailers for hauling, both for rent and sales, related projects, services and parts for trailers.

Outside display/storage of farm equipment and machinery means the use of any land area for the display and sale of new or used farm equipment, machinery and parts for farm equipment and machinery.

Overlay zoning district means a district that is superimposed over one or more zoning districts or parts of districts and that imposes specified requirements in addition to those applicable in the underlying base zoning district.

Pad site means a platted lot, ranging from approximately 20,000 square feet to 75,000 square feet, in an area that is created from a larger platted lot of a larger shopping center or strip mall. A freestanding building, such as a bank or restaurant, associated with the larger retail center located there and is desirable because of visibility and accessibility.

Paint shop means a commercial establishment where painting services are performed. The term "paint shop" does not include automotive-related painting services, which would be included under *Automobile repair, major*.

Paper products manufacturing means the manufacture of paper products which involves matting the pulp fibers into sheets. Pulp fibers involve the separation of cellulose fibers from other impurities in wood but which have been separated out in another process.

Park or *playground* means any outdoor facility that is not on the premises of a school and that is intended for recreation, is open to the public, and contains three or more separate apparatus intended for the recreation of children, such as slides, swing sets and teeterboards.

Park and ride means a transportation plan, designed to reduce car use in metropolitan areas, in which motorists drive to out-of-town parking lots from which buses or trains run regularly into the city.

Parking garage means any building, or portion thereof, used for the storage of four or more automobiles in which any servicing provided is incidental to the primary storage use, and where repair facilities are not provided and may or may not be for a fee. See *Garage parking (private)*.

Parking lot means an off-street, ground level area, usually surfaced and improved, for the temporary storage of motor vehicles. A parking lot may be designated as off-street parking, truck parking or permitted use.

Parking lot, commercial, means an off-street, ground-level area, with an improved surface, for the temporary storage of motor vehicles for a fee.

Parking, shared, means off-street parking spaces or areas required under the zoning district or by use that are provided cooperatively for two or more uses in a development or for two or more individual uses, subject to the requirements of the applicable granting instrument.

Parking space means a permanently surfaced asphalt or concrete area, enclosed or unenclosed, with minimum space of nine feet by 18 feet per vehicle, and a permanently surfaced driveway connecting the parking space with a street or alley, permitting ingress or egress of an automobile.

Patio home. See *Zero lot line dwelling.*

Pawnshop means an establishment where money is loaned on the security of personal property pledged in the keeping of the owner (pawnbroker). The use must comply with all applicable state and federal regulations governing the use.

Perimeter street means a street located along the boundary of an existing or proposed subdivision.

Personal fitness facility means a business that offers services for instruction, training, or assistance in physical exercise, and may include the sale of access to equipment or facilities for such activities. The term "personal fitness facility" does not include individuals acting solely as personal trainers without a dedicated business location.

Pervious means surfaces that are porous or otherwise allow water to soak or percolate through or into the ground rather than running off (e.g., parks, soccer fields, and grass).

Pet and animal grooming shop means an establishment offering services for the bathing, cutting of hair and nails and general grooming of dogs, cats and similar animals.

Pet shop means a retail establishment offering small animals, fish or birds for sale as pets and where all such creatures are housed within the building.

Petroleum distribution/storage/wholesale facility means a facility for the long-term storage and distribution of petroleum that may also involve wholesale sales, but not retail sales, of petroleum and petroleum-based products. No manufacturing or refining of petroleum or petroleum-based products occurs on the premises, only storage or distribution functions.

Petroleum extraction means a tract of land used primarily for the extraction of oil and gas, which are processed and sold or used for commercial purposes and shall comply with all applicable state, federal and local ordinances and regulations.

Philanthropic institution means an organized initiative to provide humanitarian or charitable assistance through donation of money, goods, time, or effort to support a charitable cause, usually over an extended period of time and in regard to a defined objective.

Planning and zoning commission means a commission, appointed by the city council, authorized to recommend changes in this chapter, subdivision regulations in chapter 72 and other planning functions as delegated by the city council, and as set forth in city Charter, this Code, and state law.

Plant, commercial general. See *Commercial plant, general.*

Plastic products, manufacturing, but no raw materials processing. See *Manufacturing process, general.*

Plat means a plan or map of a subdivision of land creating building lots or tracts and showing all essential dimensions and other information essential to comply with the preliminary or final plat subdivision standards of this chapter and subject to approval by the planning and zoning commission and city council and filed in the plat records of Ellis or Dallas County.

Plot means a single unit or parcel of land or a parcel of land that can be identified and referenced to a recorded plat or map.

Portable building sales (outside display) means an establishment which displays and sells structures capable of being carried and transported to another location but not including mobile homes.

Preliminary plat means any plat of any lot, tract or parcel of land that is not to be recorded of record but is only a proposed division of land for review and study by the city.

Premises means land together with any buildings or structures situated thereon.

Primary structure. See *Main building.*

Primary use means the principal or predominant use of any lot or building.

Principal building. See *Main building.*

Print shop means an establishment which reproduces, in printed form, individual orders from a business, profession, service, industry or government organization.

Private boarding school means a primary school that is privately controlled and supported by endowment and tuition and where pupils are provided living accommodations with meals and lodging.

Private school means a school under the sponsorship of a private agency or corporation which offers a course of instruction for students in one or more grades from kindergarten through grade 12 that is generally equivalent to a public school, but not including business or trade schools, and that has more than 100 students enrolled and attending courses at a single location.

Pro rata agreement means a contract for reimbursement of costs based upon a distribution of use or service.

Produce stand means a seasonal use for which the primary purpose and design is to sell fruit, nuts, vegetables and similar foods. No cooking or on-premises consumption of produce occurs on the site.

Professional service means work performed which is commonly identified as a profession, and which may be licensed by the state.

Professional traffic operations engineer (PTOE) means an engineer licensed by the state with certification from the Transportation Professional Certification Board, Inc. (TPCB), an autonomous certification body affiliated with the ITE.

Propane sales means retail sales of gaseous substances commonly used for household purposes, such as propane or butane; does not include the storage, sale or distribution of other types of combustible substances or alternative fuels, such as containerized natural gas, liquid propane, etc.

Provisional zoning district means those districts identified in this chapter that may only be used in conjunction with other zoning districts in a planned development district. This district does not affect zoning classifications currently in existence.

Public agency building, shop, yard or facility means any building (except a building used primarily for general office purposes) which is owned, leased, primarily used or primarily occupied by the state, the United States, the city, or any subdivision or agency of the state, the United States or the city, or by any public or quasi-public utility.

Public easement means an area for restricted use located on private property upon which any public utility shall have the right to remove and, depending upon the terms of the easement agreement, keep removed all or part of any building, fence, tree, shrub, or other improvements or growths which in any way endanger or interfere with the construction, maintenance, or efficiency of its respective system in any of these easements.

Public garage, no aboveground gasoline storage means a detached accessory building or portion of the main building for the primary use as parking or temporary storage of automobiles, with or without fee, to members of the general public.

Public utility service yard means an area for the servicing and storage of vehicles or other property of a public utility or governmental agency.

Public view means areas that can be seen from any public street or right-of-way, where the observing person has a legal right to be, and is not legally or permissible screened from view as provided by this Code.

Quarry, rock, means an open excavation or pit from which stone is obtained by digging, cutting, or blasting.

Radio broadcasting with tower means a place of business for the transmission, via radio-frequency electromagnetic waves, of audible program material for direct reception by the general public utilizing a tower to facilitate transmission.

Radio broadcasting without tower means a place of business for the transmission, via radio-frequency electromagnetic waves, of audible program material for direct reception by the general public. No tower is allowed at this location.

Railroad, train, or bus passenger station means any premises for the transient housing or parking of motor-driven buses and trains and the loading and unloading of passengers.

Recreation center or *recreation facility* means a place designed, equipped and provided for the conduct of athletic, civic or cultural activities, leisure time activities and other customary and usual recreational activities. The facility may be private or public and, if intended primarily for use by persons who are 17 years of age or younger, may constitute a youth center.

Recreational vehicle (RV) means a vehicle used for recreational purposes, such as a self-propelled (i.e., motorized), mobile living unit, all-terrain vehicle, boat, or other such unit and as specifically defined in state law. Often an RV is used for temporary human occupancy away from the users' permanent place of residence. Under appropriate circumstances and in appropriate areas an RV may also be utilized as a permanent place of residence within districts that allow them to be used as such.

Recreational vehicle (RV) park means an area or commercial campground for users of creational vehicles, travel trailers and similar vehicles to reside, park, rent or lease on a temporary basis.

Recreational vehicle/camper sales and leasing means an establishment that sells, leases, or rents new or used recreational vehicles, travel trailers, campers, boats/watercraft and similar types of vehicles.

Recycling kiosk means a small uninhabited structure (120 square feet maximum) or temporary container (e.g., igloo or dumpster-type container) which provides a self-service location for the depositing of recyclable materials, such as aluminum cans (e.g., can banks), glass bottles, magazines/newspapers, metal or plastic containers, etc. Recyclables are picked up periodically from the site. The term "recycling kiosk" does not include large trailers or manned collection centers.

Rehabilitation care facility, halfway house, means a dwelling unit which provides residence and care to not more than nine persons, regardless of legal relationship, who have demonstrated a tendency towards alcoholism, drug abuse, mental illness or antisocial or criminal conduct, living together with not more than two supervisory personnel as a single housekeeping unit. The term "rehabilitation care facility, halfway house" shall include a public or private hospital, a detoxification facility, a primary care facility, an intensive care facility, a long-term care facility, an outpatient care facility, a community mental health center, a health maintenance organization, a recovery center, a halfway house, an ambulatory care facility, or other facility required to be licensed and approved by the state or a facility licensed or operated by the Texas Department of State Health Services (DSHS). The term "rehabilitation care facility, halfway house" does not include an educational program for intoxicated drivers or the individual office of a private, licensed health care practitioner who personally renders private individual or group services within the scope of the practitioner's license and in the practitioner's office.

Required parking means the number of parking spaces required for a particular use in a zoning district as specified in this chapter.

Required parking, off-street, means the number of parking spaces required for a particular use in a zoning district as specified in article XIV on an improved or approved surface or in an enclosed structure.

Residence means same as the term "dwelling." When the term "residence" is used in relation to a zoning district, it refers to an area of residential regulations.

Residential district means district where the primary purpose is residential use.

Residential street means a street which is intended primarily to serve traffic within a neighborhood or limited residential district and which is used primarily for access to abutting properties.

Resort means a city or other destination (e.g., hotel) known for its leisure attractions, broad range of amenities, and sports facilities, designed to provide a total vacation experience.

Restaurant means a restaurant or cafeteria that prepares food for general on-site consumption. No provision is made to serve food or beverage to patrons inside vehicles; also known as "dine-in."

Restaurant incidental to main use means a place of business whose primary purpose is not that of a restaurant but has a restaurant included within the main building as an added service to the customer, including, but not limited to, a hospital, bookstore, big box classification.

Restaurant or cafeteria with drive-through service means an eating establishment where customers are primarily served at tables or self-served and food is consumed on the premises, which may include a drive-through window. The establishment derives its gross revenue from the sale of food and not alcohol.

Restaurant or cafeteria with no drive-through service means an eating establishment where customers are primarily served at tables or are self-served, where food is consumed on the premises, and which does not have a drive-through window.

Restaurant or eating establishment with drive-in service means an eating establishment where primarily food or drink is served to customers in motor vehicles or where facilities are provided on the premises which encourage the serving and consumption of food in automobiles on or near the restaurant premises. If more than 75 percent of the daily gross sales are attributed to the sale of alcohol, the establishment shall be defined as a "bar."

Retail service, incidental or accessory, means the rendering of retail or services incidental to, but which complements or supplements, the primary use. In the office district, such uses include a barber or beauty shop, smoke shop, candy counter, restaurant, pharmacy or other incidental activity secondary to the primary office occupancy, or a sundries shop that serves tenants or patrons of a hospital. The uses shall have no separate outside entrance and no outside signage and shall occupy less than 15 percent of the main use. Incidental uses may include the sale of point-of-purchase consumables.

Retail stores and shops means an establishment engaged in the selling of goods and merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods. The goods in this category are limited to durable (furniture, appliances) or semi-durable consumer goods (shoes, clothing, household linens) and shall not include consumable goods (food, beverages and gasoline).

Retail stores, general, includes retail stores which sell several lines of merchandise, including, but not limited to, dry goods, apparel and accessories, furniture and home furnishings, small wares, small appliances, hardware and food. The stores included in this group are commonly known as department stores, variety stores, general merchandise stores, general stores, grocery stores, etc.

Right-of-way generally means land areas provided by dedication for public use for streets, utilities, sidewalks, and other uses to serve adjoining properties. Whether the right-of-way is public or private is determined by the accessibility of the land area.

Right-of-way width means the width of the right-of-way depends on the city's requirements for each street classification. This width is measured at the shortest distance between the lines which delineate the rights-of-way of a street.

Room means a building or portion of a building which is arranged, occupied, or intended to be occupied as living or sleeping quarters, but not including toilet or cooking facilities.

Roominghouse. See *Boardinghouse.*

Runoff means rainwater that does not soak into the ground, or percolate, but flows over the land surface into a body of water or into a storm drain which leads to a body of water.

Salvage yard or *junkyard* means any premises where junk, articles or materials, including junked, wrecked or inoperable vehicles, that are ready for destruction or that have been collected or stored for the purpose of obtaining parts for recycling or resale.

Salvage, reclamation of products or wrecking yard, means the reclamation and storage of used products or materials.

Sand, gravel, or stone extraction means the process of extracting sand, gravel or stone from the earth.

Sanitary landfill means a method of solid waste disposal in which refuse is buried between layers of dirt so as to fill in or reclaim low-lying ground.

Satellite dish means a dish antenna used to receive and transmit signals relayed by satellite.

School, business, means a for-profit business that offers instruction and training in a profession, service or art, such as a secretarial or court reporting school, barber/beauty college or commercial art school, but not including commercial trade schools.

School, commercial trade. See *Trade and commercial schools.*

School, private, primary or secondary. See *Private school.*

School, public or parochial, means a school under the sponsorship of a public or religious agency providing elementary or secondary curriculum, but not including private trade or commercial schools.

Scientific and industrial research laboratories means facilities for research, including laboratories, experimental equipment, and operations involving compounding or testing of materials or equipment.

Screened or *screening* means shielded, concealed and effectively hidden from the view of a person standing at ground level on an abutting site, or outside the area or feature so screened, by a fence, wall, hedge, berm or similar architectural or landscape feature as may be required by the city.

Seasonal uses includes the sales of items, such as Christmas trees, pumpkins, snow cones, fresh produce and other items that are typically only available at certain times of the year.

Secondary frontage means the part of a corner or end tenant property that is platted to extend and be adjacent to an arterial or collector street and does not have a legal address.

Setback means the distance from the right-of-way (public or private) to a building whereby one may erect a structure or sign and establishes the minimum required yard and governs the placement of uses and structures on the lot. This required setback varies depending upon the district in which it is located and the height of the object to be erected.

Setback line means the distance from which a building or structure is separated from a designated reference point, such as the property line, as dictated by the specific zoning district regulations and requirements.

Sexually oriented business or use means establishments and businesses showing X-rated movies or live acts, displaying and selling pornographic material, and other uses dealing primarily with indecent or obscene materials, acts or paraphernalia, as further defined and identified in the city's sexually oriented business regulations.

Sheet flow means water flowing over land.

Shoe manufacturing. See *Manufacturing process, general.*

Shopping center means a group of primarily retail, restaurant and service commercial establishments planned, constructed and managed as a total entity with customer and employee parking provided on-site, provision for goods delivery separated from customer access, provision of aesthetically appropriate design and protection from the elements.

Single-family dwelling, detached, means a dwelling designed and constructed as a freestanding structure for occupancy by one family and located on a lot or separate building tract having no physical connection to a building located on any other lot or tract.

Site plan means a document in graphic form that describes how a parcel of land is to be improved. The term "site plan" includes the property boundaries with outlines of all structures and site improvements, such as driveways, parking lots, landscaping, and utility connections. Other features may be required by the city.

Skating rink, roller or ice, means a business located within a building that contains a surface for ice skating or roller skating and may be part of an indoor or outdoor commercial amusement.

Small engine repair shop means a shop for the repair of lawnmowers, chain saws, lawn equipment, and other machines with one-cylinder engines or a business that repairs and services small engines, such as those found in lawn mowers, motorcycles, and similar equipment.

Sporting goods manufacturing. See *Manufacturing process, general.*

Sporting goods, retail, means a retail establishment whose primary commodity for sale is equipment needed to participate in a particular sport (e.g., hunting, fishing).

Stable, commercial, means a stable used for the rental of stall space or for the sale or rental of horses or mules.

Stable, private, means an area used solely for the owner's private purposes for the sale or keeping of horses, mules or ponies, and not kept for remuneration, hire or sale.

Stadium or playfield (private) means a facility, either enclosed or open, used for athletic games or other large public gatherings that is privately owned.

Storage or wholesale warehouse means a building used primarily for the storage of goods and materials. Buildings are larger than 50,000 square feet.

Storage yard (outside storage) means area of the yard that can be enclosed by fence or stay open for the purpose of storing items; this is different than displaying an item for the purpose of sale.

Story means that portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, then the space between the floor and the ceiling next above it. The average height for a story shall be defined as 12 feet.

Story, half, means a space under a sloping roof which has the line of intersection of roof decking and wall face not more than three feet above the top floor level, and in which space not more than two-thirds of the floor area is finished off for use. A half story containing independent apartment or living quarters shall be counted as a full story.

Street means a way for vehicular traffic, whether designated a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land, place, or however otherwise designated.

Street gutter flow line means the street gutter flow line of the curb adjacent to and bordering upon each such restricted area; in the event there is no such curb, the height restriction set forth in this chapter shall be based upon the actual level of the paved or used portion of the public street adjacent to and bordering upon each such restricted area.

Street width means road or street pavement is measured from the edge of pavement to edge of pavement or curb back to curb back. The width of the road depends on the city's requirements for each street classification.

Street, intersection, means any street which joins another street at an angle, whether or not it crosses the other.

Streetscape means amenities, such as benches, refuse containers, lights and pedestrian ways lined with trees and shrubs.

Structural alterations means any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any substantial change in the roof or in the exterior walls.

Structure means anything constructed or erected, the use of which requires location on the ground or which is attached to something having a location on the ground.

Studios for health, reducing, fitness includes, but is not limited to, an establishment which provides facilities and equipment (e.g., gymnasiums, weight rooms, swimming pools/spas, exercise apparatus, instruction/classes, etc.) which are intended to promote health, fitness, weight reduction or similar health-related activities. The facilities may include such accessory uses as food service, sales of sundries and apparel and child care services, provided that such accessory uses are clearly incidental to the primary use and are for the use of studio patrons only (i.e., not the general public). No outside signage may be used to advertise accessory uses, unless otherwise provided by the sign or granting instrument.

Studios for photographer, musician, and artist means a building or portion of a building used as a place of work by a photographer, musician or artist.

Studios for radio and television means a building or portion of a building used as a place for radio or television broadcasting.

Subdivision or *addition* means any lot, tract, or parcel of land divided into two or more lots or sites for the purpose, whether immediate or future, of sale or of building development. The term "subdivision" or "addition" also includes resubdivision or replatting of land, lots, or tracts. Division of land for agricultural purposes, in parcels of five acres or more, shall not be included within this definition, unless any such division of five acres or more includes the planning or development of a new street or access easement to be dedicated to public use.

Surveyor means a licensed state land surveyor or a registered public surveyor as authorized by the state statutes to practice the profession of surveying.

Swimming instruction as a home occupation means the teaching of swimming in a private swimming pool. Within a residential district, this use is subject to the approval and issuance of a specific use permit that may specify operating conditions and standards and which may limit the number of students and operating times consistent with provisions for home occupation.

Swimming pool, commercial, means a swimming pool with accessory facilities which is not part of the municipal or public recreational system and which is not a private swim club, but where the facilities are available for use by the general public for a fee.

Swimming pool, private, means a swimming pool constructed for the exclusive use of the residents of a one-family, two-family or multiple-family dwelling and located, fenced and built in accordance with this and other applicable provisions of this Code. A private swimming pool shall not be operated as a business nor maintained in a manner to be hazardous or obnoxious to adjacent property owners.

Telemarketing center means an establishment that solicits business or the purchase of goods or services by telephone only. No sale of goods or services to the public occurs at or on the premises. No products are stored at or on the premises.

Telephone line and exchange, switching, relay or transmitting station means a line for the transmission of telephone signals and a central office in which telephone lines are connected to permit communication, but not including a business office, storage or repair yards.

Temporary means lasting for only a limited period of time; not permanent.

Temporary building means any nonresidential prefabricated structure that is not originally manufactured or constructed at its use site, requiring on-site installation of utilities or foundation.

Temporary field office, construction yard or office, means a structure or shelter used in connection with a development or building project for housing on the site of temporary administrative and supervisory functions and for sheltering employees and equipment. Temporary permits are issued for a specific time and location as determined by the building official and shall be subject to review and renewal for reasonable cause.

Temporary produce stand means a temporary, normally seasonal, location providing fresh products, such as fruit, nuts, vegetables and similar foods. No cooking or on-premises consumption of produce occurs on the site.

Tennis court, private, means a surface designed and constructed for playing the game of tennis, along with all fencing, nets and related appurtenances, but excluding lighting for nighttime play in residential areas.

Texas SmartScape™ means planting native plants and those adapted to the climate in order to control the micro-climate, reduce soil erosion and alleviate the need for excessive water and fertilization.

Theater (drive-in) means an open lot with its appurtenant facilities devoted primarily to the showing of motion pictures or theatrical productions on a paid admission basis to patrons seated in automobiles.

Theater (indoor) means a building or part of a building devoted to the showing of motion pictures, or for dramatic, musical or live performance.

Through lot means a lot, other than a corner lot, having frontage on two parallel or approximately parallel streets.

Throughway/thoroughfare means the network of roadways and connecting intersections through the city, as well as bordering cities' roadways and state highway frontage and arterials.

Tire dealer, no open storage (inside), means a retail establishment engaged in the sale and/or installation of tires for vehicles, but without open storage.

Tire dealer, with open storage (outside), means a retail establishment engaged in the sale or installation of tires for vehicles, with open storage.

Tire retreading and capping means the process by which tires are treated with a new tread.

Tool and machinery rental shop means a building or a portion of a building used for the display and rental of tools, machinery and instruments.

Tool rental shop means a building or a portion of a building used for the display and rental of tools and instruments.

Tourist home (bed and breakfast inn) means a dwelling occupied as a permanent residence by an owner or renter in which sleeping accommodations in not more than four rooms are provided or offered for transient guests for compensation.

Tract means a single individual parcel or lot.

Trade and commercial schools means for-profit business establishments, offering training or instruction in a trade, art or occupation, such as welding, brick laying, machinery operation/repair and similar trades, but not including public or parochial schools, private primary or secondary schools, or colleges.

Traffic impact analysis (TIA) means a study performed by professional engineers with expertise in traffic engineering principles and practice, and certified as professional traffic operations engineers, which reviews development of a specific property and analyzes how it integrates into existing and proposed thoroughfare network and any existing and ongoing traffic study. The report shall utilize existing data and conclusions from previous studies and identify improvements necessary to mitigate the impact of traffic generated by the development. A traffic impact analysis shall include the following elements:

(1) *General site description.* A detailed description of the roadway network within one mile of the site, a description of the proposed land uses, the anticipated states of construction, and the anticipated completion date of the proposed land development shall be provided. This description may be in the form of a map and shall include the following items:

a. All major intersections;

b. All proposed and existing ingress and egress locations;

c. All existing roadway widths and rights-of-way;

d. All existing traffic signals and traffic control devices; and

e. All existing and proposed public transportation services and facilities within a one-mile radius of the site.

(2) *Proposed capital improvements.* The traffic impact analysis shall identify any changes to the roadway network within one mile of the site that are proposed by any government agency or other developer. This description shall include the items set forth in subsection (1) of this definition, as well as any proposed construction project that would alter the width or alignment of roadways affected by the proposed development.

(3) *Roadway impact analysis.*

a. *Transportation impacts.*

1. *Trip generation.* The average weekday trip generation rates (trip ends), the average weekend trip generation rates, the highest average a.m. and p.m. hourly weekday trip generation rates, and the highest hourly weekend generation rates for the proposed use shall be determined based upon the trip generation rates contained in the most recent edition of the Institute of Transportation Engineers' Trip Generation Manual; or shall be based upon data generated by actual field surveys of area uses compatible to the proposed use and approved by the city manager (or designee) or the city engineer;

2. *Trip distribution.* The distribution of trips to arterial and collector roadways within the study area identified in the general site description in subsection (1) of this definition shall be in conformity with accepted traffic engineering principles, taking into consideration the land use categories of the proposed development; the area from which the proposed development will attract traffic; competing developments (if applicable); the size of the proposed development; development phasing; surrounding existing and anticipated land uses, population and employment; existing and projected daily traffic volumes; and existing traffic conditions.

b. *Adequacy determination.* The roadway network included within the traffic impact analysis shall be considered adequate to serve the proposed development if existing roadways identified as arterials and collectors can accommodate the existing service volume, and the service volume of the proposed development, and the service volume of approved but unbuilt developments holding valid, unexpired building permits at service level "C" or above.

(4) *Intersection analysis.*

a. *Level of service analysis.* For intersections within the roadway traffic impact analysis area described in subsection (1) of this definition, a level of service analysis shall be performed for all arterial/arterial, arterial/collector, and

collector/collector intersections, and for any other pertinent intersections identified by city staff. Also, level of service analyses will be required on all proposed site driveway locations for all nonresidential developments. The level of service analysis shall be based upon the highest hourly average a.m. or p.m. peak weekday volume or highest average hourly peak weekend volume as determined from a two-day survey of weekday volumes and, where necessary, a one-day survey of weekend volumes. The level of service analysis shall take into consideration the lane geometry, traffic volume, percentage of right-hand turns, percentage of left-hand turns, percentage (and typical size) of trucks, intersection width, number of lanes, signal timing and progression, roadway grades, pedestrian and bicycle flows, school routes, number of accidents, and peak hour factor;

b. *Adequacy analysis.* The intersections included within the traffic impact analysis shall be considered adequate to serve the proposed development if existing intersections can accommodate the existing service volume, the service volume of the proposed development, and the service volume of approved but unbuilt developments holding valid, unexpired building permits at level of service "C" or above.

Trailer park or court. See *Mobile home park*.

Trailer rental and sales means the display and offering for rent or sale of trailers designed to be towed by automobiles and light load vehicles.

Trailer, travel or camping, means a portable or mobile living unit which is used for temporary human occupancy away from the users' permanent place of residence, which does not constitute the users' principal place of residence, and which is designed to be towed behind another vehicle.

Transfer storage and baggage terminal means a facility for the storage of baggage and other items in transit.

Transit station or turnaround means passenger terminal or loading facilities for a privately or publicly owned transit system.

Transportation and utility structures means permanent facilities and structures operated by companies engaged in providing transportation and utility services, including, but not limited to, railroad track rights-of-way, sewage pumping stations, telephone exchanges, transit station turnarounds, water reservoirs and water pumping stations.

Truck means a light or heavy load vehicle (see *Light load vehicle* and *Heavy load vehicle*).

Truck and bus leasing or rental means the rental of new or used panel trucks, vans, trailers, recreational vehicles or motor-driven buses in operable condition and where no repair work is done.

Truck and bus repair means an establishment providing major and minor automobile repair services to heavy load vehicles.

Truck parking lot means an area designated for parking heavy load vehicles.

Truck sales (heavy trucks) means the display, sale or rental of new or used heavy load vehicles in operable condition.

Truck terminal/freight terminal means an area and building where cargo is stored and where trucks and freight, including tractors and trailer units, load and unload cargo on a regular basis. The term "truck terminal" or "freight terminal" may include facilities for the temporary storage of loads prior to shipment.

Use means the purpose for which land or buildings are, or may be, occupied in a zoning district.

Utility distribution, transmission lines, means facilities which serve to distribute and transmit electrical power, gas and water, including, but not limited to, electrical transmission lines, gas transmission lines and metering stations.

Utility installation, other than listed, means the installation or construction for any utility other than those specifically listed in this section or this chapter or subdivision regulations in chapter 72. The utilities shall get approval from the city prior to their installation.

Utility, private, other than listed, means a non-public utility requiring special facilities in residential areas or on public property, such as heating, cooling, or communications not customarily provided by the municipality or public utilities.

Vapor shop means a business establishment for which more than 50 percent of the gross floor area is dedicated to storage, mixing display or retail of electronic cigarette devices, nicotine-enriched solutions or liquid products that are manufactured for use with e-cigarettes.

Variance means an adjustment in the application of the specific regulations of the zoning standards to a particular parcel of property which, because of special conditions or circumstances of hardship peculiar to the particular parcel, is necessary to prevent the property from being deprived of rights and privileges enjoyed by other parcels in the same vicinity and zoning district. Only the board of adjustment can grant a variance and the granting of a variance shall be consistent with state law and judicial interpretation.

Vehicle service, for hire, means any motor or other vehicle operated within the city for the purpose of carrying passengers for hire from within the city, except motor buses operating on fixed routes as specified in this chapter, specially Chartered buses and driverless vehicles (rental cars). The term "vehicle service, for hire" includes limousine, as defined in this section. The term "vehicle service, for hire" specifically excludes demand services by public entities relative to providing transportation for senior citizens and disabled persons.

Veterinarian clinic means an establishment, not including outside pens, where animals and pets are admitted for examination and medical treatment.

Warehouse.

Self-storage, mini-warehouse, means a facility used for storage of goods or materials with separate access to individual storage units by persons renting the individual units. The use shall exclude outdoor parking or storage of recreational vehicles, trailers or boats.

Storage or wholesale warehouse, light, means a building used primarily for the storage of goods and materials, containing less than 5,000 square feet of floor space.

Storage or wholesale warehouse, heavy, means a building used primarily for the storage of goods and materials, containing more than 5,000 square feet of floor space.

Warehouse, air conditioned, means a facility used for storage of goods or materials with separate access to individual storage units by persons renting the individual units. The use shall exclude outdoor parking or storage of recreational vehicles, trailers or boats. These are generally multi-story building with air conditioned units.

Warehouse, freight forwarding, means a building used for the storing of freight between transporting to its final destination.

Wastewater treatment plant means a plant where, through physical-chemical and biological processes, organic matter, bacteria, viruses and solids are removed from residential, commercial and industrial wastewaters before they are discharged in rivers, lakes and seas, as defined and regulated by state and federal agencies.

Wholesale distribution center means an establishment for the storage and ultimate distribution of wholesale merchandise, without transformation and the rendering of services incidental to the sale/resale of merchandise, including goods for resale to other wholesalers or retailers, capital or durable non-consumer goods or raw and intermediate materials and supplies used in production. Wholesalers sell merchandise to other businesses, operating from a warehouse or office. These warehouses and offices often have little or no display of available merchandise. Most often, the wholesaler's location is intended to easily accommodate walk-in traffic. Wholesalers normally do not advertise to attract the general public. A wholesaler's customer base is generally reached initially by telephone, in-person marketing at, for instance, trade shows, or by specialized advertising, such as internet search or fax. Follow-up orders are either vendor-initiated or client-initiated, generally based on previous sales from the established client base.

Wind system, small, means a device that produces electricity from wind.

Yard means an open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except where otherwise specifically provided in this chapter that the building or structure may be located in a portion of a yard required for a main building. In measuring a yard for the purpose of determining the width of the side yard, the depth of a front yard or the depth of a rear yard, the shortest horizontal distance between the lot line and the main building shall be used.

Yard, front, means a yard located in front of the front elevation of a building and extending across a lot between the side yard lines and being the minimum horizontal distance between the front property line and the outside wall of the main building.

Yard, rear, means a yard extending across the rear of a lot measured between the lot lines and being the minimum horizontal distance between the rear lot line and the rear of the outside wall of the main building. On both corner lots and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard.

Yard, side, means a yard between the building and side line of the lot and extending from the front lot line to the rear lot line and being the minimum horizontal distance between a side lot line and the outside wall of the side of the main building.

Zero lot line dwelling (patio home) means a lot authorized by a special use permit which is designed in such a manner that the side yard and adjacent use easement make maximum use of available land area to preserve an open, yet private, use of the side yard, and permits construction of a detached single-family dwelling with one side of such dwelling placed on the side property line.

Zoning board of adjustment means a statutorily created board which is appointed by the city council, and which is authorized to make special exceptions or grant variances to this chapter, to hear and decide any appeals that allege error in an order, requirement, decision or determination made by an administrative official in the enforcement of this chapter, and any other powers or duties granted by the city council; also referred to as the "ZBA."

Zoning district means classifications applying to all sections of the city for which the regulations governing the use of land and the use, density, bulk, height and coverage of buildings and other structures are uniform for each class or kind of building therein.

Zoning district map or *zoning map* means the official map upon which the boundaries of the various zoning districts are drawn and which is an integral part of this chapter and which shall comply with the comprehensive plan.
(Code 1996, ch. 14, exh. 14A, art. XIX, § 1; Ord. No. O-03-09, 4-20-2009; Ord. No. O-13-15, § 2, 11-16-2015; Ord. No. O-15-15, §§ 2, 3, 12-1-2015; Ord. No. O-02-25, exh. A, 1-21-2025)

Sec. 74-3. Compliance required.

(a) Subject to article VI of this chapter, no person may use, occupy, or sell any land or buildings or authorize or permit the use, occupancy, or sale of land or buildings under the person's control except in accordance with all the applicable provisions of this chapter. Noncompliance shall be subject to penalties as provided in section 74-543(a). All of the standards and regulations prescribed herein shall be considered as the minimum requirement unless explicitly stated otherwise.

(b) For purposes of this section, the use or occupancy of a building or land relates to anything and everything that is done to, on, or in that building or land.

(c) No uses shall be allowed which are prohibited by state or federal law or which operate in excess of state or federal environmental, pollution or performance standards as determined by:

(1) The U.S. Environmental Protection Agency (EPA);

(2) The Texas Air Control Board (TACB);

(3) The Texas State Department of Health (TSDH);

(4) The Texas Commission on Environmental Quality (TCEQ);

(5) The Federal Aviation Administration (FAA);

(6) The Federal Communications Commission (FCC); or

(7) Other applicable state or federal agencies, as the case may be.

(d) Lots developed under this chapter shall not later be so reduced in area that the setbacks, yards or open spaces shall be smaller than those required by this chapter.

(e) No building shall hereafter be erected or altered to have more narrow or smaller front, side or rear yards, or to exceed the maximum height allowed, or to occupy a greater percentage of the lot area, or to accommodate a greater number of families than required by this chapter.
(Code 1996, ch. 14, exh. 14A, art. I, § 6)

Sec. 74-4. Relationship to the comprehensive plan.

It is the intention of the city council that this chapter implement the planning policies adopted by the city council for the city as reflected in the land use plan and other planning documents. While the council reaffirms its commitment that this chapter and any amendment are in conformity with adopted planning policies, the council expresses its intent that neither this chapter nor any amendment may be challenged on the basis of any alleged nonconformity with any planning document.
(Code 1996, ch. 14, exh. 14A, art. I, § 7)

Sec. 74-5. Fees established.

(a) Reasonable fees sufficient to cover the costs of administration, review, inspection, publication of notice and similar matters shall be charged to the applicant. The fees shall cover costs associated with processing zoning and development requests, including public hearings that are set by the city. The amount of the fees charged shall be as set forth in an ordinance adopted by the city council and filed in the office of the city secretary as listed on the city fee schedule. The fees shall be paid by the applicant and shall not be designed to in any way restrict the applicant's ability to seek and receive a hearing or to generate revenue for the city other than recovery of actual administrative costs incurred by the city in the review and processing of applications.

(b) Fees established in accordance with subsection (a) of this section shall be paid upon submission of a signed application. Immediately upon receipt of a complete application submission, as defined in section 74-135(e), for a zoning change or other development plan approval, the city manager or designee shall issue a fee receipt and shall create a case file as a permanent city record thereof.

(c) The applicant shall be responsible to the city for reimbursement of all consultant expenses incurred in relation to the application and project. The expenses shall be invoiced to applicant by the city and payment is due within 30 days of the issuance of the invoice. Nonpayment of the invoice shall result in no building permit being issued or further action by the city for the applicant being taken.
(Code 1996, ch. 14, exh. 14A, art. I, § 8)

Secs. 74-6—74-28. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. GENERALLY

Sec. 74-29. City manager.

Except as otherwise specifically provided, primary responsibility for administering and enforcing this chapter is that of the city manager or designee. The person to whom these functions are assigned shall be assigned by the city manager and may include the planning official, zoning official, or other designations. Development review committee (DRC) staff or planning staff is sometimes used interchangeably with any of the above designations.
(Code 1996, ch. 14, exh. 14A, art. II, § 3)

Sec. 74-30. City council.

(a) The city council, prior to making any decision on a change of zoning, modification of zoning map or articles of this chapter, shall first consider the recommendation of the commission and the staff on such matter.

(b) In the event the planning and zoning commission has not submitted a recommendation to the city council, but a public hearing has been noticed before the city council, the city council may open the public hearing for the convenience of the citizens and continue the hearing to a date certain for the purpose of having and considering the recommendation of the planning and zoning commission.

(c) In considering proposed changes in the text of this chapter pertaining to zoning criteria, standards, regulations, or in the zoning map, the council acts in its legislative capacity and must proceed in accordance with the requirements of article IV of this chapter.
(Code 1996, ch. 14, exh. 14A, art. II, § 4)

Secs. 74-31—74-48. Reserved.

DIVISION 2. PLANNING AND ZONING COMMISSION

Sec. 74-49. Composition, governance, and responsibilities.

(a) *Membership; officers.* In accordance with V.T.C.A., Local Government Code ch. 211, and article 10 of the city Charter, the planning and zoning commission (commission) shall consist of seven members appointed by the city council. At its discretion, the city council may make nominations for each commission place and seat an interview panel for purposes of evaluating the nominees. The panel shall make recommendations of candidates to the city council. A simple majority vote of the full city council shall confirm the appointment of the commission members. Each commission member shall be a resident citizen, taxpayer and qualified voter of the city. Each member of the commission shall hold a designated place, from Place 1 to Place 7, and each place shall be appointed to a three year term. Places 1, 4 and 7 shall rotate together, Places 2 and 5 shall rotate together and Places 3 and 6 shall rotate together. The city council shall appoint or reappoint commission members each year with terms beginning on July 1. New members shall be sworn in at the first regular commission meeting following their appointment.

(b) *Vacancy.* Any vacancies on the commission and any reappointments upon expired terms shall be filled in the same manner as original appointments as set forth in subsection (a) of this section. Vacancies created by the resignation of a commission member shall be considered by the remainder of the commission and city council after receipt of a written letter from the resigning member addressed to the mayor.

(c) *Removal from office.* Members of the commission may be removed from office at any time by a simple majority vote of the full city council either upon its own motion or upon the formal recommendation of the commission. Failure to attend three consecutive duly-called meetings shall be deemed as neglect and cause for removal from office, unless such absences were due to unusual circumstances beyond the member's control, such as sickness of the member or someone with the member's immediate family.

(d) *Rules and bylaws.*

(1) The members of the commission shall regularly attend duly-called meetings and public hearings of the commission, shall serve without compensation, and shall not hold any other office or position with the city while serving on the commission. The commission shall meet a minimum of once per month at a time established by the city council;

(2) The commission shall elect from its membership a chairperson and vice-chairperson. The election shall occur at the first regular meeting after the May municipal election, and each officer shall hold office for one year or until replaced by a simple majority vote of the full commission. The city manager's designee shall serve as secretary to the commission, and shall post agendas for all meetings, keep minutes of all meetings held by the commission, as required by V.T.C.A., Government Code § 551.001 et seq., as well as the full record of all recommendations made by the commission to the city council;

(3) In the absence of the chairperson and vice-chairperson, the majority of the members present may convene the meeting and select a member to preside over the meeting;

(4) The commission shall have the power to make rules, regulations and bylaws for its own governance, which shall conform to those set forth by the city council, and such rules, regulations and bylaws shall be in writing and be subject to approval by the city council.

(e) *Parliamentary procedure; quorum; voting.*

(1) *Parliamentary procedure.* The commission will follow the parliamentary procedure adopted by the city council, and procedures shall not be in conflict with the laws applicable to the commission on quorums and voting;

(2) *Quorum.* A quorum shall consist of a majority of the membership of the commission. Any recommendation to the city council to be voted upon shall require the affirmative vote of four members;

(3) *Voting.* All commission members, including the presiding chairperson, shall be entitled to one vote each upon any question, a quorum being present;

(4) *Abstaining from voting.* A commission member may only abstain from voting for the following reasons:

a. A legal conflict of interest as confirmed by the city attorney; or

b. A matter before the commission that closely affects a commission member has the appearance of impropriety and confirmation by the city attorney, but does not qualify as a legal conflict of interest.

(f) *Meeting location; public record.*

(1) *Meeting location.* The commission shall meet in the city hall building or in some other specified location as may be designated by the presiding chairperson or the city council and properly noticed. Meetings shall be at such intervals as may be necessary to orderly and properly transact the business of the commission but not less than once each month;

(2) *Public record.* Meetings shall be open to the public and minutes shall be kept and shall be treated as public record.

(g) *Duties and zoning responsibilities.*

(1) The commission shall be an advisory body to the city council and shall make recommendations regarding amendments to the comprehensive master plan, changes of zoning and permanent zoning to be given to newly annexed areas and shall make recommendations regarding the approval of the plats of subdivisions as may be submitted to it by the city council or city staff. The commission shall serve in an advisory capacity on any planning-related items in the city;

(2) Furthermore, the commission shall have all the rights, powers, privileges and authority as granted by state law authorizing and granting cities the power of zoning and subdivision regulation as found in V.T.C.A., Local Government Code chs. 211 and 212 or this chapter;

(3) The commission shall assist, as authorized by state law, to regulate the platting and recording of subdivisions or additions within the city's corporate limits and establishing extraterritorial jurisdiction. The commission, acting through its duly authorized officials, shall have all the rights, powers, privileges and authority authorized and granted by state law pertaining to regulation of subdivisions in the city's limits and extraterritorial jurisdiction.

(h) *Planning and zoning recommendations.* The planning and zoning commission shall receive a report from the city staff, as designated by the city manager, on any project subject to its review for the purpose of preliminary consideration and recommendation to the city council.

(i) *Conflict of interest.* If any member has a conflict of interest regarding any item on the commission's agenda, the member shall leave the room and shall refrain from voting on or discussing only the item for which a conflict exists. Furthermore, matters before the commission that may affect a commissioner but does not qualify as a legal conflict of interest but has the appearance of impropriety may allow for a disqualification of participation by that commissioner. The conflicts shall be determined by the city attorney.

(j) *Procedure on zoning hearing.*

(1) The commission may have a workshop with the applicant and staff prior to all public hearings. This workshop may occur at the same meeting as the public hearing or may be scheduled at a time preceding the public hearing. However, any applicant of a zoning request requiring a public hearing shall have available to them the option of a waiver of the required workshop with the commission;

(2) The public hearing procedure and process for zoning changes and amendments to this chapter shall be in accordance with section 74-135(h).

(k) *Joint meetings with the city council.* When the city council and the commission are required by the state law to conduct public hearings in matters pertaining to planning, zoning or subdividing property, and at other times when it is in the best interest of the city to do so, the city council and the commission are authorized, after published notice as required by law, to hold joint meetings and to conduct joint public hearings except for those involving a PD or SUP request.
(Code 1996, ch. 14, exh. 14A, art. II, § 1)

Secs. 74-50—74-71. Reserved.

DIVISION 3. ZONING BOARD OF ADJUSTMENT

Sec. 74-72. Composition, governance, and authority.

(a) *Creation.* The city has established a zoning board of adjustment (board or ZBA) for the city.

(b) *Purpose.* The board is created for the purpose, in appropriate cases and subject to appropriate conditions and safeguards, to make special exceptions to the terms of this chapter that are consistent with the general purpose and intent of this chapter. The board shall be composed of members who are resident citizens, taxpayers and qualified voters of the city. Current members of the elected city council or appointed members of the commission may not serve on the board.

(c) *Members; alternate members; appointments; terms of office.*

(1) *Members.* The board of adjustment shall consist of five regular members and up to four alternate members. All members shall be nominated and appointed by the mayor and city council, and each person so nominated shall be approved by a simple majority vote of the full city council before becoming a member of the board. The board shall operate in accordance with the provisions of V.T.C.A., Local Government Code ch. 211;

(2) *Alternate members.* Alternate members shall serve in the absence of one or more of the regular board members when requested to do so by the city manager. The alternate member with the longest tenure shall be able to serve first and may be appointed to fill a vacancy in the event of resignation or removal of a regular member of the board of adjustment;

(3) *Appointment of members.* Following the regular city council election of offices in May of each year, the city council shall appoint members to the board of adjustment to fill those offices being vacated on May 31 of that year. Each member of the board shall hold a designated place, from Place 1 to Place 5. Alternate members shall be identified by place numbers one-A (1A) through four-A (4A);

(4) *Terms of office.* Each member and alternate member is appointed to serve for two years terms and may be reappointed to successive terms on the board subject to approval by a simple majority of the full city council. Places 1, 3, and 5 and Places 1A and 3A shall be appointed in odd-numbered years. Places 2 and 4 and Places 2A and 4A shall be appointed in even-numbered years.

(d) *Vacancy.* Vacancies on the board can be either a regular or alternate member. Any vacancy on the board and any reappointment upon expired terms shall be filled in the same manner as the original appointment (see subsection (c)(3) of this section). Vacancies created by the resignation of a commission member shall be considered by the remainder of the commission and city council after receipt of a written letter from the resigning member addressed to the mayor.

(e) *Removal from office.* Members of the board may be removed from office for cause, and after a public hearing, by a simple majority vote of the full city council. Failure to attend three consecutive duly-called meetings shall be deemed as neglect and cause for removal from office, unless such absences were due to unusual circumstances beyond the member's control, such as sickness of the member or someone within the member's immediate family.

(f) *Rules and bylaws.*

(1) The members of the board, and alternate members as needed, shall regularly attend duly-called meetings and public hearings of the board, shall serve without compensation, and shall not hold any other office or position with the city while serving on the board;

(2) The board shall elect a chairperson and a vice-chairperson from among its membership, and each officer shall hold office for one year or until replaced by a simple majority vote of the full board. The city manager's designee shall serve as secretary to the commission, and shall post agendas for all meetings, and keep minutes of all meetings held by the board, as required by the V.T.C.A., Government Code § 551.001 et seq. The minutes maintained by the secretary shall indicate the vote of each board member on each question or the fact that a member is absent or fails to vote. The secretary shall also set up and maintain a separate file for each application for hearing by the board and shall record therein the names and addresses of all persons/entities to whom notices are mailed, including the date of mailing and the person by whom such notices were delivered to the post office. All records and files herein provided for shall be permanent and official records of the city. The secretary shall also immediately notify in writing the city council, the commission and the city manager or designee of each decision rendered by the board in the conduct of its official duties;

(3) The board shall have the power to make rules, regulations and bylaws for its own governance, which shall conform as closely as possible to those set forth by the city council and the board's rules. Regulations and bylaws shall be in writing and be subject to approval by the city council.

(g) *Meetings.* Meetings of the board shall be held at the call of the chairperson and at such other times as the board may determine. All meetings of the board shall be posted by agenda, be open to the public and have minutes be kept of all proceedings, according to the V.T.C.A., Government Code § 551.001 et seq. Four regular members or alternate members of the board constitute a quorum for the conduct of business. All cases to be heard by the board shall always be heard by at least 75 percent of the members or alternates.

(h) *Duties of zoning board of adjustment.*

(1) The board of adjustment shall have the powers and perform those duties as are provided for in V.T.C.A., Local Government Code ch. 211, and those established in this chapter, including, but not limited to, the following:

a. The board shall have the power to hear and decide any special exception which the board is authorized by ordinance or law to grant;

b. The board shall further have the power to authorize upon appeal in specific cases such variance from the zoning provisions of this chapter as will not be contrary to public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done;

c. The board shall further have the power to consider any vested rights appeal or variance pursuant to section 74-137;

d. The board shall have the power to hear an appeal that alleges error in an order, requirement, decision or determination made by an administrative official in the enforcement of this chapter;

e. Additionally, the board may make interpretations on zoning district boundaries shown on the adopted zoning map where uncertainty exists because physical features on the ground differ from those on the zoning map or where the rules of section 74-324 do not apply or are ambiguous;

f. Finally, the board may subpoena witnesses, administer oaths and punish for contempt.

(2) In exercising its authority under subsection (h)(1) of this section, the board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision or determination from which an appeal is taken and make the correct order, requirement, decision or determination, and for that purpose, the board has the same authority as the administrative official.

(3) A vote of at least 75 percent, or four members or alternates, of the full board is necessary to:

a. Reverse an order, requirement, decision or determination of an administrative official;

b. Decide in favor of an applicant on a matter on which the board is required to review under this chapter;

c. Authorize a variance from a provision of this chapter; or

d. Hear and decide special exceptions to a provision of this chapter.

(i) *Limitations on authority of the zoning board of adjustment.*

(1) The board may not grant a variance authorizing a use other than those permitted in the district for which the variance is sought;

(2) The board shall have no power to grant or modify specific use permits (SUP) or planned development (PD) authorized under article XI of this chapter. Any amendments, variances or waivers must be as an amendment to the SUP or PD;

(3) The board shall have no power to grant a zoning amendment. In the event a request for a zoning amendment is pending before the commission or the city council, the

board shall neither hear nor grant any variances with respect to the subject property until final disposition of the zoning amendment by the commission and the city council;

(4) The board shall not grant a variance for any parcel of property or portion thereof upon which a site plan, preliminary plat or final plat, when required, is pending on the agenda of the commission and, where applicable, by the city council. All administrative and procedural remedies available to the applicant shall have been exhausted prior to hearing by the board.

(Code 1996, ch. 14, exh. 14A, art. II, § 2)

Secs. 74-73—74-102. Reserved.

ARTICLE III. COMPREHENSIVE MASTER PLAN AMENDMENT

Sec. 74-103. Purpose, application requirements, and plan modifications.

(a) *Comprehensive master plan.*

(1) The comprehensive master plan is for the purpose of promoting sound development, providing necessary guidance in future development, and to promote the public health, safety and welfare through the adoption of a long-range plan intended to direct the growth and physical development of the city for an extended period of time;

(2) The comprehensive master plan shall not constitute zoning regulations or establish zoning district boundaries. The provisions of this article are intended to comply with the authority granted by V.T.C.A., Local Government Code ch. 213;

(3) The provisions herein do not limit the city's ability to prepare other plans, policies or strategies as required.

(b) *Application for comprehensive master plan change and comprehensive master plan amendment.* No zoning change shall be approved to any zoning district that is inconsistent with the land use designation for the property in the comprehensive master plan. Consistency with the comprehensive master plan land use designations shall be determined based on the district purpose statements, the nature of the district regulations and the description of the land use category in the comprehensive master plan. Comprehensive master plan amendments shall not be required for zoning changes proposing single-family detached residential land uses that are less dense than those allowed pursuant to the existing land use category and single-family detached zoning district; however, notwithstanding the foregoing, a zoning change proposing a single-family detached use in an existing multifamily, duplex or single-family attached zoning district located in a high density land use category shall not be approved without a comprehensive master plan amendment. Any person having a proprietary interest in any property within the corporate limits of the city,

requesting a change or amendment to the comprehensive master plan shall file an application applying for such change or amendment with the city manager or designee. Each application shall be accompanied by the following:

(1) A clear statement or description of the requested change or amendment;

(2) A drawing, at a scale of not less than one inch to 200 feet, indicating the following:

a. Existing land use categories;

b. Proposed land use categories in a format that identifies boundaries between different land use categories;

c. Comprehensive master plan features, whether existing or proposed, from any or all of the following elements: land use plan, urban design plan, parks and open space plan, trail network and thoroughfare plan;

(3) A vicinity map indicating the general location of the subject property;

(4) A filing fee in the amount established in the city fee schedule;

(5) If the city determines that the proposed amendment may have an impact on the water, wastewater or thoroughfare plan components of the comprehensive master plan, due to changes in population density or other factors, the city may require an evaluation of such impacts as it deems necessary.

(c) *Procedure for adoption and amendment.*

(1) A comprehensive master plan amendment must precede any requested zoning amendment to the subject property. The procedure shall be identical to that of a zoning amendment, including notice and public hearing requirements. A comprehensive master plan amendment may precede the zoning amendment on the same agenda, be part of the same notice issued, or be heard together with the zoning amendment, provided that separate action is taken by separate ordinance memorializing the adoption or amendments;

(2) At the hearing for the comprehensive master plan adoption or amendment, the public shall be given the opportunity to provide testimony and written evidence.

(Code 1996, ch. 14, exh. 14A, art. III, § 1)

Secs. 74-104—74-134. Reserved.

ARTICLE IV. AMENDMENTS, APPEALS, AND VARIANCES

Sec. 74-135. Zoning amendments.

(a) *Policy of zoning amendment.* The city declares the enactment of the zoning regulations set forth in this chapter governing the use and development of land, buildings and structures as a measure necessary to the orderly development of the community. Therefore, no change shall be made in these regulations or in the boundaries of the zoning districts except:

(1) To correct any error in the regulations or map by ordinance;

(2) To recognize changed or changing conditions or circumstances in a particular locality;

(3) To recognize changes in technology, the style of living, or manner of conducting business; or

(4) To change the property to uses in accordance with the city's adopted comprehensive master plan.

(b) *Authority to amend this chapter.*

(1) The city council may from time to time, after receiving a final report thereon by the commission and after public hearings required by law, amend, supplement, or change the regulations herein provided or the boundaries of the zoning districts as depicted on the adopted zoning map. Any zoning change or amendment may be ordered for consideration by the city council, be initiated by the commission, or be requested by the owner of real property or the authorized representative of an owner of real property or city staff;

(2) Consideration for a change in any district boundary line or special zoning regulation may be initiated only with written consent of the property owner, or by the commission or city council on its own motion when it finds that public benefit will be derived from consideration of such matter. Proof of ownership shall be provided by the applicant;

(3) Each application for zoning, for an amendment, or for a change to the existing provisions of the zoning requirements, regulations and mapping as set forth in this chapter shall be made in writing to the city on a form provided by the city and shall be filed with the city planner and shall be accompanied by payment of the appropriate fee to be charged by the city for administering the zoning application;

(4) No person who owes delinquent taxes, delinquent paving assessments, impact fees, or any other delinquent debts or obligations to the city, and which are directly attributable to a piece of property requested for zoning, shall be allowed to submit a zoning request until the taxes, assessments, debts, or obligations directly attributable to the property and owned by the owner or previous owner thereof shall have been first fully discharged by payment, or until an arrangement satisfactory to the city has been made for the payment of such debts or obligations. It shall be the applicant's responsibility to provide evidence or proof that all taxes have been paid.

(c) *Application.*

(1) Each application for zoning, rezoning, a specific use permit (SUP), or a text amendment to provisions of this chapter shall be made in writing on an application form available in the city planner's office. The application shall be delivered to the city at least 40 days prior to the date of the public hearing before the commission and shall be accompanied by payment of the appropriate fee as established by the city (section 74-5). An accurate metes and bounds description of the subject property (or other suitable legal description), a survey (i.e., drawing of metes and bounds) exhibit,

and other appropriate exhibits (i.e., site plan, map, architectural elevations, information about proposed uses, etc.) that are determined necessary by the city manager or designee shall also be submitted with the zoning application in order to ensure that the request is understood. A site plan, as prescribed in article VIII of this chapter, shall also be submitted along with any zoning request involving a SUP request or the formation of a PD Planned Development District;

(2) All zoning change requests involving real property (including PD and SUP requests) shall be accompanied by a notarized statement verifying land ownership and, if applicable, authorization of landowner's agent to file the zoning change request.

(d) *Payment of fees, charges and expenses.* Until all applicable fees, charges and expenses, as established in section 74-5 and adopted by ordinance in the city's fee schedule, have been paid in full, no action shall be taken on any zoning or development application or on any appeal.

(e) *Official submission date and completeness of applications.*

(1) For the purposes of these regulations, the official submission date for an original zoning application, change in zoning application, or any other application required for a project under this chapter, shall be the date upon which a complete application (that contains all elements and information required by this chapter) is submitted to the city planner or designee. No application shall be deemed officially submitted until the city planner or designee determines that the application is complete and a fee receipt is issued by the city. Failure by the city planner or designee to make a determination of incompleteness within ten calendar days following the date on which the application was first received by the city shall result in the application being deemed complete, and the official submission date shall become the tenth calendar day following initial receipt of the application by the city. An application shall expire 45 days from the date the application was filed with the city based on the date stamp provided by city staff, and the applicant shall submit all documentation necessary within that time period if a determination of incompleteness is provided. If the required documentation is not received within the 45-day period to achieve official submission date status, the application shall be deemed expired, and the applicant will need to submit a new zoning application;

(2) Zoning applications which do not include all required information and materials (as outlined above and per other city development review policies) will be considered incomplete, shall not be accepted for official submission by the city, and shall not be scheduled on a commission agenda until the proper information is provided to city staff.

(f) *Application filed.* Although zoning regulations are exempt under V.T.C.A., Local Government Code ch. 245, in order to assist applicants in moving through the zoning application process in a timely manner, an application is considered filed on the date the applicant mails by certified mail or delivers the application to the following address: Glenn Heights Planning Department Attn: City Planner 2117 Uhl Road, Glenn Heights, TX 75154.

(g) *Informational signs.* Upon the filing of an application to amend the comprehensive master plan land use category or the zoning on a lot or tract of land or property, or for the issuance of a specific use permit relative thereto, or to the creation of a planned development, the owner/developer/applicant shall be required to place an informational sign on such lot or tract of land or property within five calendar days after the official submission date as follows:

(1) The size of the sign shall be three feet by four feet and be made out of aluminum or corrugated plastic material or similar durable construction.

(2) The sign shall be mounted on stakes/poles so that the sign remains firm and steady, even during winds and inclement weather.

(3) The sign shall be visible from the street.

(4) There shall be one sign for each street frontage.

(5) The sign shall have a white background with the letters and borders being blue in color. The sign shall state one of the following, as applicable (for example):

City of Glenn Heights, Texas

A request for a "Zoning Change," "Change in the Comprehensive Master Plan," a "Planned Development" or a "Specific Use Permit" is being made on this property. For information call: 972-274-5100. A copy of the application is available for inspection in the City of Glenn Heights Planning Department consistent with the public information provisions of V.T.C.A., Government Code § 552.001 et seq., Public Information Act.

(6) The owner/developer/applicant shall be required to remove the informational signs from the lot or tract of land or property within ten calendar days after the date of the final action of the requested change or amendment.

(7) All signs must be maintained in good condition. All signs that deteriorate or are damaged during the process shall be removed and immediately replaced.

(h) *Public hearing and notice.* Prior to making its report to the city council, the commission shall hold at least one public hearing on each application, pursuant to V.T.C.A., Local Government Code ch. 211. Written notice of all public hearings on proposed changes in district boundaries shall be sent to all owners of property, or to the person rendering the same for city taxes, located within the area of application and within 200 feet of any property affected thereby, within not less than 15 days before such hearing is held. The notice may be served by using the last known address as listed on the latest approved city tax roll and depositing the notice, postage paid, in the United States mail. Notice of hearings on proposed changes in the text of an article shall be accomplished by one publication not less than 15 days prior thereto in the official newspaper of the city. All notices for the public hearing, except for a PD or SUP request, before the city council will also be published at the same

time notice of the commission meeting is published. Notices for public hearings before the commission and city council for a PD or SUP shall be made separately and the public hearing for the commission and city council shall be separated by a minimum of 14 days.

(1) Notices for the public hearing before the city council may be published at the same time notice of the commission hearing is published in all straight zoning cases. In cases where a planned development district is being proposed or amended, or a specific use permit is being proposed or amended, notice for the public hearing before the city council shall only be published upon completion of all public hearings before and a recommendation from the commission;

(2) Notwithstanding the provisions of subsection (h)(1) of this section, notices of public hearing before the city council may be published at the same time notice of the commission meeting is published, should the applicant so request, and the staff concur based upon prior receipt of development review committee (DRC) reports and workshops on the projects to ensure proper consideration by the commission.

(i) *Failure to appear.* Failure of the applicant or authorized representative to appear before the commission or the city council for more than one hearing without a delay approved by the city manager shall constitute sufficient grounds for the commission or city council to table or terminate the application. The request to the city manager for a delay shall be in writing and shall be provided from the applicant to the city manager at least 72 hours prior to the hearing.

(j) *Commission consideration and report.* The planning and zoning commission, after the public hearing is closed, shall prepare the report and recommendations on the proposed change stating its findings, its evaluation of the request and of the relationship of the request to the comprehensive master plan which shall not be required to be of a particular form but may be included in a proposed ordinance or appropriate enacting document. The commission may defer its report for not more than 90 days until it has had opportunity to consider other proposed changes which may have a direct bearing thereon. In making its determination, the commission shall function in accordance with section 74-49 and with other applicable provisions of this chapter and shall consider the following factors:

(1) Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned and their relationship to the general area and the city as a whole;

(2) Whether the proposed change is in accordance with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other utilities to the area, and shall note the findings;

(3) The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the city, and any special circumstances which may make a substantial part of such vacant land unavailable for development;

(4) The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed change;

(5) How other areas designated for similar development will be, or are unlikely to be, affected if the proposed amendment is approved, and whether such designation for other areas shall be modified also;

(6) Any other factors which will substantially affect the health, safety, morals, or general welfare of the city.

(Code 1996, ch. 14, exh. 14A, art. IV, § 1; Ord. No. O-03-09, 4-20-2009; Ord. No. O-18-11, § 2, 11-21-2011)

Sec. 74-136. Council consideration.

(a) *Council hearing and notice.* All notices for the public hearing, except for a PD or SUP request, before the city council may be given by publication and may be at the same time notice is given for the planning and zoning commission public hearing in the official newspaper of the city, stating the time and place of such hearing, which shall be at least 15 days after the date of publication, in accordance with section 74-135(h). Notices for the public hearing for a PD or SUP may be made separately and the public hearing with the planning and zoning commission and city council to be separated by a minimum of 14 days.

(b) *Three-fourths vote.*

(1) A favorable vote of three-fourths of the full city council (six of seven members) shall be required to overrule a proposed recommendation for denial from the commission;

(2) If a protest against such proposed amendment, supplement or change has been filed with the city secretary, prior to the close of the public hearing before the city council, duly signed and acknowledged by the owners of 20 percent or more, either of the area of the lots or land included in such a proposed change or those are of the lots or land immediately adjacent to the area thereof extending 200 feet therefrom or of those directly opposite thereto extending 200 feet from the street frontage of such opposite lots, such proposed amendments receiving a protest shall not become effective except by a three-fourths vote of the full city council (six of seven members). In calculating the percentage of land area under this section, the area of streets and alleys shall be included;

(3) Written protest procedures:

a. *Form of protest.*

1. A protest must be in writing and, at a minimum, contain the following information:

(i) A description of the zoning case at issue by case number, property legal description, property physical address or any manner in which it is clear what zoning case is subject to the protest. The zoning case description must appear at the head of each page and the verification must appear at the foot of each page;

(ii) The names of all persons protesting the proposed change in zoning district classification or boundary;

(iii) A description of the area of lots or land owned by the protesting parties that is either covered by the proposed change or adjoining the area covered by the proposed change and extending 200 feet from that area, including streets and alleys. The description may be either the physical address of the property eligible to protest or the tax identification number as it appears on the most recently approved city tax roll;

(iv) The mailing addresses of all persons signing the protest; and

(v) The date and time of its execution by each signatory.

2. The protest must bear the original signatures of all persons required to sign under subsection (b)(3)b.2 of this section and acknowledged under subsection (b)(3)c.3 of this section.

b. *Required signatures.*

1. A protest must be signed by the owner of the property in question, or by a person authorized by power of attorney to sign the protest on behalf of the owner. In the case of non-community property owned by two or more persons, the signature by any one owner of the property, or by a person authorized by power of attorney to sign the protest on behalf of any one owner, binds the entire property to the protest. In the case of community property, the written protest of one spouse will bind the property in its entirety; provided, however, that the land area shall be equally divided if the applicant provides documentation, acknowledged as provided in subsection (b)(3)c.3 of this section, that the other spouse disagrees with the protest;

2. In the case of property owned by a corporation, the protest must be signed by the president, a vice-president, or by an attorney-in-fact authorized to sign the protest on behalf of the corporation. In the case of property owned by a general or limited partnership, the protest must be signed by a general partner or by an attorney-in-fact authorized to sign the protest on behalf of the partnership;

3. Lots or land subject to a condominium regime are presumed to be commonly owned in undivided interests by the owners of all condominium units and under the control of the governing body of the condominium. For such lots or land to be included in calculating the lots or land area protesting a proposed rezoning, the written protest must state that the governing body of the condominium has authorized a protest in accordance with procedures required by its bylaws, and that the person signing the protest is authorized to act on behalf of the governing body of the condominium. A written protest signed by the owner of an individual condominium unit shall not be accepted unless the filing party produces

legal documents governing the condominium which clearly establish the right of an individual owner to act with respect to such owner's respective undivided interest in the common elements of the condominium;

4. In case of property owned by a federal agency, state agency or other political subdivision, it is up to the governing body of the particular agency to delegate the ministerial act of signing the protest petition to any person it chooses.

c. *When signatures must be acknowledged by a notary public.*

1. Except as otherwise provided in subsections (b)(3)b and c of this section, all signatures on a written protest, whether by petition or letter, must be acknowledged before a notary public as provided herein. For purposes of this section, the person who obtains the signatures must sign a jurat affirming the witnessing of the signature and the acknowledgment that the signatory represented the signatory's authority to sign the petition. The notary requirement is fulfilled if the person who obtains the signature signs the jurat swearing to the witnessing of those signatures;

2. The city shall be required to forward to the owners entitled to notice hereunder, in addition to the required notice, a reply form for the lodging of protests. A signature on an original reply form sent by the city to the mailing address of the property owner need not be acknowledged;

3. A signature on a protest delivered in person by the person signing need not be acknowledged if its reliability is otherwise established to the satisfaction of the city secretary. In such a case, a summary of the evidence of reliability considered by the city secretary must be endorsed on the protest by the city secretary.

d. *Filing deadline.*

1. A written protest must be filed with the city secretary before 5:00 p.m. Friday immediately preceding the meeting day advertised for the city council public hearing in the statutory notice published in the official newspaper of the city. For example, a written protest must be received by 5:00 p.m. on the Friday prior to a regularly scheduled Monday council meeting. A protest sent through the mail must be received by the city secretary before the deadline;

2. Before the public hearing on the case, the filing deadline is automatically extended whenever the public hearing is advertised in the official newspaper of the city pursuant to statutory notice requirements;

3. After the public hearing has begun, the filing deadline may only be extended by calling a subsequent public hearing and advertising that public hearing in the official newspaper of the city pursuant to statutory notice requirements or if the item is tabled or continued. In such a case,

the new filing deadline is 12:00 noon of the second working day immediately preceding the newly advertised public hearing date or the date to which the item is tabled or continued.

e. *Withdrawal of protests once filed.* A protest, once filed, remains in effect unless withdrawn in accordance herewith, irrespective of any amendments made to the zoning proposal. Withdrawals of protests filed must be in writing and filed with the city secretary before the filing deadline. The provisions of this subsection governing the form and filing of protests apply equally to withdrawals.

f. *Presumptions of validity.*

1. In all cases where a protest has been properly signed pursuant to this subsection (b)(3), the city shall presume that the signatures appearing on the protest are authentic and that the persons or officers whose signatures appear on the protest are either owners of the property or authorized to sign on behalf of one or more owners as represented;

2. The presumption in subsection (b)(3)f.1 of this section is rebuttable, and the city attorney may advise the city council that a presumption should not be followed in a specific case based on extrinsic evidence presented.

g. *Conflicting instruments.* In the event that multiple protests and withdrawals are filed on behalf of the same owner, the instrument with the latest date and time of execution controls.

(c) *Proposal recommended for approval.* Every proposal which is recommended favorably by the commission, whether as requested or with conditions, shall be forwarded to the city council for setting and holding of public hearing thereon. The public hearing shall only be held after all appropriate and required notifications are met. The city council may then approve the request, approve it with conditions or disapprove it (i.e., against the commission's recommendation) by a simple majority vote of the city council. No change, however, shall become effective until after the adoption of an ordinance for same and its publication as required by law.

(d) *Proposal recommended for denial.* When the commission determines that a proposal should be denied, or the proposal does not receive the required four affirmative votes, it shall so report and recommend to the council and notify the applicant. The commission shall offer reasons to the applicant for its recommendation for denial. When a proposed zoning request is heard by the city council that has not been favorably recommended by the commission, a three-fourths majority vote (six of seven members) by the full city council shall be required for approval. A request which has been denied by the commission or city council may be resubmitted by the applicant for reconsideration by the city after a period of one year from date of denial unless waived by the city council. A new application, filing fee and required exhibits must be submitted.

(Code 1996, ch. 14, exh. 14A, art. IV, § 2; Ord. No. O-03-09, 4-20-2009; Ord. No. O-18-11, § 3, 11-21-2011)

Sec. 74-137. Procedure.

(a) *Written application.* The aggrieved applicant shall make written grievance for consideration by the zoning board of adjustment using application forms as provided by the city. All grievances shall be accompanied by additional information (i.e., site plan, building plans, photographs, topographic contour maps, etc.) as may be requested in order to properly review the matter. All drawings must be to scale.

(b) *Fee.* The city council shall adopt a designated fee to be paid by the applicant to cover administrative processing costs, as established in section 74-5.

(c) *Jurisdiction.* When, in the board's judgment and if in harmony and spirit of this chapter, the public convenience and welfare will be substantially served and the appropriate use of the neighboring property will not be substantially or permanently injured, the board may, in specific cases, after written notice to all property owners within 200 feet of the request and public hearings, and subject to appropriate conditions and safeguards, authorize or order the following:

(1) Hear and decide appeals where it is alleged there is error on any order, requirement, decision or determination made by the building official in the enforcement of this chapter, or in any appeal from a vested rights determination by the city manager pursuant to this chapter;

(2) Permit the reconstruction, extension, or enlargement of a building occupied by nonconforming uses, on the lot or tract occupied by such building, provided such reconstruction does not prevent the return of such property to a conforming use;

(3) Permit such variances of specific items, including, but not limited to, height, yard area, exterior structure, lot coverage, off-street parking and loading regulations that will not be contrary to the public interest and where, because of special conditions, the enforcement of this chapter or its amendments would result in an undue hardship to the property owner. A variance shall not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss, nor shall it permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land in the particular zoning district. No variance may be granted if it results in an undue hardship, as herein defined, on another parcel of land;

(4) In order to make a finding of undue hardship and to grant a variance, the board must determine that:

   a. The requested variance does not violate the intent of this chapter or its amendments;

   b. Special conditions of restricted area, shape, topography, or physical features exist that are peculiar to the subject parcel of land and are not applicable to other parcels of land in the same zoning district;

c. The hardship is in no way the result of the applicant's own actions (not self-imposed) and does not generally affect all or most properties in the same zoning district;

d. The interpretation of the provisions in this chapter and all amending ordinances would deprive the applicant of rights commonly enjoyed by other properties, in the same zoning district, that comply with the same provisions;

(5) No variance may authorize a use other than those permitted in the district for which the variance is sought. Also, an application or request for variance shall not be heard or granted with regard to any parcel of property or portion thereof upon which a site plan, preliminary plat or final plat, when required by this chapter for any parcel of property or portion thereof, has not been finally acted upon by both the planning and zoning commission and, where required, by the city council. The administrative procedures and requirements of this chapter, with regard to both planning and zoning commission and city council consideration and action on zoning requests, site plans, preliminary plats, and final plats must be exhausted prior to requesting a variance from the terms of this chapter. The city council shall not approve a final plat until any outstanding appeals have been resolved by the board of adjustment;

(6) It shall be the responsibility of the applicant to establish the necessary facts and burden of proof that an undue hardship exists which justifies a variance;

(7) No variance may be granted for property subject to a specific use permit (SUP) or a planned development (PD). Any amendments, variances or waivers must be as an amendment to the PD or SUP.

(d) *Appeals to the zoning board of adjustment.* Appeals to the board of adjustment can be taken by any person aggrieved by any office, official, board or department of the city in the enforcement of this chapter. A notice of appeal, specifying the grounds thereof, shall be taken within 15 days after the decision has been rendered by filing with the city secretary with notice provided to the officer from whom the appeal is taken and to the board. The officer against whom the appeal is taken shall forthwith transmit to the board all papers constituting the record upon which the action the appeal was taken. The city manager or designee shall visit the site where the proposed variance, grievance or special exception will apply and the surrounding area and shall report findings to the board. An appeal stays all proceedings, both for the city and for the appellant, in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies in writing to the board after the notice of appeal shall have been filed with said officer that, by reason of facts stated in the certificate, a stay would, in the officer's opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed, otherwise than by a restraining order which may be granted by the board or by a court of competent jurisdiction or on application or notice to the officer from whom the appeal is taken and on due cause shown. The appellant party may appear at the appeal hearing in person or by agent or attorney. The board shall decide the appeal within 30 calendar days after the written request (i.e., notice of appeal)

was received. The board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision or determination from which an appeal is taken, and may make the correct order, requirement, decision or determination.

(e) *Action by the zoning board of adjustment.* The board shall not grant a variance or special exception unless it finds, based upon compelling evidence provided by the applicant, that each of the conditions required for granting a variance or special exception have been satisfied. The board may impose such conditions, limitations and safeguards as it deems appropriate upon the granting of any variance or special exception as are necessary to protect the public health, safety, convenience and welfare. Violation of any such condition, limitation or safeguard shall constitute a violation of this chapter.

(f) *Required vote to reverse administrative official.* The concurring vote of 75 percent or four members of the board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance, or to effect any variation in such ordinance.

(g) *Order issued.* On any matter properly submitted and considered by the board, and upon the final vote, the board shall issue a written order setting forth the board's decision.

(h) *Waiting period.* No appeal to the board for the same or a related variance or special exception on the same piece of property shall be allowed for a waiting period of six months (i.e., 180 calendar days) following an unfavorable ruling by the board unless other property in the immediate vicinity has, within the six-month waiting period, been changed or acted upon by the board or by the city council so as to alter the facts and conditions upon which the previous unfavorable board action was based. The changes of circumstances shall permit the re-hearing of a variance or special exception request by the board, but such circumstances shall in no way have any force in law to compel the board, after a hearing on the matter, to grant a subsequent variance or special exception request. Any subsequent variance or special exception request shall be considered entirely on its own merits and on the special circumstances related to the submitted property.

(i) *Timeliness of application for building permit or certificate of occupancy.* Upon a favorable board action on a variance of special exception request, the applicant shall apply for a building permit or a certificate of occupancy, as applicable to the particular situation, within three months (i.e., 90 calendar days) following the date of board action, unless the board specified a longer time period in the minutes of its action. If the applicant fails to apply for a building permit or certificate of occupancy, as applicable, within the three-month timeframe, then the variance or special exception shall be deemed to have been waived, and all rights thereunder shall be terminated. The termination and waiver shall be without prejudice to the subsequent appeal, and such subsequent appeal shall be subject to the same regulations and requirements for hearing as herein specified for the original variance or special exception request.

(j) *Finality of decisions; judicial review.* All decisions of the board are final and binding. However, any person, jointly or severally, aggrieved by any decision of the board or any taxpayer or any officer, department, or board of this city may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. The petition shall be presented to the court of record within ten days after the filing of the decision in the office of the board and not thereafter. Subject to V.T.C.A., Local Government Code § 211.011, only a court of record may reverse, affirm or modify a decision of the board.
(Code 1996, ch. 14, exh. 14A, art. IV, § 3)

Sec. 74-138. Final approval and enforcement.

(a) *Final approval and ordinance adoption.* Upon approval of the zoning request (and concept plan in the case of a PD or SUP request) by the city council, the applicant shall submit all related material with revisions, if necessary, to the city manager or designee for the preparation of the amending ordinance. The zoning request shall be deemed approved at the time the city council makes a decision to approve the request as submitted or with certain conditions. However, the amending ordinance will not be prepared for adoption until a correct legal description and all required exhibits have been submitted to the city manager or designee, and the amending ordinance shall not be formally adopted (i.e., effective) until it is adopted by the city council, signed by the mayor, and attested by the city secretary. If all necessary materials and information are not received in a timely manner, and if the amending ordinance has not been adopted within six months (i.e., 180 calendar days) following city council action on the zoning request, then the city council may, at its option, recall the request for a new public hearing and reconsideration.

(b) *Administration and enforcement.* The city manager shall designate a qualified member of the staff, such as the city's building official, to administer and enforce the provisions of this chapter. If such designated official finds upon personal observation, or upon receipt of a complaint, that the provisions of this chapter are being violated, such official shall immediately investigate and, when necessary, give written notice to the persons responsible to cease or correct such violations immediately. Notice may be delivered in person or by certified mail to the violators or to any person owning or leasing a property where the violation is occurring. The designated city official or authorized representative, shall have the right to enter upon any premises at any reasonable time for the purpose of making inspections of buildings or premises that may be necessary to carry out the duties in the enforcement of this chapter.

(c) *Stop work orders.* When any building or construction work is being done contrary to the provisions of this chapter, the city official, designated by the city manager, shall have the authority to order the work stopped by notice in writing served on the property owner or the contractor doing the work or causing such work to be done, and any such person shall, forthwith, stop such work until authorized in writing by the city to proceed with such work. Failure to immediately stop work as provided herein shall constitute a violation of this chapter, in accordance with section 74-543, and may incur penalties for such violation.
(Code 1996, ch. 14, exh. 14A, art. IV, § 4)

Secs. 74-139—74-159. Reserved.

ARTICLE V. PRIMARY ZONING REGULATIONS

Sec. 74-160. Annexed territory; building site requirements and development standards.

(a) *Temporary zoning; annexed territory.* All territory hereinafter annexed to the city shall be temporarily classified as A Agricultural District until permanent zoning is established by the city council. As soon as practical following annexation, but in no event more than 180 calendar days thereafter, the city council shall, on its own motion or by property owners of the annexed area, initiate proceedings to formally and legislatively establish A Agricultural District zoning on the newly annexed territory, thereupon the city manager or designee shall commence public notification and other standard procedures for establishing permanent zoning on annexed territory which shall conform to section 74-291(a). The proceedings to establish zoning may be undertaken concurrently with annexation procedures (i.e., notified at the same time, public hearings scheduled at the same time as annexation, etc.); however, zoning approval and formal adoption of the ordinance establishing zoning must occur after annexation approval and adoption have occurred, and as a separate and distinct action by the city council.

(1) The initial zoning of a land parcel, whether it is interim in nature, by initiation of the landowner or by initiation of the city, must meet the requirements for notification and public hearings as set forth in section 74-136(g) and all other applicable state laws;

(2) The owner of land to be annexed may submit an application for zoning the property simultaneously with submission of the petition for annexation, but no such annexation application may be made conditioned upon the approval of any particular zoning classification;

(3) In an area temporarily classified as an A Agricultural District:

a. No person shall erect, construct, proceed or continue with the erection or construction of any building or structure or cause the same to be done in any newly annexed territory to the city without first applying for and obtaining a building permit or certificate of occupancy from the building official or the city council, as may be required;

b. No permit for the construction of a building or use of land shall be issued by the building official or designee other than a permit which will allow the construction of a building or use permitted in the A Agricultural District, unless and until such territory has been classified in a zoning district other than the A Agricultural District, by the city council in the manner prescribed by law except as provided in subsection (a)(3)c.3 of this section;

c. If plans and preparations for developing a property for a use other than those specified in the A district were already in progress prior to annexation of the property into the city, then the city council may, at its discretion, authorize construction of the project by a majority vote. Application of this subsection is contingent upon the following:

1. An application for a building permit for the proposed building or use must be made to the building official of the city or designee within three months (i.e., within 90 calendar days) after annexation of the property into the city; and
2. The applicant must be able to demonstrate that plans and other preparations for developing the property commenced prior to (i.e., were already in progress at the time of) annexation into the city; and
3. In its deliberations concerning authorization to proceed with construction of a project which meets the above criteria, the city council shall take into consideration the appropriate land use for the area as shown on the city's future land use plan. Upon approval by the city council, the city manager or designee shall notify the building official or designee of such approval.

(b) *Creation of building site.* No permit for the construction of a building upon any tract or plot shall be issued until a building site, building tract, or building lot has been created by compliance with one of the following conditions:

(1) The lot or tract is part of a plat of record, properly approved by the planning and zoning commission and city council, and filed in the plat record of the county in which the property is located;

(2) The plot, tract, or lot faces upon a dedicated street and was separately owned prior to the effective date of the ordinance from which this chapter is derived or prior to annexation into the city whichever is applicable, in which event a building permit for only one main building conforming to all the requirements of this chapter may be issued on each such original separately owned parcel without first complying with subsection (a) of this section;

(3) The plot or tract is all or part of a site plan, if required, officially approved by the city council, and compliance has been made with provisions and improvements approved on such site plan for all utility and drainage easements, dedication of streets, alleys and other public improvements required to meet the standards established for the platting of land;

(4) No building hereafter erected, converted or structurally altered shall be used or occupied until a certificate of occupancy has been issued by the building official which signifies compliance to the appropriate zoning district.

(c) *Platting property not permanently zoned.* The planning and zoning commission of the city shall not consider any plat of any subdivision within the city limits until the area covered by the proposed plat shall have been zoned by the city council.
(Code 1996, ch. 14, exh. 14A, art. V, § 1)

Sec. 74-161. Annexation fees.

All annexations shall be accomplished in accordance with state annexation laws. Fees for requests for annexation of land into the city limits are as provided for in the city fee schedule. Annexation fees shall be refundable upon final annexation approval.
(Code 1996, § 1.12.001)

Secs. 74-162—74-190. Reserved.

ARTICLE VI. NONCONFORMING CONDITIONS

Sec. 74-191. Intent of provisions.

(a) Within the districts established by this chapter or amendments thereto, there may exist lots, structures, uses of land and structures, and characteristics of use which were lawfully in existence and operating before the ordinance from which this chapter is derived was enacted, amended or otherwise made applicable to such lots, structures or uses, but which do not now conform to the regulations of the district in which they are located. It is the intent of this chapter to permit such nonconforming uses to continue, as long as the conditions with this section and other applicable sections of this chapter are met.

(b) It is, further, the intent of this article that nonconforming uses and structures shall not be enlarged upon, expanded or extended, and shall not be used as a basis for adding other structures or uses prohibited elsewhere in the same district, except as may otherwise be provided in this article.

(c) Nonconforming uses are declared to be incompatible with the permitted uses in the districts involved.
(Code 1996, ch. 14, exh. 14A, art. VI, § 1)

Sec. 74-192. Nonconforming status.

(a) A nonconforming status shall exist under the following provisions:

(1) When a use, platted lot, or structure which does not conform to the regulations prescribed in the district in which such use, platted lot, or structure is located was in existence and lawfully operating prior to the adoption of the ordinance from which this chapter is derived and has been operating since, without discontinuance, providing that:

a. The use, platted lot, or structure was in existence and lawfully constructed, located and operating in accordance with previous zoning regulations or which was a nonconforming use thereunder, and which use or structure does not now conform to the regulations herein prescribed for the district in which the use or structure is located; or

b. The use, platted lot, or structure was in existence at the time of annexation into the city, was a legal use of the land at such time and has been in regular and continuous use since such time;

(2) Any other use, platted lot, or structure which does not conform with the regulations of the zoning district in which it is located on the effective date of the ordinance from which this chapter is derived or any amendment hereto, and except as provided in subsection (a)(3) of this section, shall be deemed to be in violation of this chapter, and the city shall be entitled to enforce fully the terms of this chapter with respect to such use, platted lot, or structure;

(3) The following types of platted lots shall be deemed in conformance with the provisions of this chapter, notwithstanding the fact that such lot does not meet the standards of this chapter in the district in which it is located:

a. Any vacant lot that conformed to the city's zoning district regulations at the time that it was platted; or

b. Any lot occupied by a single-family dwelling authorized under the zoning district regulations in which the lot is located;

(4) A lot of record that is nonconforming may be occupied by a single-family dwelling, provided that all appropriate zoning district regulations (i.e., height, setbacks, lot coverage, etc.) are met.

(b) Continuing lawful use of land and structures.

(1) A nonconforming use or structure may continue to be used, operated or occupied in accordance with the terms of the zoning regulations by which it was established, or in the case of annexed property, in accordance with the regulations under which it was created;

(2) A nonconforming structure occupied by a nonconforming use may be re-occupied by a conforming use, following abandonment of the nonconforming use.

(Code 1996, ch. 14, exh. 14A, art. VI, § 2)

Sec. 74-193. Expansion or reconstruction of nonconforming uses and structures.

(a) A nonconforming use or structure may not be enlarged, expanded or increased to occupy a greater area of land than was occupied at the time the use or structure became nonconforming, except to provide off-street parking or loading areas as required by this chapter upon the recommendation of the planning and zoning commission and approval of the city council.

(b) A nonconforming use occupying a structure shall not be extended to occupy land outside the structure.

(c) A nonconforming use may be extended throughout the structure in which it is located, provided that:

(1) The structure or its premises shall not be enlarged or increased in height, in floor area or in land area to accommodate extension of the nonconforming use; and

(2) No alteration shall be made to the structure occupied by the nonconforming use, except those alterations that are required by law to preserve the integrity of the structure and alterations that would upgrade the quality, safety or aesthetic appeal of the structure; and

(3) The number of dwelling units or families occupying the structure shall not exceed the number of dwelling units or families existing at the time the use became nonconforming.

(d) Repairs and normal maintenance may be made to a nonconforming building, provided that no structural alterations, expansions, or extensions shall be made, except those required by law or ordinance, unless the building is changed to a conforming use.

(e) Any nonconforming use may be changed to a conforming use, and once such change is made, the use shall not thereafter be changed back to a nonconforming use.

(f) Where a conforming use is located in a nonconforming structure, the use may be changed to another conforming use by securing a certificate of occupancy from the building official but shall not be changed to a nonconforming use.

(g) A nonconforming use located in a conforming or nonconforming structure shall not be changed to another nonconforming use.

(h) Any nonconforming use located in a conforming structure may be changed to a conforming use, provided a new certificate of occupancy is secured from the city, and once such change is made, the use shall not thereafter be changed back to a nonconforming use.

(i) When a nonconforming use is abandoned, all nonconforming rights shall cease and the use of the premises shall thenceforth be in conformity with this chapter. The intent of the user or owner to discontinue a nonconforming use for a period of six months, coupled with a non-use of the nonconforming use for such period, shall be construed as conclusive proof of intent to abandon the nonconforming use. Any nonconforming use which, not involving a permanent type of structure, is moved from the premises shall be considered to have been abandoned.

(j) If a structure occupied by a nonconforming use is destroyed by fire, acts of God, neglect, or other cause, it may not be rebuilt except to conform to the provisions of this chapter. In the case of partial destruction of a nonconforming use not exceeding 40 percent of its appraised value as determined by the appropriate county appraisal district, reconstruction will be permitted, but the size or function of the nonconforming use cannot be expanded.

(k) If more than 40 percent of the total appraised value, as determined by the appropriate county appraisal district, of a nonconforming structure is destroyed by fire, the elements or some other cause, then the structure may be rebuilt only in conformity with the standards of this chapter.

(l) Provisions applicable to Willow Run Addition. Notwithstanding any of the provisions of subsections (a) through (k) of this section, with regard to any parcel located within Willow Run Addition, a development of approximately 104 acres as shown more fully on the zoning map of the city, which was, prior to the passage and adoption of Ordinance No. 843-07, zoned as SF-1 Single-Family Residential-1 (minimum 20,000-square-foot lots) District and had, at that time, a structure existing thereon, the owners of such qualifying parcels may renovate, expand and rebuild a structure existing thereon at the time of passage of Ordinance No. 843-07, subject to the following provisions:

(1) The owner of record of a qualifying parcel at the time of the passage of Ordinance No. 843-07 may expand a structure in existence thereon at the time of the passage of Ordinance No. 843-07; provided, however, that if the owner converts to retail uses, the owner shall not be allowed to revert to residential use thereafter;

(2) Upon the death of the owners of a qualifying parcel or upon the sale or other transfer of the property by title, deed, or otherwise, the parcel may thereafter be used solely for retail/commercial uses;

(3) The owner of record of a qualifying parcel at the time of the passage of Ordinance No. 843-07 shall have a period of one year within which to rebuild if a structure on a qualifying parcel is destroyed. If no attempt to rebuild occurs or if rebuilding is not completed within that one-year period, the owners may petition for an extension of that time period by submitting evidence to the city council or the zoning board of adjustment of a hardship encountered in the rebuild process;

(4) The rebuilding of any structure in existence at the time of passage of Ordinance No. 843-07 shall be nonconforming with the previous vested rights. The retail/commercial criteria will not be considered if this is done within 12 months; however, rebuilding beyond a year shall be only with city council or zoning board of adjustment approval;

(5) All rules regarding nonconforming uses that are not in conflict with this subsection (l) remain in effect.

(Code 1996, ch. 14, exh. 14A, art. VI, § 3; Ord. No. O-03-09, 4-20-2009; Ord. No. O-11-18, 9-18-2018)

Sec. 74-194. Moving of nonconforming structure.

No nonconforming structure or building shall be moved in whole or in part to any other location on the lot, or to any other location or lot, unless every portion of such structure is in compliance with all the regulations of the zoning district wherein the structure is to be

relocated. The building relocation shall also require a structure relocation permit from the city and may also require platting of the intended building site pursuant to the subdivision regulations (chapter 72) as well as site plan approval per section 74-263.
(Code 1996, ch. 14, exh. 14A, art. VI, § 4)

Sec. 74-195. Nonconforming lots.

Nothing in this chapter shall be construed to prohibit the use of a lot that does not meet the minimum lot standards of the zoning district in which it is located, provided that the lot is zoned for the land uses intended and the lot was platted as a lot of record prior to the effective date of the ordinance from which this chapter is derived.
(Code 1996, ch. 14, exh. 14A, art. VI, § 5)

Sec. 74-196. Registration, termination and amortization of nonconforming uses.

(a) *Registration of nonconforming uses and properties.* Nonconforming uses and properties must be registered with the city within six months of the official action making such a use or property nonconforming. City staff shall make all reasonable and good faith efforts to notify property owners when the use or property becomes nonconforming through official city action. Property owners are responsible for knowing the legal status of the property over which such owner has care, custody or control. Property owners are responsible for such registration, and failure of city staff to notify the owners of the nonconforming status of the property does not negate the registration requirement or the burden to so register upon the property owner.

(1) Upon failure to file the registration within the designated six-month time period, the nonconforming use lapses and the nonconforming use of the property must terminate. City staff shall maintain as a public record the nonconforming use registry;

(2) Any nonconforming structure, including a fence over legal height, obstruction, sign, junkyard and automobile salvage or storage yard, billboard, landfill, or fenced outdoor commercial or industrial storage area shall be removed after a period of five years after the effective date of registration;

(3) The board of adjustment shall, after the five-year period has elapsed, provide notice and a hearing to the affected property owner and to all properties within 200 feet of the affected property. The purpose of the hearing is to determine whether an order of termination shall be issued;

(4) The board of adjustment may extend the amortization period at any time upon application of the affected property owner upon establishment that the amortization period deprives the owner of all or substantial economic use of the property as set forth in the procedures herein, including appeals of determinations of automatic termination due to the failure to register;

(5) The burden is on the party seeking to continue to maintain the nonconforming use, such proof to include, but not be limited to, the following:

a. Prior existence of the use before the effective date of the change in regulations that render the use nonconforming;

b. The use was lawful when established;

c. The use has been lawfully continued from its inception;

(6) Contradictory, insufficient or incomplete evidence may be the basis to sustain a denial of the right to maintain a nonconforming use.

(b) *Termination/amortization of certain nonconforming uses.*

(1) *Determination of need for expedited compliance.*

a. The city council, upon its own motion or upon the written request of any affected person, may discontinue a nonconforming use or structure. The city council shall determine whether there is a public necessity for expedited compliance with the applicable zoning district regulations. The following factors shall be considered by the city council in determining the public necessity for expedited compliance:

1. The character of the surrounding neighborhood;

2. The degree of incompatibility of the use or structure to the zoning district in which it is located; and

3. The effect of the nonconforming use or structure on the surrounding area and the effect of its cessation on that area.

b. If the city council finds that there is not a public necessity for expedited compliance with the zoning district regulations, it may choose to reevaluate the current zoning to determine if it is appropriate for the property on which the use or structure is located.

(2) *Determination of amortization period.*

a. If the city council passes a resolution under subsection (b)(1) of this section for expedited compliance with the zoning district regulations, the board of adjustment shall, in accordance with these provisions and any order of the city council, determine an amortization period for the nonconforming use whereby the owner's actual investment in the use before the time that the use became nonconforming can be amortized within a definite time period;

b. Notice of the hearing before the board of adjustment shall be given to the owner of the property as listed in the most recent property or deed records of the county in which the property is located and to all property owners within 200 feet of the affected property. The notice shall be by certified mail, return receipt requested, by U.S. Postal Service signature delivery or personal service. If the certified mail is returned refused or unclaimed, notice shall be deemed delivered. The hearing shall be not less than 30 days after the date of notice of

such hearing. A copy of the amortization formula shall accompany the notice letter, or a listing of the factors to be considered by the board of adjustment. The notice shall also contain notice that the burden is on the property owner to bring forth sufficient evidence to establish the right to continue the nonconforming use or the factors to determine the amortization period;

c. The following factors must be considered by the board of adjustment in determining the amortization period:

1. The owner's capital investment in structures, fixed equipment and other assets (excluding inventory and other assets feasibly transferred to another site) on the property before the time the use became nonconforming. The owner's capital investment in property shall be calculated based upon the recoupment of the owner's actual cost in such property, as opposed to the full value, market value or replacement value;

2. Any costs that are directly attributable to the establishment of a compliance date, including demolition expenses, relocation expenses, termination of leases and discharge of mortgages existing prior to the nonconforming status;

3. Any return on investment since inception of the use, including net income and depreciation;

4. The anticipated annual recovery of investment, including net income and depreciation;

d. The amortization formula may consider past depreciation of the structures or the ability to move the structures to another location. The formula need not consider appreciation of land value, improvements or profit from an advantageous acquisition of the property;

e. The board of adjustment may use the advice or services of city staff, or outside professionals if approved by the city council, to calculate the amortization period;

f. Evidence necessary for the determination of the amortization period shall be provided by the owner. The board is authorized to compel the production of additional information and consider additional information in making its determination.

(c) *City council action.* Once the board of adjustment determines the amortization period for a nonconforming use, it shall submit such finding to the city council, and, upon notice to the owner and hearing, the city council may:

(1) Establish a compliance date for full amortization of the nonconforming structure; or

(2) Order a compliance date which is prior to the full amortization of the investment and determine what compensation, if any, is appropriate; or

(3) Modify or rescind its resolution for expedited compliance and issue orders consistent therewith.

(d) *Compliance requirement.* If a compliance date for a nonconforming use is established by the city council, the use shall cease operations on that date and it may not operate thereafter unless it becomes a conforming use. If the city council establishes a compliance date for a nonconforming structure, the structure shall be demolished or made conforming by the compliance date. Any appeals of the decision of the city council shall be to a court of competent jurisdiction.
(Code 1996, ch. 14, exh. 14A, art. VI, § 6)

Sec. 74-197. Right to proceed.

Nothing contained in this article is intended to alter any rights that may have accrued to proceed under prior regulations, pursuant to V.T.C.A., Local Government Code §§ 43.002 and 245.001 through 245.006.
(Code 1996, ch. 14, exh. 14A, art. VI, § 7)

Secs. 74-198—74-217. Reserved.

ARTICLE VII. BUILDING PERMITS, CERTIFICATES OF OCCUPANCY AND COMPLIANCE

Sec. 74-218. Building permits required.

(a) No building or other structure shall be erected, moved, added to, or structurally altered without a building permit issued by the city building official or designee. A building permit shall not be issued except in conformity with the provisions of this chapter and section 50-4, unless otherwise authorized by the zoning board of adjustment in the form of a variance or special exception as provided in section 74-137. A building permit shall not be issued until the property is properly zoned for the intended use, until the property is platted in accordance with the subdivision regulations in chapter 72, nor until all appropriate plans have been approved by the city (including, but not limited to, a preliminary plat, a detailed plot plan, a final site plan, landscaping and façade plans, building structural plans, etc.).

(b) Plans for any permanent structure to be constructed or otherwise located within the city must be approved by the building official or designee, who, upon approval, shall issue a building permit. A complete application for a building permit shall contain details of foundation and the structure that is sufficient to determine compliance with the city's adopted building codes. Upon submission of a complete application, the building official or designee shall review it for compliance and shall issue a building permit if compliance with all applicable city building codes, with this chapter, and with the subdivision regulations in chapter 72 is verified. After issuance of a building permit and prior to issuance of a

certificate of occupancy, the building official or designee shall conduct inspections on, including, but not limited to, foundation, plumbing, electrical and framing, to determine compliance with city-adopted building codes.
(Code 1996, ch. 14, exh. 14A, art. VII, § 1)

Sec. 74-219. Cancellation of building permit.

Failure of an applicant or any of the applicant's agents, representatives or contractors to erect, construct, reconstruct, alter, use or maintain any building, structure or premises in conformance with the approved plans upon which a building permit was issued, when such failure constitutes a violation of any provision of this chapter, shall render such building permit void, and the building official or designee is authorized and directed to revoke any such permit by giving written notice to the applicant or agent or representative, and all work upon such building, structure or premises shall be immediately discontinued until such building, structure or premises shall be brought into conformance with the approved plans and with all applicable provisions of this chapter.
(Code 1996, ch. 14, exh. 14A, art. VII, § 2)

Sec. 74-220. Certificate of occupancy.

(a) *Required.*

(1) Except as exempted in the adopted International Residential Code (IRC), the International Building Code (IBC) and the North Central Texas Council of Governments (NCTCOG) amendments, a certificate of occupancy shall be required for any of the following:

a. Occupancy and use of a building hereafter erected or structurally altered;

b. Change in use of an existing building to a different use;

c. Change in the use of land to a different use; and

d. Any change in the use of a nonconforming use;

(2) No such use, or change of use, shall take place until a certificate of occupancy therefor shall have been issued by the building official or designee.

(b) *Record on file.* A record of all certificates of occupancy shall be kept on file in the building official or designee's office, and copies shall be furnished upon request to any person in accordance with state laws governing public records.

(c) *Procedure for new or altered buildings.* Written application for a certificate of occupancy for a new building or for an existing building that is to be altered shall be made at the same time as the application for the building permit for such building. After submittal of the written application and payment of any required fee as adopted by ordinance and provided in the city's fee schedule, the certificate shall be issued after the building official or designee orders the building or structure inspected and finds no violations of the provisions of this chapter or other regulations that are enforced by the building official or designee. The

certificate shall be issued by the building official or designee, after the erection or alteration of such building or part thereof has been completed in conformity with all applicable provisions of this chapter, and any applicable regulations and ordinances of the city.

(d) *Procedure for vacant land or a change in building use.* Written application for a certificate of occupancy for the use of vacant land, a change in the use of land or a change in the use of a building, or for a change from a nonconforming use to a conforming use, shall be made to the building official or designee. If the proposed use is a conforming use, as herein provided, written application shall be made to the building official or designee. If the proposed use is found to be in conformity with the provisions of this chapter and other applicable provisions of this Code, the certificate of occupancy shall be issued after the application for same has been made and all required inspections are completed and approved by the building official or designee, within ten days following receipt of the application and payment of all applicable fees.

(e) *Contents of certificate.* Every certificate of occupancy shall contain the following, and it shall be maintained by the building official:

(1) The building permit number; and

(2) The address of the building; and

(3) The name and address of the owner; and

(4) A description of that portion of the building for which the certificate is issued; and

(5) A statement that the described portion of the building has been inspected for compliance with the requirements of this Code, including specifically the city building and fire codes, for the particular group and division of occupancy; and

(6) The name of the building official or designee; and

(7) Uses allowed; and

(8) The maximum number of persons/occupants; and

(9) The issue date of certificate of occupancy; and

(10) Any other information as may be required by the public information provisions of V.T.C.A., Government Code § 552.001 et seq.

(f) *Posting of certificates.* The property owner or occupant shall post the certificate of occupancy in a conspicuous place on the premises, and the certificate of occupancy shall not be removed except by the building official or designee.

(g) *Revocation of certificates.* The building official or designee may, in writing, suspend or revoke a certificate of occupancy issued under the provisions of this chapter whenever the certificate is issued in error, or on the basis of incorrect information supplied, or when it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions of this chapter or the building code and other codes adopted by the city, and any amendments thereto.

(h) *Certificates for nonconforming uses.* No later than 180 days after the adoption of the ordinance from which this chapter is derived, the city manager shall cause designee to survey all properties within the jurisdiction of the city and notify property owners of nonconforming uses and buildings. Thereafter, a certificate of occupancy shall be required for all lawful nonconforming uses of land or buildings created by adoption of the ordinance from which this chapter is derived. Application for such certificate of occupancy for a nonconforming use shall be filed with the building official or designee by the owner or occupant of the structure or land that is occupied by the nonconforming use within one year (i.e., 365 calendar days) following the effective date of the ordinance from which this chapter is derived. It shall be the duty of the building official or designee to issue a certificate of occupancy for a lawful nonconforming use upon receipt of application for same, but failure to apply for such certificate for a nonconforming use (i.e., by the owner or occupant of the premises) shall be evidence that the nonconforming use was either illegal or did not lawfully exist as of the effective date of the ordinance from which this chapter is derived.
(Code 1996, ch. 14, exh. 14A, art. VII, § 3)

Sec. 74-221. Completion of buildings in progress.

Nothing contained herein shall require any change in the plans, construction or designated use of a building, the foundation for which has been completely constructed as of the effective date of the ordinance from which this chapter is derived, and the remaining construction of which shall have been completed within one year (i.e., 365 calendar days) following the effective date of the ordinance from which this chapter is derived. In addition, any nonresidential building or structure for which a building permit has been approved by the city not more than one year (i.e., 365 calendar days) prior to the effective date of the ordinance from which this chapter is derived may be constructed according to the terms of that building permit.
(Code 1996, ch. 14, exh. 14A, art. VII, § 4)

Secs. 74-222—74-250. Reserved.

ARTICLE VIII. CONCEPT PLAN AND SITE PLAN REVIEW PROCESSES

Sec. 74-251. Purpose.

This article establishes a site plan review process for proposed planned development requests, specific use permit requests, nonresidential, mixed-use and other higher density residential developments. The purpose of the review is to ensure efficient and safe land development, harmonious use of land, compliance with the comprehensive plan and other appropriate design standards, safe and efficient vehicular and pedestrian circulation, adequate parking and loading, and adequate water supply, drainage and stormwater management, sanitary facilities, coverage and other utility services.
(Code 1996, ch. 14, exh. 14A, art. VIII, § 1)

Sec. 74-252. Applicability.

(a) Site plan review and approval shall be required for all nonresidential, mixed-use, townhouse, single-family attached, and multifamily residential projects, and for all planned development district or specific use permits.

(b) No building permit shall be issued for any of the developments described in subsection (a) of this section until a site plan and all other required engineering/construction plans are first approved by the city. No certificate of occupancy shall be issued until all construction and development conforms to the site plan and engineering/construction plans, as approved by the city. The site plan review process shall include up to four steps:

(1) Pre-application conference between applicant and city staff; and

(2) Concept plan review (voluntary, except for planned developments or specific use permits); and

(3) Site plan and other associated plan (i.e., preliminary plat, engineering plans) review; and

(4) Final plat review and approval; and

(5) Construction of project (after city approval of all required plats and plans).

(Code 1996, ch. 14, exh. 14A, art. VIII, § 2)

Sec. 74-253. Exemptions and exceptions.

Site plan review shall not be required for single-family (detached) or two-family residential developments, unless the proposed subdivision will include a private amenity or facility comprised of one or more buildings (such as a private recreation/swimming facility, clubhouse, etc.) or a golf course, unless the proposed subdivision will have private (not public) streets. In these instances, site plan submission and approval (in accordance with this article) will be required for the project, including the private amenity or facility, the golf course clubhouse/hospitality area, and the gated (restricted access) entrances.

(Code 1996, ch. 14, exh. 14A, art. VIII, § 3)

Sec. 74-254. Site plan submission requirements.

(a) An application for concept plan (voluntary except for planned developments or specific use permits) or site plan approval shall be comprised of the following (all required items/information must be received by the city manager or designee in order for a concept plan or site plan application to be considered complete (see section 74-256); incomplete submissions will not be reviewed until all deficient items and information have been received):

(1) An application, provided by the city, with notarized signatures of the owner or designated representative if the applicant is not the owner of the subject property;

(2) Filing fee;

(3) Verification that all taxes and assessments on the subject property have been paid (see section 74-255);

(4) Copies of the concept plan or site plan (on a 24-inch by 36-inch sheet, and drawn to a known engineering scale that is large enough to be clearly legible), and other required information, the quantity of which shall be determined by the city manager or designee;

(5) Reduced copies (11-inch by 17-inch or smaller) of the site plan as required by the city manager or designee;

(6) Landscaping and irrigation plans (with site plan; not required with concept plan), the quantity of which shall be determined by the city manager or designee;

(7) Building façade (elevation) plans (with site plan; not required with concept plan) drawn to scale, the quantity of which shall be determined by the city manager or designee;

(8) Any additional information/materials (such as plans, maps, exhibits, legal description of property, information about proposed uses, etc.) as deemed necessary by the city manager or designee in order to ensure that the development request is understood;

(9) If the application is for a single-family subdivision, a land study may qualify as a site plan, notwithstanding other information contained herein that may still be deemed as required with the application.

(Code 1996, ch. 14, exh. 14A, art. VIII, § 4)

Sec. 74-255. Payment of all indebtedness attributable to subject property.

No person who owes delinquent taxes, fees, delinquent paving assessments, impact fees, or any other delinquent debts or obligations to the city, and which are directly attributable to a piece of property, shall be allowed to submit an application for concept plan or site plan until the taxes, fees, assessments, debts, or obligations directly attributable to the property and owed by the owner or previous owner thereof shall have been first fully paid, or until an arrangement satisfactory to the city has been made for the payment of such debts or obligations. It shall be the applicant's responsibility to provide evidence or proof that all taxes, debts and obligations have been paid.

(Code 1996, ch. 14, exh. 14A, art. VIII, § 5)

Sec. 74-256. Official submission date and completeness of application.

For the purpose of this article, the official submission date shall be the date upon which a complete application for approval of a concept plan or site plan (that contains all elements and information required by this article) is submitted to the city manager or designee, as provided by section 74-135(e).

(Code 1996, ch. 14, exh. 14A, art. VIII, § 6)

Sec. 74-257. Supplemental requirements.

The city manager may require other information and data for specific concept plans or site plans. This data may include, but is not limited to, geologic information, water yields, flood data and/or hydrological studies, environmental information, traffic impact analysis, road capacities, market information, economic data for the proposed development, hours of operation, elevations and perspective drawings, lighting, and similar information. approval of a concept plan or site plan may establish conditions for construction based upon such information.
(Code 1996, ch. 14, exh. 14A, art. VIII, § 7)

Sec. 74-258. Principles and standards for review and evaluation.

The following criteria have been set forth as a guide for evaluating the adequacy of proposed development within the city, and to ensure that all developments are, to the best extent possible, constructed according to the city's adopted codes and ordinances:

(1) The city manager or designee shall review the concept plan or site plan for compliance with all applicable provisions of this Code and with the comprehensive plan; for harmony with surrounding uses and with long-range plans for the future development of the city; for the promotion of the health, safety, order, efficiency, and economy of the city; and for the maintenance of property values and the general welfare;

(2) Concept plan or site plan review and evaluation by the city manager or designee shall be performed with respect to the following:

a. The plan's compliance with all provisions of this chapter and provisions of other applicable chapters of this Code;

b. The impact of the development relating to the preservation of existing natural resources on the site and the impact on the natural resources of the surrounding properties and neighborhood;

c. The relationship of the development to adjacent uses in terms of harmonious design, façade treatment, setbacks, building materials, maintenance of property values, and any possible negative impacts;

d. The provision of a safe and efficient vehicular and pedestrian circulation system;

e. The design and location of off-street parking and loading facilities to ensure that all such spaces are usable and are safely and conveniently arranged;

f. The sufficient width and suitable grade and location of streets designed to accommodate prospective traffic and to provide access for firefighting and emergency equipment to buildings;

g. The coordination of streets so as to arrange a convenient system consistent with the thoroughfare plan of the city;

h. The use of landscaping and screening to provide adequate buffers to shield lights, noise, movement, or activities from adjacent properties when necessary, and to complement and integrate the design and location of buildings into the overall site design;

i. Exterior lighting to ensure safe movement and for security purposes, which shall be arranged so as to minimize glare and reflection upon adjacent properties;

j. The location, size, accessibility, and configuration of open space areas to ensure that such areas are suitable for intended recreation and conservation uses;

k. Protection and conservation of soils from erosion by wind or water or from excavation or grading;

l. Protection and conservation of watercourses and areas that are subject to flooding;

m. The adequacy of water, drainage, sewerage facilities, solid waste disposal, and other utilities necessary for essential services to residents and occupants;

n. Consistency with the comprehensive master plan of the city as adopted or amended.

(Code 1996, ch. 14, exh. 14A, art. VIII, § 8)

Sec. 74-259. Approval process and revisions.

(a) *Pre-application conference.*

(1) The applicants should avail themselves of the advice and assistance of the city officials and should consult early and informally with the city manager, the building official, the city planner, the city engineer, and other applicable administrative officers before preparing a concept plan (a voluntary plan, except for planned developments or specific use permits) or a site plan in order to save time, money and to avoid potential unnecessary delays;

(2) Prior to formal application for approval of any concept plan or site plan, the applicants shall request and attend a pre-application conference with the city manager or designee, the city planner, the city engineer, the building official, and any other pertinent city officials in order to become familiar with the city's development regulations and the development process. At the pre-application conference, the developer may be represented by an attorney, land planner, engineer, agent or surveyor.

(b) *City staff review.* Upon official submission of a complete application for concept plan or site plan approval, the city shall commence technical review of the development proposal by forwarding a copy of the application to development review committee (DRC) (such as the city manager, community development director, municipal services director, city planner, building official, police chief, fire chief, etc.). The DRC shall review the application and shall ascertain its compliance with these and other applicable city regulations. Following DRC

and other city staff review of the plan and supporting documents and following discussions with the applicant on any revisions deemed advisable and the kind and extent of improvements to be installed, the applicant shall resubmit additional copies of the corrected plan to the city manager or designee no later than seven calendar days prior to the commission meeting. Failure to resubmit corrected copies of the plan back to the city in time shall be cause for the city manager or designee to forward the plan application to the commission as it was originally submitted rather than the corrected version (corrected copies of the plan resubmitted to the city less than seven days prior to the meeting date shall not be accepted or forwarded to the commission). If, upon resubmission of the corrected plan to the city, the city manager or designee determines that the application is still incomplete or not correct (i.e., not ripe for consideration), the plan application shall be subject to denial.

(c) *Action by the planning and zoning commission and the city council.*

(1) All concept plan and site plan applications shall be reviewed by the planning and zoning commission, and, if in conformance with the provisions of this chapter and all other applicable regulations and codes of the city, they shall then be considered for approval by the city council;

(2) The city manager, or designee, shall schedule consideration of the concept plan or site plan on the regular agenda of the planning and zoning commission in a timely manner after the submission is received (or, in the case of an incomplete submission, after the submission is deemed complete). The commission shall review the concept plan or site plan and shall recommend approval, approval subject to certain conditions, or disapproval of the concept plan or site plan;

(3) If the commission recommends approval (with or without conditions) of the plan, then it will be forwarded to the city council for consideration. If the commission recommends disapproval of a plan application, the commission shall state such disapproval and the reasons therefor;

(4) The applicant or property owner may appeal such decision to city council by filing a written notice of appeal in the office of the city manager or designee no later than ten calendar days after the date upon which the commission denied the application. The notice of appeal shall set forth in clear and concise fashion the basis for the appeal;

(5) The city council shall consider the appeal at a public meeting no later than 30 calendar days after the date upon which the notice of appeal was filed. The city council may change the decision of the commission by vote of three-fourths majority of the full city council. The city council may also, where appropriate, remand the concept plan or site plan application back to the commission for reconsideration if it believes that there is a compelling reason to do so (such as the introduction of significant new facts or testimony, etc.). The city council shall determine final approval or disapproval of all concept plan or site plan applications.

(d) *Revisions to the approved site plan.*

(1) *Minor revisions/amendment.* It is recognized that final architectural and engineering design may necessitate minor changes in the approved site plan. In such cases, the city manager or designee, after review and comments from the city planner, shall have the authority to approve minor modifications to an approved site plan (which shall be submitted as an amended site plan which substantially conforms to the previously approved site plan), provided that such modifications do not significantly change traffic circulation, building locations on the site, or proximity of buildings to nearby residential areas, increase the size or height of buildings, or change any other conditions specifically attached as part of the city council's approval of the site plan. Submission materials and requirements for approval of an amended site plan shall be as determined by the city manager or designee;

(2) *Major revisions.* In the event of revisions that are more extensive in nature (i.e., do not conform to the description for minor amendments in subsection (d)(1) of this section), a revised site plan must be resubmitted, reviewed by the city manager or designee, and reconsidered by the commission and the city council in accordance with the procedures set forth in this section.

(Code 1996, ch. 14, exh. 14A, art. VIII, § 9)

Sec. 74-260. Lapse of concept plan or site plan approval.

The approval of a concept plan or site plan shall be effective for a period of six months (i.e., 180 calendar days) beyond the date that the plan was approved by the city council except as provided herein. By 12:01 a.m. on the 181st day following council approval of the plan, the applicant must have completed a city-required progress benchmark, as set forth below. If this is not accomplished, then the approved concept plan or site plan shall be deemed to have expired and shall become null and void. The series of progress benchmarks for a project, pursuant to the provisions of this section, are as follows:

Approved Plan	*Next Progress Benchmark*
Concept plan	Approval of the final site plan (per this chapter), and voluntary, except approval of the preliminary plat (per subdivision regulations in chapter 72) and with PDs and SUPs continued active engineering review of the engineering/construction plans (which were submitted along with the preliminary plat and final site plan)
Site plan	Engineering release and commencement of construction of public improvements, and application for a building permit for at least one of the buildings on the approved site plan, within six months following approval of the site plan

(Code 1996, ch. 14, exh. 14A, art. VIII, § 10)

Sec. 74-261. Extension and reinstatement procedure.

(a) Prior to the lapse of approval for a concept plan or site plan, the applicant may petition the city, in writing, to extend the plan approval. The petition shall be considered at a public meeting before the commission and then city council, and an extension may be granted by

city council at such meeting. If no petition for extension of concept plan or site plan approval is submitted, then the plan shall be deemed to have expired and shall become null and void. Any new request for concept plan or site plan approval shall be deemed a new project; shall be submitted with a new application form, with a new filing fee, and with new plans and materials in accordance with the procedures set forth in this section; and shall be reviewed for compliance with the ordinances and regulations in effect at the time the new application is made.

(b) In no instance shall more than one extension be considered or granted for a concept plan or site plan.

(c) In determining whether to grant a request for extension, the city council shall take into account the reasons for the lapse, the ability of the property owner to comply with any conditions attached to the original approval, and the extent to which development regulations would apply to the concept plan or site plan at that point in time. The commission and city council shall either extend the concept plan or site plan or deny the request, in which instance the originally approved plan shall be deemed null and void. The property owner must thereafter submit a new concept plan or site plan application for approval as a new project and shall conform to the zoning and development regulations then in effect.
(Code 1996, ch. 14, exh. 14A, art. VIII, § 11)

Sec. 74-262. Concept plan requirements.

(a) *Applicability.*

(1) Submission and approval of a concept plan (a voluntary plan except for planned development or specific use zoning requests) can be the first step in the approval process for a development project (either residential or nonresidential) if the applicant prefers to do so. City review and approval of a concept plan has many benefits for both the city and the applicant. The applicant benefits in that the applicant gains preliminary review and scrutiny (as well as input and suggestions) on the overall conceptual layout of the proposed development from the city's DRC. Approval of a concept plan may also offer the applicant some level of confidence that subsequent plan submissions will be favorably received and approved with few major changes to the project's design and layout, provided that the project complies with city regulations. For example, once the site plan and preliminary plat (and corresponding engineering plans) are submitted for a nonresidential project, unforeseen changes in site layout can prove to be expensive in terms of design and engineering costs and time lost due to major plan revisions. The city benefits in that it is allowed to become familiar with and involved in the project early in the development process (which is particularly important for large-scale developments and subdivisions). This allows the city to plan for and closely coordinate the provision of public facilities

and services, thereby potentially avoiding future problems, such as undersized utility lines, inadequate roadway capacities, unanticipated shortfalls in public services, and fiscal inefficiencies resulting from lack of planning and coordination;

(2) Submission and approval of a concept plan is mandatory for a zoning request for a planned development or specific use permit. Submission and approval of a concept plan is encouraged (but not required) in the following circumstances:

a. In conjunction with a zoning or rezoning request for a property that is intended for development; or

b. Prior to submission of an application for a site plan (and preliminary plat) for a property that is intended for development (particularly large land parcels); or

c. In conjunction with any project where a road is to be established or realigned.

(b) *Purpose.* The purpose of a concept plan is to allow opportunity for the planning and zoning commission and city council to preview various development-related aspects of the project, including proposed major thoroughfare and collector street patterns; land use patterns and trends; environmental issues and constraints; building orientation and massing; conformance to the comprehensive plan, this chapter (if the subject property is within the city's corporate limits), subdivision regulations in chapter 72, future land use plan, thoroughfare plan and other applicable plans and guidelines; and the property's relationship to adjoining subdivisions or properties. Review of a concept plan would also assist the city in evaluating the possible impacts of the proposed development in terms of provision of essential public facilities and services, respecting and preserving important natural features and the environment, provision of open space and recreational opportunities, and protecting the general health, safety and welfare of the community.

(c) *Extent of area that should be included in a concept plan.* When the overall development project is to be developed in phases, the concept plan area shall include the entire zoned property from which the phases are being developed, as well as an approximate development schedule. When significant natural or human-made features, such as thoroughfares or creeks, make inclusion of the entire property in the concept plan unnecessary to adequately review the items to be shown on a concept plan, the plan may include a smaller study area. Boundaries, such as major thoroughfares (existing or proposed), creeks, political subdivisions, or other such natural or human-made features, may be used to delineate the smaller study area.

(d) *Procedures and submission requirements for concept plan approval.* Submission of an application for concept plan approval shall be preceded by a pre-application conference with the city staff (see section 74-259(a)). The concept plan shall be prepared by a qualified civil engineer, land planner, architect or surveyor, at a scale no smaller than one inch equals 200 feet and on sheets 24 inches by 36 inches, and it shall show the following:

(1) A title block within the lower right-hand corner of the concept plan with the proposed name of the project/subdivision, the name and address of the owner/developer and the land planner, engineer, architect or surveyor responsible for the design or survey,

the scale of the drawing (both written and graphic scale), the date the drawing was prepared, total site acreage, and the location of the property according to the abstract and survey records of Dallas or Ellis County, whichever is appropriate;

(2) A vicinity or location map that shows the location of the proposed development within the city (or its ETJ) and in relationship to existing roadways;

(3) The boundary survey limits of the tract and scale distances with north clearly indicated;

(4) The names of adjacent subdivisions (or the name of the owners of record and recording information for adjacent parcels of unplatted land), including parcels on the other sides of roads, creeks, etc. The concept plan shall include a depiction of all contiguous holdings of the property owners, the existing/proposed uses of the subject property, a general arrangement of future land uses, including the approximate number of lots and any residential uses anticipated, and a generalized circulation plan for the subject property;

(5) The existing zoning and existing/proposed uses on adjacent land; the location, width and names of all existing or platted streets or other public ways within or adjacent to the tract; any existing easements (with recording information, width and purpose); existing buildings; railroad rights-of-way; topography (contours at five-foot intervals) with existing drainage channels or creeks (including the 100-year floodplain, if applicable); any other important natural features (such as rock outcroppings, caves, wildlife habitats, etc.); all substantial natural vegetation; and adjacent political subdivisions, corporate limits, or school district boundaries;

(6) Proposed strategies for tree preservation (showing individual trees or tree masses that will be preserved, and the techniques that will be used to protect them during construction);

(7) The layout and width (right-of-way lines) of existing and proposed thoroughfares, collector streets or intersections, and a general configuration of proposed streets, lots and blocks, including proposed median openings and left turn lanes on future divided roadways (existing and planned driveways on the opposite side of divided roadways must also be shown for coordination and sharing of future median openings);

(8) A general arrangement of land uses and buildings, including, but not limited to, proposed nonresidential and residential densities; building heights, square footages, massing, orientation, loading/service areas, recycling containers, compactors and dumpster enclosures, pedestrian walkways, and parking areas; any proposed sites for parks, schools, public facilities, public or private open space; floodplains/drainageways; and other pertinent development-related features; and

(9) The phasing of development (the anticipated order of development for the overall property).

(e) *Effect of review.*

(1) The concept plan shall be used only as an aid to show the anticipated layout of the proposed development, and to assess the adequacy of public facilities or services that will be needed to serve the proposed development. Any proposed use or development depicted on the concept plan shall not be deemed formal authorization or approval by the city until a final site plan is approved for the development (concept plan approval is to be thought of as a general acknowledgment by the city that the proposed layout generally conforms to the city's zoning regulations, and that the proposed development can be adequately served by required public facilities or services). If the applicant chooses to construct only the initial phases of a multi-phase project designated in the concept plan, a new concept plan may be required for site plan approval of subsequent phases, if the proposed development layout, character, or other conditions affecting the development substantially change from one phase to the next;

(2) The approved concept plan shall be valid for a period of six months (i.e., 180 calendar days) from the date of concept plan approval by city council.

(Code 1996, ch. 14, exh. 14A, art. VIII, § 12)

Sec. 74-263. Site plan review.

(a) *Applicability and purpose.* Submission and city approval of a site plan is required as stated in section 74-254. The purpose of final site plan approval is to ensure that a development project is in compliance with all applicable provisions of this Code and guidelines prior to commencement of construction. Approval of the site plan, preliminary plat, landscape plan, building façade plan, and engineering plans are required prior to site construction.

(b) *Extent of area that should be included in a site plan.* When the overall development project is to be developed in phases, the site plan area shall include only the portion of the overall property that is to be developed/constructed.

(c) *Procedures and submission requirements for site plan approval.*

(1) Submission of an application for site plan approval shall be preceded by a pre-application conference with the city staff. The site plan shall be prepared by a qualified civil engineer, land planner, architect or surveyor, at a scale no smaller than one inch equals 100 feet and on sheets 24 inches by 36 inches and 11 inches by 17 inches, and it shall clearly show in detail how the site will be constructed (such as paving, buildings, landscaped areas, utilities, etc.). The site plan shall include, but not be limited to, the following:

a. A title block within the lower right-hand corner of the site plan with the proposed name of the project/subdivision, the name, address and telephone number of the owner/developer and the land planner, engineer, architect or surveyor responsible for the plan, the scale of the drawing (both written and

graphic scale), the date the drawing was prepared, total site acreage, and the location of the property according to the abstract and survey records of Dallas or Ellis County, whichever is appropriate;

b. A vicinity or location map (at a scale of no less than one inches equals 1,000 feet) that shows the location of the proposed development within the city (or its ETJ) and in relationship to existing roadways;

c. The boundary survey limits of the tract (and each proposed lot) and scale distances with north clearly indicated;

d. The names of adjacent additions or subdivisions (or, if individually owned, the name of the owners of record and recording information for adjacent parcels of platted or unplatted land), including parcels on the other sides of roads, creeks, etc.;

e. The existing zoning and existing/proposed uses on adjacent land; the location, width and names of all existing or platted streets or other public ways within or adjacent to the tract; any existing easements (with recording information, width and purpose); existing buildings; railroad rights-of-way; topography (contours at two-foot intervals) with existing drainage channels or creeks (including the 100-year floodplain, if applicable); any other important natural features (such as rock outcroppings, caves, wildlife habitats, etc.); and all substantial natural vegetation;

f. Proposed strategies for tree preservation (showing individual trees or tree masses that will be preserved, and the techniques that will be used to protect them during construction), as further provided by this chapter;

g. The layout and width (right-of-way lines and curblines) of existing and proposed thoroughfares, collector streets or intersections, and specific configuration of proposed streets, lots and blocks, proposed driveways (show driveway widths and distances between driveways), and proposed median openings and left turn lanes on future divided roadways (existing and planned driveways on the opposite side of divided roadways must also be shown for coordination and sharing of future median openings);

h. Specific locations and footprints of buildings, including, but not limited to, proposed nonresidential and residential densities; building heights, square footages (for multi-tenant or multi-purpose buildings, show square footage for each intended use), massing, orientation, loading/service areas (including proposed screening), recycling containers, compactors and dumpster enclosures (including proposed screening), pedestrian walkways, and parking areas (including parking ratio calculations); any proposed sites for parks, schools, public facilities, public or private open space; floodplains/drainageways; all proposed and existing utilities and easements; drainage structures; retention/detention

ponds with proposed aesthetic treatments; screening walls; fences; signage; fire lanes and fire hydrants; lighting; visibility easements; and other pertinent development-related features;

i. A landscape plan showing turf areas, tree types and sizes, screening walls, ornamental plantings, planting schedule (including species, planted height, spacing, container/caliper size, numbers of each plant material, etc.), any existing wooded areas, trees to be planted, and irrigation plans (if required), as further provided by this chapter; and

j. Building façade (elevation) plans showing elevations with any attached (wall-mounted) signage to be used, as determined appropriate by the city manager or designee;

(2) Permit of the items set forth in subsection (c)(1) of this section shall conform to the principles and standards of this chapter and the comprehensive master plan. To ensure the submission of adequate information, the city is empowered to maintain and distribute a separate list of specific requirements for site plan review applications. Upon periodic review, the city manager or designee shall have the authority to update such requirements for site plan and development review applications. It is the applicant's responsibility to be familiar with, and to comply with, these requirements.

(d) *Effect of review.* The site plan shall be considered authorization to proceed with construction of the site provided all other required city approvals are obtained (such as preliminary plat, engineering plans, landscape plan, building façade plans, building permits, etc.). The approved site plan shall be valid for a period of six months (i.e., 180 calendar days) from the date of approval by the city council.
(Code 1996, ch. 14, exh. 14A, art. VIII, § 13)

Secs. 74-264—74-289. Reserved.

ARTICLE IX. ZONING DISTRICTS

Sec. 74-290. Established.

The city is divided into the following zoning districts. The use, height and lot area regulations, and other standards, as set out herein, apply to each district, as set out in this section. The districts established herein shall be known as:

Abbreviated Designation	*Zoning District Name*
Base Districts	
A	Agricultural
SF-E	Single-Family Estate Residential (minimum 40,000-square-foot lots)
SF-1	Single-Family Residential-1 (minimum 20,000-square-foot lots)

Abbreviated Designation	*Zoning District Name*
SF-2	Single-Family Residential-2 (minimum 12,000-square-foot lots)
SF-3	Single-Family Residential-3 (minimum 9,000-square-foot lots)
O	Office
NS	Neighborhood Service
R	Retail
TC	Town Center Commercial
C	Commercial
I	Industrial
Provisional Districts	
SF-4	Single-Family Residential-4 (minimum 7,500-square-foot lots)
SF-PH	Single-Family Residential-Patio Home (zero-lot-line homes)
MF	Multifamily Residential
MH	Manufactured Home
Overlay Districts	
PD	Planned Development
PD-ED	Planned Development-Economic Development
SUP	Specific Use Permit
Obsolete Districts	
SF-5	Single-Family Residential-5 (minimum 5,500-square-foot lots)
BP	Business Park
HC	Highway Commercial

(Code 1996, ch. 14, exh. 14A, art. IX, § 1)

Sec. 74-291. Zoning classifications; regulations and purposes.

(a) *A Agricultural District.*

(1) *General purpose and description.* The A Agricultural District provides for the use of land for farming, ranching, gardening and similar uses of vacant land. Single-family uses on large lots are also appropriate for this district. When land in the A district is needed for urban purposes, it is anticipated the zoning will be changed to the appropriate zoning districts to provide for orderly growth and development in accordance with the comprehensive master plan. This district shall serve as the interim zoning district for any land annexed into the city until such time as it is zoned in accordance with the provisions herein;

(2) *Permitted uses.* Those uses listed for the A district in section 74-352 as "X" (permitted) or "S" (specific use permit) are authorized uses permitted by right or specially permitted uses, respectively. Special permitted uses must be approved utilizing procedures set forth in section 74-293(d);

(3) *Maximum height.* Maximum height standards for the A district are as follows:

a. 2½ stories or 35 feet for the main building/house;

b. 45 feet for uninhabited agricultural structures (e.g., barns, silos, water towers, etc.), provided they are no closer than 100 feet from any residential structure on the premises, and they are set back at least 100 feet or three times their height (whichever is greater) from any front, side or rear property line;

c. 15 feet for other accessory buildings, including detached garage, garden shed, accessory dwelling units, etc.;

d. Other requirements as set forth in section 74-418(i);

(4) *Area regulations.* Area regulations for the A district are as follows:

a. Size of lots:

1. Minimum lot area: three acres;

2. Minimum lot width: 250 feet;

3. Minimum lot depth: 200 feet;

b. Size of yards:

1. Minimum front yard: 50 feet;

2. Minimum side yard: 15 percent of the lot width, but need not exceed 50 feet; 25 feet from a street right-of-way line for a corner lot;

3. Minimum rear yard: 40 feet;

c. Maximum lot coverage: 15 percent for main buildings and accessory buildings;

d. Minimum lot access: No lot shall have less than 35 feet access measured at the right-of-way line;

(5) *Parking regulations.* Parking regulations in the A district are as follows:

a. Single-family dwelling unit: A minimum of two enclosed, attached or detached, parking spaces no less than 24 feet by 24 feet, on the same lot as the main structure, plus two additional parking spaces on a paved driveway having a minimum length of 55 feet as measured from ten feet interior of any paved or improved public surface (i.e., roadway, sidewalk);

b. Other: See article XIV of this chapter;

(6) *Minimum floor area.* Minimum floor area per dwelling unit in the A district is as follows: 2,250 square feet. Minimum dwelling unit areas specified shall be computed exclusive of breezeways, garages, open porches, carports and accessory buildings;

(7) *Minimum exterior construction standards.* Minimum exterior construction standards in the A district are as follows:

a. Masonry: See section 74-293(c)(10)a ;

b. Roof pitch: See section 74-293(c)(10)f.5;

c. Roofing systems: See section 74-293(c)(10)f;

d. Chimney design: See section 52-2;

(8) *Mailboxes.* Standards for mailboxes in the in the A district are as follows: See section 52-23;

(9) *Accessory buildings.* Accessory buildings in the A district are as follows: See section 52-24;

(10) *Driveways.* Driveway standards in the A district are as follows:

a. In A districts, circle driveways are permitted with front yard setbacks of 30 feet or more and where the driveway is a minimum of 15 feet from the front door;

b. All other driveway requirements are found in section 52-25;

(11) *Sidewalks.* Sidewalk standards in the A district are as follows: See section 52-26;

(12) *Lighting.* Lighting standards in the A district are as follows: See section 56-60(s);

(13) *Special requirements.* Special requirements in the A district are as follows: See section 52-27;

(14) *Other regulations.* Other regulations in the A district are as follows: As established by articles XIII, XIV, and XV of this chapter and subdivision regulations in chapter 72.

(b) *SF-E Single-Family Estate Residential District.*

(1) *General purpose and description.* The SF-E Single-Family Estate Residential District is intended to provide for development primarily composed of single-family detached dwellings on larger lots that are not less than 40,000 square feet in size. Areas zoned for the SF-E district shall have, or shall make provision for, city water and sewer services. They shall be designed to adequately accommodate storm drainage; they shall have paved concrete streets with logical and efficient vehicular circulation patterns that discourage non-local traffic; they shall be properly buffered from nonresidential uses; and they shall be protected from pollution and undesirable environmental and noise impacts;

(2) *Permitted uses.* Those uses listed for the SF-E district in section 74-352 as "X" (permitted) or "S" (specific use permit) are authorized uses permitted by right or specially permitted uses, respectively. Special permitted uses must be approved utilizing procedures set forth in section 74-293(d);

(3) *Maximum height.* Maximum height standards for the SF-E district are as follows:

a. 2½ stories, or 35 feet for the main building/house;

b. 15 feet for other accessory buildings, including detached garage, garden shed, accessory dwelling units, etc.;

c. Other requirements (see section 74-418(i));

(4) *Area regulations.* Area regulations for the SF-E district are as follows:

a. Size of lots:

1. Minimum lot area: 40,000 square feet; maximum density one dwelling unit per acre;

2. Minimum lot width: 140 feet;

3. Minimum lot depth: 140 feet;

b. Size of yards:

1. Minimum front yard: 40 feet;

2. Minimum side yard: 25 feet; 25 feet measured from a street right-of-way line for a corner lot;

3. Minimum rear yard: 40 feet;

c. Maximum lot coverage: 25 percent for the main building; 50 percent for the main building and any accessory buildings, driveways and parking areas combined;

d. Minimum lot access: No lot shall have less than 35 feet access measured at the right-of-way line;

(5) *Parking regulations.* Parking regulations in the SF-E district are as follows:

a. Single-family dwelling unit: A minimum of two enclosed, attached or detached, parking spaces no less than 24 feet by 24 feet, on the same lot as the main structure, plus two additional parking spaces on a paved driveway having a minimum length of 30 feet as measured from ten feet interior of any paved or improved public surface (i.e., roadway, sidewalk);

b. Other: See article XIV of this chapter;

(6) *Minimum floor area.* Minimum floor area per dwelling unit in the SF-E district is as follows per dwelling unit: 3,500 square feet. Minimum dwelling unit areas specified shall be computed exclusive of breezeways, garages, open porches, carports and accessory buildings;

(7) *Minimum exterior construction standards.* Minimum exterior construction standards in the SF-E district are as follows:

a. Masonry: See section 74-293(c)(10)a ;

b. Roof pitch: See section 74-293(c)(10)f.5;

c. Roofing systems: See section 74-293(c)(10)f;

d. Chimney design: See section 52-2;

(8) *Mailboxes.* Standards for mailboxes in the in the SF-E district are as follows: See section 52-23;

(9) *Accessory buildings.* Accessory buildings in the SF-E district are as follows: See section 52-24;

(10) *Driveways.* Driveway standards in the SF-E district are as follows:

a. In SF-E districts, circle driveways are permitted with front yard setbacks of 25 feet or more and where the driveway is a minimum of ten feet from the front door;

b. All other driveway requirements are found in section 52-25;

(11) *Sidewalks.* Sidewalk standards in the SF-E district are as follows: See section 52-26;

(12) *Lighting.* Lighting standards in the SF-E district are as follows: See section 56-60(s);

(13) *Special requirements.* Special requirements in the SF-E district are as follows: See section 52-27;

(14) *Other regulations.* Other regulations in the SF-E district are as follows: As established by articles XIII, XIV, and XV of this chapter and subdivision regulations in chapter 72.

(c) *SF-1 Single-Family Residential-1 District.*

(1) *General purpose and description.* The SF-1 Single-Family Residential-1 District is intended to provide for development and be composed of primarily low-density single-family detached dwellings on lots that are not less than 20,000 square feet in size. Areas zoned for the SF-1 district shall have, or shall make provision for, city water and sewer services. They shall be designed to adequately accommodate storm drainage; they shall have paved concrete streets with logical and efficient vehicular circulation patterns that discourage non-local traffic; they shall be properly buffered from nonresidential uses; and they shall be protected from pollution and undesirable environmental and noise impacts;

(2) *Permitted uses.* Those uses listed for the SF-1 district in section 74-352 as "X" (permitted) or "S" (specific use permit) are authorized uses permitted by right or specially permitted uses, respectively. Special permitted uses must be approved utilizing procedures set forth in section 74-293(d);

(3) *Maximum height.* Maximum height standards for the SF-1 district are as follows:

a. 2½ stories, or 35 feet for the main building/house;

b. 15 feet for other accessory buildings, including detached garage, garden shed, accessory dwelling units, etc.;

c. Other requirements (see section 74-418(i));

(4) *Area regulations.* Area regulations for the SF-1 district are as follows:

a. Size of lots:

1. Minimum lot area: 20,000 square feet; maximum density two dwelling units per acre;

2. Minimum lot width: 125 feet;

3. Minimum lot depth: 140 feet;

b. Size of yards:

1. Minimum front yard: 35 feet;

2. Minimum side yard: 15 feet; 25 feet from a street right-of-way line for a corner lot;

3. Minimum rear yard: 30 feet;

c. Maximum lot coverage: 35 percent for the main building; 50 percent for the main building and any accessory buildings, driveways and parking areas combined;

d. Minimum lot access: No lot shall have less than 35 feet access measured at the right-of-way line;

(5) *Parking regulations.* Parking regulations in the SF-1 district are as follows:

a. Single-family dwelling unit: A minimum of two enclosed, attached parking spaces no less than 24 feet by 24 feet, on the same lot as the main structure, plus two additional parking spaces on a paved driveway having a minimum length of 30 feet as measured from ten feet interior of any paved or improved public surface (i.e., roadway, sidewalk);

b. Other: See article XIV of this chapter;

(6) *Minimum floor area.* Minimum floor area per dwelling unit in the SF-1 district is as follows per dwelling unit: 2,700 square feet. Minimum dwelling unit areas specified shall be computed exclusive of breezeways, garages, open porches, carports and accessory buildings;

(7) *Minimum exterior construction standards.* Minimum exterior construction standards in the SF-1 district are as follows:

a. Masonry: See section 74-293(c)(10)a ;

b. Roof pitch: See section 74-293(c)(10)f.5;

c. Roofing systems: See section 74-293(c)(10)f;

d. Chimney design: See section 52-2;

(8) *Mailboxes.* Standards for mailboxes in the in the SF-1 district are as follows: See section 52-23;

(9) *Accessory buildings.* Accessory buildings in the SF-1 district are as follows: See section 52-24;

(10) *Driveways.* Driveway standards in the SF-1 district are as follows: See section 52-25;

(11) *Sidewalks.* Sidewalk standards in the SF-1 district are as follows: See section 52-26;

(12) *Lighting.* Lighting standards in the SF-1 district are as follows: See section 56-60(s);

(13) *Special requirements.* Special requirements in the SF-1 district are as follows: See section 52-27;

(14) *Other regulations.* Other regulations in the SF-1 district are as follows: As established by articles XIII, XIV, and XV of this chapter and subdivision regulations in chapter 72.

(d) *SF-2 Single-Family Residential-2 District.*

(1) *General purpose and description.* The SF-2 Single-Family Residential-2 District is intended to provide for development and be composed of low-density single-family detached dwellings on lots that are not less than 12,000 square feet in size. Areas zoned for the SF-2 district shall have or shall make provision for city water and sewer services. They shall be designed to adequately accommodate storm drainage; they shall have paved concrete streets with logical and efficient vehicular circulation patterns that discourage non-local traffic; they shall be properly buffered from nonresidential uses; and they shall be protected from pollution and undesirable environmental and noise impacts;

(2) *Permitted uses.* Those uses listed for the SF-2 district in section 74-352 as "X" (permitted) or "S" (specific use permit) are authorized uses permitted by right or specially permitted uses, respectively. Special permitted uses must be approved utilizing procedures set forth in section 74-293(d);

(3) *Maximum height.* Maximum height standards for the SF-2 district are as follows:

a. 2½ stories, or 35 feet for the main building/house;

b. 15 feet for other accessory buildings, including detached garage, garden shed, accessory dwelling units, etc.;

c. Other requirements (see section 74-418(i));

(4) *Area regulations.* Area regulations for the SF-2 district are as follows:

a. Size of lots:

1. Minimum lot area: 12,000 square feet; also, the minimum average lot area shall be 13,500 square feet in order to provide diversity in lot sizes within each SF-2 neighborhood; maximum density three dwelling units per acre;

2. Minimum lot width: 85 feet;

3. Minimum lot depth: 120 feet;

b. Size of yards:

1. Minimum front yard: 30 feet;

2. Minimum side yard: ten feet for interior side yard; 25 feet from a street right-of-way line for a corner lot;

3. Minimum rear yard: 20 feet;

c. Maximum lot coverage: 35 percent for the main building; 50 percent for the main building and any accessory buildings, driveways and parking areas combined;

d. Minimum lot access: No lot shall have less than 35 feet access measured at the right-of-way line;

(5) *Parking regulations.* Parking regulations in the SF-2 district are as follows:

a. Single-family dwelling unit: A minimum of two enclosed parking spaces no less than 24 feet by 24 feet, on the same lot as the main structure, plus two additional parking spaces on a paved driveway having a minimum length of 30 feet as measured from ten feet interior of any paved or improved public surface (i.e., roadway, sidewalk);

b. Other: See article XIV of this chapter;

(6) *Minimum floor area.* Minimum floor area per dwelling unit in the SF-2 district is as follows per dwelling unit: 2,000 square feet; also, the minimum average floor area shall be 2,200 square feet in order to provide diversity in house sizes within each SF-2 neighborhood;

(7) *Minimum exterior construction standards.* Minimum exterior construction standards in the SF-2 district are as follows:

a. Masonry: See section 74-293(c)(10)a ;

b. Roof pitch: See section 74-293(c)(10)f.5;

c. Roofing systems: See section 74-293(c)(10)f;

d. Chimney design: See section 52-2;

(8) *Mailboxes.* Standards for mailboxes in the in the SF-2 district are as follows: See section 52-23;

(9) *Accessory buildings.* Accessory buildings in the SF-2 district are as follows: See section 52-24;

(10) *Driveways.* Driveway standards in the SF-2 district are as follows: See section 52-25;

(11) *Sidewalks.* Sidewalk standards in the SF-2 district are as follows: See section 52-26;

(12) *Lighting.* Lighting standards in the SF-2 district are as follows: See section 56-60(s);

(13) *Special requirements.* Special requirements in the SF-2 district are as follows: See section 52-27;

(14) *Other regulations.* Other regulations in the SF-2 district are as follows: As established by articles XIII, XIV, and XV of this chapter and subdivision regulations in chapter 72.

(e) *SF-3 Single-Family Residential-3 District.*

(1) *General purpose and description.* The SF-3 Single-Family Residential-3 District is intended to provide for development of and be composed of primarily single-family detached dwellings on smaller and more compact lots of not less than 9,000 square feet. Areas zoned for the SF-3 district shall have, or shall make provision for, city water and sewer services. They shall be designed to adequately accommodate storm

drainage; they shall have paved concrete streets with logical and efficient vehicular circulation patterns that discourage non-local traffic; they shall be properly buffered from nonresidential uses; and they shall be protected from pollution and undesirable environmental and noise impacts;

(2) *Permitted uses.* Those uses listed for the SF-3 district in section 74-352 as "X" (permitted) or "S" (specific use permit) are authorized uses permitted by right or specially permitted uses, respectively. Special permitted uses must be approved utilizing procedures set forth in section 74-293(d);

(3) *Maximum height.* Maximum height standards for the SF-3 district are as follows:

a. 2½ stories, or 35 feet for the main building/house;

b. 15 feet for other accessory buildings, including detached garage, garden shed, accessory dwelling units, etc.;

c. Other requirements (see section 74-418(i));

(4) *Area regulations.* Area regulations for the SF-3 district are as follows:

a. Size of lots:

1. Minimum lot area: 9,000 square feet; also, the minimum average lot area shall be 11,000 square feet in order to provide diversity in lot sizes within each SF-3 neighborhood; maximum density 3½ dwelling units per acre;

2. Minimum lot width: 70 feet;

3. Minimum lot depth: 120 feet;

b. Size of yards:

1. Minimum front yard: 30 feet;

2. Minimum side yard: eight feet for interior side yard; 15 feet for a corner lot on a residential or collector street; 25 feet for a corner lot on an arterial street;

3. Minimum rear yard: 20 feet;

c. Maximum lot coverage: 40 percent for the main building; 60 percent for the main building and any accessory buildings, driveways and parking areas combined;

d. Minimum lot access: No lot shall have less than 35 feet access measured at the right-of-way line;

(5) *Parking regulations.* Parking regulations in the SF-3 district are as follows:

a. Single-family dwelling unit: A minimum of two enclosed, attached parking spaces no less than 24 feet by 24 feet, on the same lot as the main structure, plus two additional parking spaces on a paved driveway having a minimum length of 30 feet as measured from ten feet interior of any paved or improved public surface (i.e., roadway, sidewalk);

b. Other: See article XIV of this chapter;

(6) *Minimum floor area.* Minimum floor area per dwelling unit in the SF-3 district is as follows per dwelling unit: 1,750 square feet; also, the minimum average floor area shall be 1,850 square feet in order to provide diversity in house sizes within each SF-3 neighborhood;

(7) *Minimum exterior construction standards.* Minimum exterior construction standards in the SF-3 district are as follows:

a. Masonry: See section 74-293(c)(10)a ;

b. Roof pitch: See section 74-293(c)(10)f.5;

c. Roofing systems: See section 74-293(c)(10)f;

d. Chimney design: See section 52-2;

(8) *Mailboxes.* Standards for mailboxes in the in the SF-3 district are as follows: See section 52-23;

(9) *Accessory buildings.* Accessory buildings in the SF-3 district are as follows: See section 52-24;

(10) *Driveways.* Driveway standards in the SF-3 district are as follows: See section 52-25;

(11) *Sidewalks.* Sidewalk standards in the SF-3 district are as follows: See section 52-26;

(12) *Lighting.* Lighting standards in the SF-3 district are as follows: See section 56-60(s);

(13) *Special requirements.* Special requirements in the SF-3 district are as follows: See section 52-27;

(14) *Other regulations.* Other regulations in the SF-3 district are as follows: As established by articles XIII, XIV, and XV of this chapter and subdivision regulations in chapter 72.

(f) *O Office District.*

(1) *General purpose and description.* The O Office District is established to provide an appropriate setting for low intensity office and professional uses, such as for the use of land on which two-story garden office buildings can be constructed. The O district can be used as a transition district between residential uses and more intense uses, and, with appropriate buffers and landscaping, this district may be located in close proximity to residential districts. Permitted uses should be compatible with adjacent residential areas by limiting heights to one or two stories and shall not include uses that create excessive amounts of traffic, noise, trash or late-night business operations. Traffic generated by uses in this district shall not be designed or encouraged to travel through residential areas. Adaptive reuse of existing structures is encouraged. Buildings in this district should be compatible and similar in scale with residential uses and adjacent property;

(2) *Permitted uses.* Those uses listed for the O district in section 74-352 as "X" (permitted) or "S" (specific use permit) are authorized uses permitted by right or specially permitted uses, respectively. Special permitted uses must be approved utilizing procedures set forth in section 74-293(d);

(3) *Maximum height.* Maximum height standards for the O district are as follows:

a. Two stories or 35 feet for the main buildings;

b. One story for accessory buildings;

c. Other (see section 74-418(i));

(4) *Area regulations.* Area regulations for the O district are as follows:

a. Size of lots:

1. Minimum lot area: 6,000 square feet; 12,000 square feet on Interstate 35 and other regional thoroughfare frontage;

2. Minimum lot width: 60 feet, except 120 feet along Interstate 35 and other regional thoroughfare frontage;

3. Minimum lot depth: 100 feet;

b. Size of yards:

1. Minimum front yard: 30 feet from ultimate right-of-way line of roadway; 50 feet from ultimate right-of-way line on Interstate 35 and other regional thoroughfare frontage; all yards adjacent to a street shall be considered a front yard (see section 74-418(5) for additional setback requirements);

2. Minimum side and rear yard: 20 feet, plus one foot for every foot in height over 15 feet adjacent to a residentially zoned or use of property (see below);

3. Interior side yards: The interior side yard setback between two nonresidential buildings may be reduced to zero feet where the two buildings share a common interior lot line, where construction of a party wall in accordance with the city's building codes is used, and when approved by the city council on the site plan following a favorable recommendation by the planning and zoning commission. When such a reduced side yard setback is utilized, the equivalent open space and landscape plantings and buffers that are normally required along a shared side property boundary shall be provided elsewhere on each respective affected lot (i.e., shall not be waived, just provided somewhere else). Approval of a site plan that shows such a reduced zero-foot side yard setback between two nonresidential buildings shall be discretionary in nature and shall be based upon an analysis of the location, the configuration, and the impact and compatibility of the proposed construction with respect to adjacent land uses and structures;

c. Maximum lot coverage: 50 percent, including main and accessory buildings; maximum 80 percent impervious coverage (including all buildings, parking areas, sidewalks, etc.);

d. Minimum lot access: No lot shall have less than 35 feet access measured at the right-of-way line;

e. Maximum floor area ratio (FAR): 1:1;

f. Maximum building size: The maximum building footprint (first floor) area of a structure shall be determined and limited by applying the lot's size, minimum building setbacks, maximum of 50 percent lot coverage, minimum parking requirement, minimum landscaping percentage and areas, and other pertinent development requirements.

(5) *Parking requirements.* Parking requirements in the O district are as follows: As established by article XIV of this chapter;

(6) *Building material.* Building material standards in the O district are as follows: See section 52-24;

(7) *Special district requirements.* Special district requirements in the O district are as follows:

a. Driveway spacing: See section 52-58;

b. Swimming pools: See section 52-60;

c. Lighting: See section 52-24;

d. Site plan review: See section 52-61;

e. Landscaping requirements: See chapter 58;

f. Screening requirements: See chapter 58;

g. Long-term or permanent open storage and temporary or permanent outside display of merchandise and seasonal items are prohibited;

(8) *Building façade plans (elevations).* Building façade plans in the O district are as follows: See section 52-62;

(9) *Specific on-site storage.* Specific on-site storage in the O district is prohibited as follows: See section 52-63;

(10) *Signs.* Sign standards in the O district are as follows: See chapter 66;

(11) *Other regulations.* Other regulations in the O district are as follows: See articles XIII, XIV, and XV of this chapter and standards established in the subdivision regulations in chapter 72.

(g) *NS Neighborhood Service District.*

(1) *General purpose and description.* The NS Neighborhood Service District provides a district for retail use which provides limited local neighborhood, low intensity retail and service facilities for the retail sales of goods and services to surrounding

residential uses. These shopping areas shall utilize established landscape and buffering requirements. The NS district should be located along or at the intersection of major collectors or thoroughfares to accommodate higher traffic volumes, but it can also act as a buffer against residential areas;

(2) *Permitted uses.* Those uses listed for the NS district in section 74-352 as "X" (permitted) or "S" (specific use permit) are authorized uses permitted by right or specially permitted uses, respectively. Special permitted uses must be approved utilizing procedures set forth in section 74-293(d);

(3) *Maximum height.* Maximum height standards for the NS district are as follows:

a. Two stories or 35 feet for the main buildings;

b. One story for accessory buildings;

c. Other (section 74-418(i));

(4) *Area regulations.* Area regulations for the NS district are as follows:

a. Size of lot:

1. Minimum lot area: 10,000 square feet, or a minimum of 6,000 square feet on a collector or local/residential street with a specific use permit;

2. Minimum lot width: 60 feet;

3. Minimum lot depth: 100 feet;

b. Size of yards:

1. Minimum front yard: 30 feet from ultimate right-of-way line of roadway; all yards adjacent to a street shall be considered a front yard (see section 74-418(5) for additional setback requirements);

2. Minimum side and rear yard: 15 feet unless adjacent to a residentially zoned or use of property (see subsection (g)(4)b.3 of this section);

3. Minimum side or rear yard adjacent to a residential district: 20 feet for one-story building, and an additional one feet for every one foot (or fraction thereof) above one story in height;

4. The interior side yard setback between two nonresidential buildings may be reduced to zero feet where the two buildings share a common interior lot line, where construction of a party wall in accordance with the city's building codes is used, and when approved by the city council on the site plan following a favorable recommendation by the planning and zoning commission. Where such a reduced side yard setback is utilized, the equivalent open space and landscape plantings and buffers that are normally required along a shared side property boundary shall be provided elsewhere on each respective affected lot (i.e., shall not be waived, just provided somewhere else). Approval of a site plan that shows such a reduced zero-foot side yard setback between two nonresidential buildings

shall be discretionary in nature and shall be based upon an analysis of the location, the configuration, and the impact and compatibility of the proposed construction with respect to adjacent land uses and structures;

c. Maximum lot coverage: 50 percent, including main and accessory buildings; maximum 80 percent impervious coverage (including all buildings, parking areas, sidewalks, etc.);

d. Maximum floor area ratio (FAR): 0.5:1;

e. Maximum building size: The maximum building footprint (first floor) area of a structure shall be determined and limited by applying the lot's size, minimum building setbacks, maximum of 50 percent lot coverage, minimum parking requirement, minimum landscaping percentage and areas, and other pertinent development requirements;

(5) *Parking requirements.* Parking requirements in the NS district are as follows: As established by section XIV of this chapter;

(6) *Building material.* Building material standards in the NS district are as follows: See section 52-24;

(7) *Special requirements.* Special requirements in the NS district are as follows:

a. Driveway spacing: See section 52-58;

b. Lighting: See section 52-24;

c. Site plan review: See section 52-61;

d. Landscaping requirements: See chapter 58;

e. Screening requirements: See chapter 58;

f. Temporary outside display: Temporary (i.e., not long-term or permanent) outside display of seasonal items (e.g., Christmas trees, pumpkins, landscape vegetation, etc.) shall be allowed, but limited to, the following:

1. A permit from the city is required for each seasonal display;

2. The display in any of the parking spaces that are required by this chapter for the primary uses of the property is prohibited. Additional parking spaces or improved surface, constructed for the purpose of temporary outside display, shall be specifically identified on the required site plan and shall be clearly and distinctively marked (i.e., different paint color) as a designated display area;

3. Temporary outside display located in the designated parking spaces shall be surrounded by a temporary fence (i.e., materials such as wood and cinder block);

4. Merchandise shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on site or off site, in any way;

5. At no time shall public rights-of-way, pedestrian walkways or adjacent properties be obstructed by display merchandise;
6. All merchandise shall be displayed in an orderly manner, and the display area shall be maintained in a clean, litter-free manner;

g. Long-term or permanent open storage: Long-term or permanent open storage is prohibited;

(8) *Building façade plans (elevations).* Building façade plans (elevations) in the NS district are as follows: See section 52-62;

(9) *Specific on-site storage.* Specific on-site storage in the NS district is prohibited as follows: See section 52-63;

(10) *Signs.* Sign standards in the NS district are as follows: See chapter 66;

(11) *Other regulations.* Other regulations in the NS district are as follows: See articles XIII, XIV, and XV of this chapter and standards established in the subdivision regulations in chapter 72.

(h) *R Retail District.*

(1) *General purpose and description.* The R Retail District is established to provide for retail areas and service facilities serving a neighborhood or several neighborhoods and designed as a retail center. These shopping areas should utilize established landscape and buffering requirements. The retail district should be located along or at the intersection of major collectors or thoroughfares to accommodate higher traffic volumes;

(2) *Permitted uses.* Those uses listed for the R district in section 74-352 as "X" (permitted) or "S" (specific use permit) are authorized uses permitted by right or specially permitted uses, respectively. Special permitted uses must be approved utilizing procedures set forth in section 74-293(d);

(3) *Maximum height.* Maximum height standards for the R district are as follows:

a. Two stories or 35 feet for the main buildings;

b. One story for accessory buildings;

c. Other (section 74-418(i));

(4) *Area regulations.* Area regulations for the R district are as follows:

a. Size of lot:

1. Minimum lot area: 43,560 square feet or one acre, or a minimum of 10,000 square feet on a collector or local/residential street only with a specific use permit;
2. Minimum lot width: 100 feet, except 150 feet along Interstate 35 or other regional major thoroughfare frontage;
3. Minimum lot depth: 100 feet;

b. Size of yards:

1. Minimum front yard: 30 feet from ultimate right-of-way line of roadway on all roadways; all yards adjacent to a street shall be considered a front yard (see section 74-418(5) for additional setback requirements);

2. Minimum side and rear yard: 20 feet unless adjacent to a residentially zoned or use of property;

3. Minimum side or rear yard adjacent to a residential district: 25 feet for one-story building, and an additional one foot for every one foot (or fraction thereof) above one story in height;

4. Interior side yards: The interior side yard setback between two nonresidential buildings may be reduced to zero feet where the two buildings share a common interior lot line, where construction of a party wall in accordance with the city's building codes is used, and when approved by the city council on the site plan following a favorable recommendation by the planning and zoning commission. Where such a reduced side yard setback is utilized, the equivalent open space and landscape plantings and buffers that are normally required along a shared side property boundary shall be provided elsewhere on each respective affected lot (i.e., shall not be waived, just provided somewhere else). Approval of a site plan that shows such a reduced zero-foot side yard setback between two nonresidential buildings shall be discretionary in nature and shall be based upon an analysis of the location, the configuration, and the impact and compatibility of the proposed construction with respect to adjacent land uses and structures;

c. Maximum lot coverage: 50 percent, including main and accessory buildings; maximum 80 percent impervious coverage (including all buildings, parking areas, sidewalks, etc.);

d. Maximum floor area ratio (FAR): 1:1;

e. Maximum building size: The maximum building footprint (first floor) area of a structure shall be determined and limited by applying the lot's size, minimum building setbacks, maximum of 50 percent lot coverage, minimum parking requirement, minimum landscaping percentage and areas, and other pertinent development requirements;

(5) *Parking requirements.* Parking requirements in the R district are as follows: As established by section XIV of this chapter;

(6) *Building materials.* Building materials in the R district are as follows: See section 52-24;

(7) *Special requirements.* Special requirements in the R district are as follows:

a. Driveway spacing: See section 52-58;

b. Lighting: See section 52-24;

c. Site plan review: See section 52-61;

d. Landscaping requirements: See chapter 58;

e. Screening requirements: See chapter 58;

f. Temporary outside display: Temporary (i.e., not long-term or permanent) outside display of seasonal items (e.g., Christmas trees, pumpkins, landscape vegetation, etc.) shall be allowed, but limited to, the following:

1. A permit from the city is required for each seasonal display;

2. Displays in any of the parking spaces that are required by this chapter for the primary uses of the property is prohibited. Additional parking spaces or improved surface constructed for the purpose of temporary outside display shall be specifically identified on the required site plan and shall be clearly and distinctively marked (i.e., different paint color) as a designated display area;

3. Temporary outside displays located in the designated parking spaces shall be surrounded by a temporary fence (i.e., materials such as wood and cinder block);

4. Merchandise shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on site or off site, in any way;

5. At no time shall public rights-of-way, pedestrian walkways or adjacent properties be obstructed by display merchandise;

6. All merchandise shall be displayed in an orderly manner, and the display area shall be maintained in a clean, litter-free manner;

g. Long-term or permanent outside display: Long-term or permanent outside display area shall be allowed if the following criteria are followed:

1. All display merchandise shall be limited to the area in front of the main building between the fire lane and the front building façade. In the event the subject project has multiple entrances (i.e., multiple front façades), only one side shall be allowed to have outside display;

2. The amount of display area shall not exceed 60 percent of the front façade of the main building, exclusive of doors, windows and driveways;

3. Display merchandise shall not encroach into the fire lane, parking lot/spaces, walkways, rights-of-way or roadways;

4. Merchandise shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on site or off site, in any way, nor obstruct any designated fire lane;

5. All merchandise shall be displayed in a neat, orderly manner, and the display area shall be maintained in a clean, litter-free manner;

h. Long-term or permanent open storage:

1. Long-term or permanent open display and storage shall require the application for, approval of and issuance of a specific use permit (SUP) in accordance with section 74-293(d). A maximum of five percent of the total lot area may be designated for long-term, permanent open storage and shall be screened from public view, shall not be located on top of the building. Screening for long-term, permanent open storage shall conform to the following:

(i) Open display and storage for merchandise, such as garden supplies, landscape vegetation, lawn mowers, building materials, etc., requires an extension of the masonry wall of the front façade and, at a minimum, chain-link fencing and solar screening with masonry columns. The masonry columns shall be a minimum of 30 feet apart and are required on the sides exclusive of the front façade and the wall adjacent to the main structure. Also, the screening of chain-link fencing and solar screening is inclusive of the roof. The storage area, as an extension of the main building, is at least the same height as the product to be screened but extending no higher than the roof of the main building and constructed to one side of the main building. Solar screening shall be maintained in good condition. No tarps or other fabric-like screening shall be allowed. No merchandise from this area shall be placed outside the open storage area. The required site plan shall reflect the open storage area with a detailed description of building materials;

(ii) In the event this open display and storage area abuts a similar nonresidential district or is not visible from any public right-of-way or the general public, the planning and zoning commission and city council, upon proper request by applicant, may consider a proposal for less screening;

2. Long-term, permanent open storage of shopping carts requires a designated area, identified in the required site plan, adjacent to and made a part of the main building. The designated area shall be along the front façade of the project and be screened from public view by an approved masonry wall, not to exceed four feet in height, and may include an ornamental feature reaching above the wall. The ornamental feature may take the form of a waterfall, live vegetation, lighting or other items that enhance the beauty of the main building and, for purposes of the safety of the general public, does not entirely block the view from persons inside and outside the open storage area. The designated open storage area is not to be confused with the various shopping cart cages (temporary storage) located in the parking lot for the convenience of the customers;

i. Additional open storage behind the main building: Open storage may also be allowed behind the main building, but in no instance shall the storage be visible from any public street or adjacent property. Screening in accordance with the provisions of article XII of this chapter is required;

(8) *Building façade plans (elevations).* Building façade plans (elevations) in the R district are as follows: See section 52-62;

(9) *Specific on-site storage.* Specific on-site storage in the R district is prohibited as follows: See section 52-63;

(10) *Signs.* Sign standards in the R district are as follows: See chapter 66;

(11) *Other regulations.* Other regulations in the R district are as follows: See articles XIII, XIV, and XV of this chapter and standards established in the subdivision regulations in chapter 72.

(i) *TC Town Center.*

(1) *General purpose and description.* The TC Town Center District is available only for use as a planned development district, requirements of which are set forth in subsection (i)(2) of this section, and only within the area zoned for the town center. The standards of the town center base district, as well as the permitted uses, shall remain in effect unless requested, amended and approved at the time of application. The development standards in the TC district are designed to maintain and encourage the development of a downtown area of the city in a pedestrian-friendly environment that is conducive to special events, such as sidewalk sales, street dances, festivals, and other similar events. Standards are generally intended to regulate development such that this district becomes the focal point of the city. The Town Center District is premised upon the development and promotion of a pedestrian-oriented and community-friendly area with an architectural style of the 1920s-Style Town Center (as depicted on Illustration A, attached to the ordinance from which this section is derived and made a part of this chapter by reference);

(2) *Permitted uses.* Those uses listed for the TC district in section 74-352 as "X" (permitted) or "S" (specific use permit) are authorized uses permitted by right or specially permitted uses, respectively. Special permitted uses must be approved utilizing procedures set forth in section 74-293(d);

(3) *Maximum height.* Maximum height standards for the TC district are as follows:

a. Two stories or 35 feet for the main buildings;

b. One story for accessory buildings;

c. Other (section 74-418(i));

(4) *Area regulations.* Area regulations for the TC district are as follows:

a. Size of lot:

1. Minimum lot area: none specified;

2. Minimum lot width: none specified;

3. Minimum lot depth: none specified;

b. Size of yards:

1. Minimum front yard: to accommodate sidewalks with a minimum width of eight feet from the back of the street curb to the front of the building;

2. Minimum side yard: zero feet if next to another town center district building, or shall match the required front yard setback if on a street or alley corner;

3. Minimum rear yard: 25 feet;

c. Maximum lot coverage: 65 percent, including main and accessory buildings;

d. Maximum floor area ratio (FAR): 1:1;

(5) *Design standards for the TC district.* In combination with the design standards set out below, the city requires development within the TC district to meet the architectural style of 1920s-Style Town Center as depicted on Illustration A, attached to the ordinance from which this section is derived and made a part of this chapter by reference:

a. Building massing and scale: A building's massing is its exterior volume and its scale is the relationship of its overall size and its component parts with its adjoining buildings, spaces and people:

1. A building's massing shall:

(i) Relate to its site, use and to the massing of adjacent buildings; and

(ii) Serve to define entry points and help orient pedestrians;

2. The scale of individual building façade components shall relate to one another and the human scale, particularly at the street level;

3. Buildings or façades shall emphasize and frame or terminate important vistas;

b. Building rhythm: A building's rhythm is the pattern created by the regular recurrence or alteration of its constituent architectural components:

1. Nonresidential and mixed use buildings shall be used in the town center to the extent practicable;

2. Variations in the rhythms within individual building façades shall be achieved within any block of building façades;

3. Breaks in the predominant rhythm may also be used to reinforce changes in massing and important elements, such as building entrances or pedestrian pass-throughs;

c. Architectural elements: Architectural elements are the individual components of a building, including walls, doors, windows, cornices, parapets, roofs, pediments and other features. Architectural composition is the relationship

between the architectural elements in an individual building. Architectural elements shall be designed to the appropriate scale and proportions of the selected architectural style (i.e., building designs based on an Art Deco style shall utilize architectural elements of a scale and proportion characteristic of that style):

1. Entrances: The design and location of building entrances in the TC district are important to help define the pedestrian environment and create retail- and community-friendly environments:
   (i) Entrances shall be easily identifiable as primary points of access to buildings;
   (ii) Building entrances may be defined and articulated by architectural elements, such as lintels, pediments, pilasters, columns, porticos, porches, overhangs, railings, balustrades and others as appropriate. All building elements should be compatible with the architectural style, materials, colors and details of the building as a whole;
   (iii) Entrances to upper-level uses may be defined and integrated into the design of the overall building façade;
2. Façade treatments: Façade treatments are that portion of a building's elevation façade facing any public street extending from the ground to the roof that consists of a single layer or architectural expression:
   (i) Retail ground floors shall have windows covering a minimum of 40 percent of the major street fronting façades. Other ground level uses shall have façade treatments appropriate to such uses;
   (ii) All sides of a building shall be consistent with respect to style, material, colors and details only to the extent that they establish continuity with the main street-front façade;
   (iii) On façades fronting on service or parking areas and along secondary streets, windows need not be provided at the ground floor level. However, buildings should avoid long, monotonous, uninterrupted walls. Building wall offsets, including projections, recesses, niches, fenestration, or changes of materials or color, shall be used to add architectural variety and interest, and to relieve the visual impact of a blank wall;
   (iv) Parapet and roofline offsets between façades may be provided in order to break down the scale of the block and create architectural interest and variety;
   (v) Architectural elements, such as canopies, awnings, roof and floor overhangs, and colonnades shall be provided as appropriate to protect pedestrians, help unify parts of a building or block, provide human scale, or provide a backdrop for signage and graphics;

3. Storefronts: Retailers located at the street level primarily use storefronts to orient and advertise merchandise to customers:
   (i) Retail buildings shall provide street-level pedestrian-oriented uses at the ground floor level;
   (ii) Storefronts on façade treatments that span multiple tenants shall use architecturally compatible materials, colors, details, awnings, signage and lighting fixtures;
4. Building materials: See section 52-24;

d. Pedestrian network and streetscape:
1. Pedestrian network: Sidewalks are a critical part of pedestrian connectivity in the TC district. In order to enhance the safety of the pedestrian environment, all development in the TC district shall be subject to the following:
   (i) The street network, with its adjoining sidewalks, shall function as the primary pedestrian network;
   (ii) Where necessary, mid-block pedestrian connections from the street to parking lots at the rear of the buildings shall be provided at key points;
   (iii) Pedestrian crosswalks shall be clearly designated and provided at all key street intersections;
   (iv) Sidewalks shall be constructed from the back of curb to the building front or property line;
   (v) Sidewalks shall be a minimum of eight feet measured from the back of the curb to the building façade. That portion of the sidewalk that is free of any obstructions to allow for the passage of pedestrians shall be a minimum of six feet;
2. Streetscape treatment: The following guidelines for streetscape standards are provided in order to create an attractive and animated sidewalk environment; the developer shall propose a well-designed and unified streetscape plan for key streets in the TC district:
   (i) Street trees shall be selected and placed with the approval of the city at the time of site plan submittal, review and consideration;
   (ii) Street trees shall be planted in accordance with the landscape plan proposed by the developer and approved by city council;
   (iii) Street furnishings shall be installed in accordance with a streetscape plan proposed by the developer and approved by city council. Street furnishings may include planting strips, raised planters, trash receptacles, streetlight standards, street signs, way-finding signs, media boxes, seating, public art, water features, fire hydrants, etc.;

(iv) Street furnishings shall be constructed of a long-life, low-maintenance material and shall be the responsibility of the owner;

(6) *Parking requirements.* Parking requirements in the TC district are as follows: One space per 100 square feet of gross floor area, and each use shall provide a minimum of four spaces. On-street parking (parallel or head-in) shall be permitted in this district. Parking shall not be located and designed in such a manner to discourage or conflict with pedestrians. For any use which cannot provide off-street parking due to the size or location of the lot, such parking may be provided on other property not more than 200 feet from the site, in accordance with article XIV of this chapter. In cases where the parking requirement cannot be achieved, up to 25 percent of the parking requirement may be waived by the city council on the site plan, or may be provided as head-in parking spaces or off site with city council approval on the site plan for such an alternative arrangement;

(7) *Special requirements.* Special requirements in the TC district are as follows:

a. Driveway spacing: See section 52-58;

b. Site plan review:

1. Public hearing, review and approval of a site plan by the planning and zoning commission and the city council (in accordance with section 74-259(c)) shall be required for site development and construction of any structure within the TC district. No certificate of occupancy shall be issued unless all construction and development conforms to the site plan as approved by the city council;

2. For site development and construction, building façade (i.e., elevation) plans shall be submitted for review and approval along with the site plan. Façade plans shall clearly show how the buildings will look, especially as viewed from the roads upon which the property faces or sides, and will portray a reasonably accurate depiction of the materials and colors to be used. Architectural style and scale of buildings within the TC district shall be compatible with the styles and scale of other adjacent buildings to create and preserve the unique character of the downtown area;

3. The city manager or designee may, as the city manager deems appropriate, require submission of additional information and materials (possibly actual samples of materials to be used) during the site plan review process;

4. A public hearing is required by the planning and zoning commission and the city council for all site plans within the TC district. Development standards for all uses in the TC district shall be established on the site plan and all supporting information will be required at the time of approval;

c. Utilities: All utility lines to business establishments shall be placed underground;

d. Landscaping requirements: See chapter 58;

e. Screening requirements: See chapter 58;

f. Lighting: See section 52-24;

g. Temporary outside display: Temporary (i.e., not long-term or permanent) outside display of seasonal items (e.g., Christmas trees, pumpkins, live vegetation etc.) shall be allowed, but limited to, the following:

1. A permit from the city is required for each seasonal display;

2. Display merchandise may be placed/located at the front façade of the main building but, at no time, shall display merchandise inhibit pedestrian traffic on the sidewalks, be located in required parking spaces, restrict rights-of-way, or obstruct adjacent properties;

3. Merchandise shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on site or off site, in any way (i.e., sidewalk sales cannot block the sidewalk or extend out into the street);

4. Merchandise shall only be located in front of the property/business that is selling the items;

5. All outside display items shall be removed at the end of business each day (except for large seasonal items, such as Christmas trees);

6. All merchandise shall be displayed in an orderly manner, and the display area shall be maintained in a clean, litter-free manner;

h. Long-term and permanent open storage: Long-term and permanent open storage is prohibited in the TC district;

(8) *Building façade plans (elevations).* Building façade plans (elevations) in the TC district are as follows: See section 52-62;

(9) *Specific on-site storage.* Specific on-site storage in the TC district is prohibited as follows: See section 52-63;

(10) *Other regulations.* Other regulations in the TC district are as follows: See articles XIII, XIV, and XV of this chapter and standards established in the subdivision regulations in chapter 72.

(j) *C Commercial District.*

(1) *General purpose and description.* The C Commercial District is intended to provide a location for commercial and service-related establishments, such as wholesale product sales, welding/contractor shops, automotive repair services, upholstery shops, region-serving shopping centers with large-scale anchor businesses, and other similar higher intensity retail and commercial uses. Uses in this district may utilize open storage areas that are screened from public view (see chapter 58). Some light manufacturing may also be allowed with certain conditions. The uses envisioned for the district will typically utilize smaller sites and have operation characteristics that

are generally not compatible with residential uses and some nonresidential uses. Convenient access to thoroughfares and collector streets shall also be a primary consideration;

(2) *Permitted uses.* Those uses listed for the C district in section 74-352 as "X" (permitted) or "S" (specific use permit) are authorized uses permitted by right or specially permitted uses, respectively. Special permitted uses must be approved utilizing procedures set forth in section 74-293(d);

(3) *Maximum height.* Maximum height standards for the C district are as follows:

a. Two stories or 35 feet for the main buildings;

b. One story for accessory buildings;

c. Other (section 74-418(i));

(4) *Area regulations.* Area regulations for the C district are as follows:

a. Size of lot:

1. Minimum lot area: one-half acre (21,780 square feet);

2. Minimum lot width: 120 feet;

3. Minimum lot depth: 175 feet;

b. Size of yards:

1. Minimum front yard: 60 feet from ultimate right-of-way line of roadway; all yards adjacent to a street shall be considered a front yard (see section 74-418(5) for additional setback requirements);

2. Minimum side and rear yard: 20 feet unless adjacent to a residentially zoned or use of property (see subsection (j)(4)b.3 of this section);

3. Minimum side or rear yard adjacent to a residential district: 20 feet for a one-story building, and an additional one foot for every one foot (or fraction thereof) above one story in height;

4. Interior side yards: The interior side yard setback between two nonresidential buildings may be reduced to zero feet where the two buildings share a common interior lot line, where construction of a party wall in accordance with the city's building codes is used, and when approved by the city council on the site plan following a favorable recommendation by the planning and zoning commission. Where such a reduced side yard setback is utilized, the equivalent open space and landscape plantings and buffers that are normally required along a shared side property boundary shall be provided elsewhere on each respective affected lot (i.e., shall not be waived, just provided somewhere else). Approval of a site plan that shows such a reduced zero-foot side yard setback between two nonresidential buildings shall be discretionary in nature and shall be based upon an

analysis of the location, the configuration, and the impact and compatibility of the proposed construction with respect to adjacent land uses and structures;

c. Maximum lot coverage: 50 percent, including main and accessory buildings; maximum 80 percent impervious coverage (including all buildings, parking areas, sidewalks, etc.);

d. Minimum lot access: No lot shall have less than 35 feet access measured at the right-of-way;

e. Maximum floor area ratio (FAR): 0.5:1;

f. Minimum building size: The maximum building footprint (first floor) area of a structure shall be determined and limited by applying the lot's size minimum building setbacks, maximum of 50 percent lot coverage, minimum parking requirement, minimum landscaping percentage and areas, and other pertinent development requirements;

(5) *Parking requirements.* Parking requirements in the C district are as follows: As established by article XIV of this chapter;

(6) *Building materials.* Building material standards in the C district are as follows: See section 52-24;

(7) *Special requirements.* Special requirements in the C district are as follows:

a. Driveway spacing: See section 52-58;

b. Lighting: See section 52-24;

c. Site plan review: See section 52-61;

d. Landscaping requirements: See chapter 58;

e. Screening requirements: See chapter 58;

f. Temporary outside display: Temporary (i.e., not long-term or permanent) outside display of seasonal items (e.g., Christmas trees, pumpkins, landscape vegetation, etc.) shall be allowed, but limited to, the following:

1. A permit from the city is required for each seasonal display;

2. The display in any of the parking spaces that are required by this chapter for the primary uses of the property is prohibited. Additional parking spaces or improved surface constructed for the purpose of temporary outside display shall be specifically identified on the required site plan and shall be clearly and distinctively marked (i.e., different paint color) as a designated display area;

3. Temporary outside display located in the designated parking spaces shall be surrounded by a temporary fence (i.e., materials such as wood and cinder block);

4. Merchandise shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on site or off site, in any way;
5. At no time shall public rights-of-way, pedestrian walkways or adjacent properties be obstructed by display merchandise;
6. All merchandise shall be displayed in an orderly manner, and the display area shall be maintained in a clean, litter-free manner;

g. Long-term or permanent outside display: Long-term or permanent outside display area shall be allowed if the following criteria are followed:

1. All display merchandise shall be limited to the area in front of the main building between the fire lane and the front building façade. In the event the subject project has multiple entrances (i.e., multiple front façades), only one side shall be allowed to have outside display;
2. The amount of display area shall not exceed 60 percent of the front façade of the main building, exclusive of doors, windows and driveways;
3. Display merchandise shall not encroach into the fire lane, parking lot/spaces, walkways, rights-of-way or roadways;
4. Merchandise shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on site or off site, in any way, nor obstruct any designated fire lane;
5. All merchandise shall be displayed in a neat, orderly manner, and the display area shall be maintained in a clean, litter-free manner;

h. Long-term or permanent open storage: Long-term or permanent open display and storage shall require the application for, approval of and issuance of a specific use permit (SUP) in accordance with section 74-293(d). A maximum of five percent of the total lot area may be designated for long-term, permanent open storage and shall be screened from public view but shall not be located on top of the building. Screening for long-term, permanent open storage shall conform to the following:

1. Open display and storage for merchandise, such as garden supplies, landscape vegetation, lawn mowers, building materials, etc., requires an extension of the masonry wall of the front façade and, at a minimum, chain-link fencing and solar screening with masonry columns. The masonry columns shall be a minimum of 30 feet apart and are required on the sides, exclusive of the front façade and the wall adjacent to the main structure. Also, the screening of chain-link fencing and solar screening is inclusive of the roof. The storage area, as an extension of the main building, is at least the same height as the product to be screened but extending no higher than the roof of the main building and constructed to one side of the main building. Solar screening shall be maintained in good condition. No tarps or other fabric-like screening shall be allowed. No

merchandise from this area shall be placed outside the open storage area. The required site plan shall reflect the open storage area with a detailed description of building materials;

2. In the event this open display and storage area abuts a similar nonresidential district or is not visible from any public right-of-way or the general public, the planning and zoning commission and city council, upon proper request by applicant, may consider a proposal for less screening;

3. Long-term, permanent open storage of shopping carts requires a designated area, identified in the required site plan, adjacent to and made a part of the main building. The designated area shall be along the front façade of the project and be screened from public view by an approved masonry wall, not to exceed four feet in height, and may include an ornamental feature reaching above the wall. The ornamental feature may take the form of a waterfall, live vegetation, lighting or other items that enhance the beauty of the main building and, for purposes of the safety of the general public, does not entirely block the view from persons inside and outside the open storage area. The designated open storage area is not to be confused with the various shopping cart cages (temporary storage) located in the parking lot for the convenience of the customers;

i. Additional open storage behind the main building: Open storage may also be allowed behind the main building, but in no instance shall the storage be visible from any public street or adjacent property. Screening in accordance with the provisions of chapter 58 is required;

(8) *Building façade plans (elevations).* Building façade plans (elevations) in the C district are as follows: See section 52-62;

(9) *Specific on-site storage.* Specific on-site storage in the C district is prohibited as follows: See section 52-63;

(10) *Signs.* Sign standards in the C district are as follows: See chapter 66;

(11) *Other regulations.* Other regulations in the C district are as follows: See articles XIII, XIV, and XV of this chapter and standards established in the subdivision regulations in chapter 72.

(k) *I Industrial District.*

(1) *General purpose and description.* The I Industrial District provides for a wide range of commercial and industrial uses, all of which should be comparatively nuisance free and may be governed by appropriate business regulations. This district may take the form of an industrial or business park. Activities primarily intended are light manufacturing, assembling and fabrication activities, warehousing, research and development, wholesaling and service operations that do not typically depend upon frequent customer or client visits. The uses do require accessibility to major thoroughfares, major highways, or other means of transportation, such as the

railroad. The district specifically excludes residences on the basis that the mixture of residential use and public services and facilities for residences with those for industry is contrary to the purpose of these regulations;

(2) *Permitted uses.* Those uses listed for the I district in section 74-352 as "X" (permitted) or "S" (specific use permit) are authorized uses permitted by right or specially permitted uses, respectively. Special permitted uses must be approved utilizing procedures set forth in section 74-293(d);

(3) *Maximum height.* Maximum height standards for the I district are as follows:

a. 35 feet for main buildings;

b. One story for accessory buildings;

c. Other (section 74-418(i));

(4) *Area regulations.* Area regulations for the I district are as follows:

a. Size of lot:

1. Minimum lot area: One acre (43,560 square feet); industrial zoning shall not be located closer than 1,000 feet from I-35 or other major regional thoroughfares; however, an industrial zoned lot or site may derive access from I-35 or other major regional thoroughfare via a public street, but no less than a collector street, or a private entrance that passes through other appropriately zoned property, provided that the applicable street right-of-way or common fire lane/access easement is dedicated by plat or by other recorded instrument that is acceptable to the city;

2. Minimum lot width: 100 feet; an entrance for an industrial zoned lot or site from I-35 or other major regional thoroughfare shall be the width of the access-giving public street or private fire lane/access easement;

3. Minimum lot depth: 150 feet from the front (i.e., addressed) street right-of-way line;

b. Size of yards:

1. Minimum front yard: 60 feet from ultimate right-of-way line of roadway; all yards adjacent to a street shall be considered a front yard (see section 74-418(5) for additional setback requirements);

2. Minimum side and rear yard: 25 feet unless adjacent to a residentially zoned or use of property (see subsection (k)(4)b.3 of this section);

3. Minimum side or rear yard adjacent to a residential district: 50 feet for one-story building, and an additional one foot for every story (or fraction thereof) above one story in height;

c. Maximum lot coverage: 60 percent, including main and accessory buildings; maximum 80 percent impervious coverage (including all buildings, parking areas, sidewalks, etc.);

d. Maximum floor area ratio (FAR): 0.5:1;

e. Maximum building size: The maximum building footprint (first floor) area of a structure shall be determined and limited by applying the lot's size, minimum building setbacks, maximum of 60 percent lot coverage, minimum parking requirement, minimum landscaping percentage and areas, and other pertinent development requirements;

(5) *Parking requirements.* Parking requirements in the I district are as follows: As established by article XIV of this chapter;

(6) *Building materials.* Building material standards in the I district are as follows: See section 52-24;

(7) *Special requirements.* Special requirements in the I district are as follows:

a. Driveway spacing: See section 52-58;

b. Lighting: See section 52-24;

c. Site plan review: See section 52-61;

d. Landscaping requirements:

1. Any industrial district deriving its access (driveway) from a private entrance from I-35 or another major regional thoroughfare shall landscape a minimum of 75 percent of the front yard setback along the thoroughfare and 30 percent of the remaining private entrance. See chapter 58 for landscaping requirements;

2. For additional landscaping requirements: See chapter 58;

e. Screening requirements: See chapter 58;

f. Temporary outside display: Temporary (i.e., not long-term or permanent) outside display of seasonal items (e.g., Christmas trees, pumpkins, landscape vegetation, etc.) shall be allowed, but limited to, the following:

1. A permit from the city is required for each seasonal display;

2. The display in any of the parking spaces that are required by this chapter for the primary uses of the property is prohibited. Additional parking spaces or improved surface constructed for the purpose of temporary outside display shall be specifically identified on the required site plan and shall be clearly and distinctively marked (i.e., different paint color) as a designated display area;

3. Temporary outside display located in the designated parking spaces shall be surrounded by a temporary fence (i.e., materials such as wood and cinder block);

4. Merchandise shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on site or off site, in any way;

5. At no time shall public rights-of-way, pedestrian walkways or adjacent properties be obstructed by display merchandise;

6. All merchandise shall be displayed in an orderly manner, and the display area shall be maintained in a clean, litter-free manner;

g. Long-term or permanent outside display: Long-term or permanent outside display area shall be allowed if the following criteria are followed:

1. All display merchandise shall be limited to the area in front of the main building between the fire lane and the front building façade. In the event the subject project has multiple entrances (i.e., multiple front façades), only one side shall be allowed to have outside display;

2. The amount of display area shall not exceed 60 percent of the front façade of the main building, exclusive of doors, windows and driveways;

3. Display merchandise shall not encroach into the fire lane, parking lot/spaces, walkways, rights-of-way or roadways;

4. Merchandise shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on site or off site, in any way, nor obstruct any designated fire lane;

5. All merchandise shall be displayed in an orderly manner, and the display area shall be maintained in a clean, litter-free manner;

h. Long-term or permanent open storage: Long-term or permanent open display and storage shall require the application for, approval of and issuance of a specific use permit (SUP) in accordance with section 74-293(d). A maximum of five percent of the total lot area may be designated for long-term, permanent open storage and shall be screened from public view but shall not be located on top of the building. Screening for long-term, permanent open storage shall conform to the following:

1. Open display and storage for merchandise, such as garden supplies, landscape vegetation, lawn mowers, building materials, etc., requires an extension of the masonry wall of the front façade and, at a minimum, chain-link fencing and solar screening with masonry columns. The masonry columns shall be a minimum of 30 feet apart and are required on the sides, exclusive of the front façade and the wall adjacent to the main structure. Also, the screening of chain-link fencing and solar screening is inclusive of the roof. The storage area, as an extension of the main building, is at least the same height as the product to be screened but extending no higher than the roof of the main building and constructed to one side of the main building. Solar screening shall be maintained in good condition. No tarps or other fabric-like screening shall be allowed. No merchandise from this area shall be placed outside the open storage area. The required site plan shall reflect the open storage area with a detailed description of building materials;

2. In the event this open display and storage area abuts a similar nonresidential district or is not visible from any public right-of-way or the general public, the planning and zoning commission and city council, upon proper request by applicant, may consider a proposal for less screening;

3. Long-term, permanent open storage of shopping carts requires a designated area, identified in the required site plan, adjacent to and made a part of the main building. The designated area shall be along the front façade of the project and be screened from public view by an approved masonry wall, not to exceed four feet in height, and may include an ornamental feature reaching above the wall. The ornamental feature may take the form of a waterfall, live vegetation, lighting or other items that enhance the beauty of the main building and, for purposes of the safety of the general public, does not entirely block the view from persons inside and outside the open storage area. The designated open storage area is not to be confused with the various shopping cart cages (temporary storage) located in the parking lot for the convenience of the customers;

i. Additional open storage behind the main building: Open storage may also be allowed behind the main building, but in no instance shall the storage be visible from any public street or adjacent property. Screening in accordance with the provisions of chapter 58 is required;

(8) *Building façade plans (elevations).* Building façade plans (elevations) in the I district are as follows: See section 52-62;

(9) *Specific on-site storage.* Specific on-site storage in the I district is prohibited as follows: See section 52-63;

(10) *Signs.* Sign standards in the I district are as follows: See chapter 66;

(11) *Other regulations.* Other regulations in the I district are as follows: See articles XIII, XIV, and XV of this chapter and standards established in the subdivision regulations in chapter 72.

(Code 1996, ch. 14, exh. 14A, art. IX, § 2; Ord. No. O-03-09, 4-20-2009; Ord. No. O-01-20, § 2, 3-17-2020; Ord. No. O-01-20, § 3, 3-17-2020; Ord. No. O-01-20, § 4, 3-17-2020; Ord. No. O-01-20, § 5, 3-17-2020; Ord. No. O-01-20, § 6, 3-17-2020; Ord. No. O-01-20, § 7, 3-17-2020)

Sec. 74-292. Provisional districts.

(a) *Generally.* Provisional districts are available only for use within a planned development and only in combination with base districts as listed in section 74-290. The standards set for the base district shall remain in effect unless requested and approved at the time of application. The provisional districts are adopted and offered for use as incentive for a more dense residential development, but in no instance shall more than one provisional district be used within a planned development district. A successful application for a planned development district, including one of the provisional districts, shall also include retail or neighborhood services in an amount no less than 20 percent and common open space at a

ratio of one acre per 50 residential dwelling units, single-family or multifamily, unless otherwise approved by the city manager or designee. Open space may be developed as one large park or with a maximum of 25 percent as neighborhood pocket parks, shall include playground equipment, walking and biking trails, pavilions, etc., but shall be approved at the time of site plan. No concept plan or site plan shall be approved without a mix of uses. Phasing of a planned development district, including a provisional district, shall account for proportional amounts of nonresidential development and open space with residential development. No building permit for construction of a provisional district may be issued until a certificate of occupancy is issued for the non-provisional district uses and development of the required open space is in progress.

(b) *SF-4 Single-Family Residential-4 District.*

(1) *General purpose and description.* The SF-4 Single-Family Residential-4 District is intended to provide for development of and be composed of primarily single-family detached dwellings on smaller and more compact lots of not less than 7,500 square feet. SF-4 is available only as a provisional district and shall, in no instance, account for more than 15 percent of the total residential units within the approved development. Lots meeting the SF-4 district criteria shall be grouped together and may be used as a buffer between residential and nonresidential districts. Areas zoned for the SF-4 district shall have, or shall make provision for, city water and sewer services. They shall be designed to adequately accommodate storm drainage; they shall have paved concrete streets with logical and efficient vehicular circulation patterns that discourage non-local traffic; they shall be properly buffered from nonresidential uses; and they shall be protected from pollution and undesirable environmental and noise impacts;

(2) *Permitted uses.* Those uses listed for the SF-4 district in section 74-352 as "X" (permitted) or "S" (specific use permit) are authorized uses permitted by right or specially permitted uses, respectively. Special permitted uses must be approved utilizing procedures set forth in section 74-293(d);

(3) *Maximum height.* Maximum height standards for the SF-4 district are as follows:

a. 2½ stories, or 35 feet for the main building/house;

b. 15 feet for other accessory buildings, including detached garage, garden shed, accessory dwelling units, etc.;

c. Other requirements (see section 74-418(i));

(4) *Area regulations.* Area regulations for the SF-4 district are as follows:

a. Size of lots:

1. Minimum project area: determined by planned development and maximum percentage for provisional district;

2. Minimum lot area: 7,500 square feet; also, the minimum average lot area shall be 9,000 square feet in order to provide diversity in lot sizes within each SF-4 neighborhood; maximum density 3½ dwelling units per acre;
3. Minimum lot width: 70 feet;
4. Minimum lot depth: 100 feet;

b. Size of yards:

1. Minimum front yard: 25 feet;
2. Minimum side yard: ten percent or five feet for interior side yard; 15 feet for a corner lot on a residential or collector street; 25 feet for a corner lot on an arterial street;
3. Minimum rear yard: 20 feet;

c. Maximum lot coverage: 35 percent for the main building; 60 percent for the main building and any accessory buildings, driveways and parking areas combined;

d. Minimum lot access: No lot shall have less than 35 feet access measured at the right-of-way line;

(5) *Parking regulations.* Parking regulations in the SF-4 district are as follows:

a. Single-family dwelling unit: A minimum of two enclosed, attached parking spaces behind the front building line on the same lot as the main structure, plus two additional parking spaces on a paved driveway having a minimum length of 30 feet as measured from ten feet interior of any paved or improved public surface (i.e., roadway, sidewalk);

b. Other: See article XIV of this chapter;

(6) *Minimum floor area.* Minimum floor area per dwelling unit in the SF-4 district is as follows, per dwelling unit: 1,550 square feet; also, the minimum average floor area shall be 1,700 square feet in order to provide diversity in house sizes within each SF-4 neighborhood;

(7) *Minimum exterior construction standards.* Minimum exterior construction standards in the SF-4 district are as follows:

a. Masonry: See section 74-293(c)(10)a ;

b. Roof pitch: See section 74-293(c)(10)f.5;

c. Roofing systems: See section 74-293(c)(10)f;

d. Chimney design: See section 52-2;

(8) *Mailboxes.* Standards for mailboxes in the in the SF-4 district are as follows: See section 52-23;

(9) *Accessory buildings.* Accessory buildings in the SF-4 district are as follows: See section 52-24;

(10) *Driveways.* Driveway standards in the SF-4 district are as follows: See section 52-25;

(11) *Sidewalks.* Sidewalk standards in the SF-4 district are as follows: See section 52-26;

(12) *Building façade plans (elevations).* Building façade plans (elevations) in the SF-4 district are as follows: For any on-site facilities within the SF-4 district, see section 52-62;

(13) *Lighting.* Lighting standards in the SF-4 district are as follows: See section 56-60(s);

(14) *Special requirements.* Special requirements in the SF-4 district are as follows: See section 52-27;

(15) *Other regulations.* Other regulations in the SF-4 district are as follows: As established by articles XIII, XIV, and XV of this chapter and subdivision regulations in chapter 72.

(c) *SF-PH Single-Family Residential-Patio Home District (zero-lot-line homes).*

(1) *General purpose and description.* The SF-PH Single-Family Residential-Patio Home District is designed to provide for development of primarily detached single-family residences on compact lots having one side yard reduced to zero feet (i.e., zero-lot-line) and having not less than 4,000 square feet. Patio home developments shall be arranged in a clustered lot pattern with a common usable open space system that is an integral part of the development. Individual ownership of each lot is required, and this district may serve as a buffer or a transition between lower density residential areas or nonresidential areas along major thoroughfares. SF-PH is available only as a provisional district and shall, in no instance, account for more than 15 percent of the total residential units within the approved development. Areas zoned for the SF-PH district shall have, or shall make provision for, city water and sewer services. They shall be designed to adequately accommodate storm drainage; they shall have paved concrete streets with logical and efficient vehicular circulation patterns that discourage non-local traffic; they shall be properly buffered from nonresidential uses; and they shall be protected from pollution and undesirable environmental and noise impacts;

(2) *Permitted uses.* Those uses listed for the SF-PH district in section 74-352 as "X" (permitted) or "S" (specific use permit) are authorized uses permitted by right or specially permitted uses, respectively. Special permitted uses must be approved utilizing procedures set forth in section 74-293(d);

(3) *Maximum height.* Maximum height standards for the SF-PH district are as follows:

a. 2½ stories, or 35 feet for the main building/house;

b. Ten feet for other accessory buildings, including detached garage, garden shed, accessory dwelling units, etc.;

c. Other requirements (see section 74-418(i));

(4) *Area regulations.* Area regulations for the SF-PH district are as follows:

a. Size of lots:

1. Minimum lot area: 4,000 square feet; also, the minimum average lot area shall be 4,700 square feet in order to provide diversity in lot sizes within each SF-PH neighborhood; maximum density eight dwelling units per acre;

2. Maximum project size: The maximum size of a patio home development shall be determined by the planned development and maximum percentage for a provisional district;

3. Minimum lot width: 45 feet;

4. Minimum lot depth: 80 feet;

b. Size of yards:

1. Minimum front yard: 20 feet; 25 feet to the garage door face for front-entry homes;

2. Minimum side yard: one side yard reduced to zero feet; other side yard a minimum of ten feet required with 15 feet required on corner lots adjacent to a residential or collector street, and 25 feet required on corner lots adjacent to an arterial street;

3. Minimum rear yard: 15 feet; 20 feet for rear garage entry;

c. Maximum lot coverage: 50 percent for the main building; 65 percent for the main building and any accessory buildings, driveways and parking areas combined;

(5) *Parking regulations.* Parking regulations in the SF-PH district are as follows:

a. Single-family dwelling unit: A minimum of two enclosed parking spaces behind the front building line on the same lot as the main structure, plus one additional parking space on the paved driveway;

b. Visitor parking: one parking space per dwelling unit (off-street) which is located within 300 feet of each dwelling unit;

c. Other: See article XIV of this chapter;

(6) *Minimum floor area.* Minimum floor area per dwelling unit in the SF-PH district is as follows: 1,500 square feet;

(7) *Minimum exterior construction standards.* Minimum exterior construction standards in the SF-PH district are as follows: All exterior wall elevations of each primary structure and any detached garage shall be constructed of 100 percent masonry construction, to include brick, stone, granite or marble; excluding doors and windows;

(8) *Chimney design.* Chimney design standards in the SF-PH district are as follows: See section 52-2;

(9) *Minimum lot access.* Minimum lot access standards in the SF-PH district are as follows: No lot shall have less than 35 feet access measured at the right-of-way line;

(10) *Minimum landscaping requirements.* Minimum landscaping requirements in the SF-PH district are as follows: 60 percent of the street yard; see chapter 58;

(11) *Screening requirements.* Screening requirements in the SF-PH district are as follows: See chapter 58;

(12) *Special requirements.* Special requirements in the SF-PH district are as follows:

a. One side yard shall be reduced to zero feet, while the other side yard shall be a minimum of ten feet; 15 feet for a corner lot on the residential or collector street side, or 25 feet for a corner lot on an arterial street. A minimum six-foot-wide maintenance easement shall be placed on the adjacent lot (i.e., the other side of the zero-lot-line) to enable the property owner to maintain that portion of his/her house that is on the zero-lot-line. Side yards and maintenance easements shall be shown on the subdivision plat. A minimum separation between patio homes of ten feet shall be provided. Roof overhangs will be allowed to project into the maintenance easement a maximum of 24 inches;

b. All utilities shall be provided separately to each lot in the SF-PH district so that each dwelling unit is individually metered;

c. Maintenance requirements for common areas: A homeowners' association (HOA) is required for continued maintenance of common land and facilities;

d. Usable open space requirements: The required percentage of open space shall be in compliance with those set forth in the provisional district requirements, section 74-292;

e. Landscaped areas: Additional common open space and landscaped areas that do not qualify as usable open space may be provided but shall not be counted toward the usable open space requirement;

f. Single-family lots and detached dwellings constructed in this district shall conform to the standards as set forth in the SF-3 zoning district;

g. The elimination of a garage space by enclosing the garage with a stationary building wall shall be prohibited unless another garage of the same size (i.e., that has the same number of parking spaces) is built, simultaneously with the garage enclosure, elsewhere on the same lot within the proper setbacks, not exceeding the maximum lot coverage, etc.;

h. Recreational vehicles, travel trailers, camper trailers, campers, trailers, boats, boat trailers, motor homes or other recreational vehicles or equipment may not be used for on-site dwelling purposes, and shall be prohibited from being parked in this zoning district;

i. Electrical fencing and barbed wire is prohibited as perimeter fencing;

j. Open storage is prohibited (except for usable materials for the resident's personal use or consumption, such as firewood, garden materials, lawn equipment that is in usable and running condition, etc., which cannot be stored in any required setback and which shall be screened from view of public streets and neighboring properties);

k. Single-family homes with side-entry garages where lot frontage is only to one street (not a corner lot) shall have a minimum of 25 feet from the door face of the garage to the side property line for maneuvering. The minimum setback from any garage door to a street or alley right-of-way line shall also be 25 feet;

l. Swimming pools, spas and hot tubs shall comply with the standards set forth in the ICC International Swimming Pool and Spa Code, adopted in section 50-27, and other provisions of this Code pertaining to same;

m. Site plan approval shall be required for any nonresidential use (e.g., school, church, child care center, private recreation facility, etc.) in the SF-PH district. Any nonresidential land use which may be permitted in this district shall conform to the NS Neighborhood Service District standards with respect to building setbacks, landscaping, exterior building construction, screening requirements, lighting, signage, etc.;

(13) *Other regulations.* Other regulations in the SF-PH district are as follows: See articles XIII, XIV, and XV of this chapter, chapter 52, and standards established by the subdivision regulations in chapter 72.

(d) *MF Multifamily Residential District.*

(1) *General purpose and description.* The MF Multifamily Residential District is intended to promote the development of and be comprised of attached residential dwellings for more than two families. The maximum density is 14 dwelling units per acre. The principal permitted land uses will include low- and mid-rise multiple-family dwellings and garden apartments. MF is available only as a provisional district and may only be approved through the planned development rezoning process. Development meeting the MF district criteria shall be grouped together and may be used as a buffer between residential and nonresidential districts. Recreational, religious, health and educational uses normally located to service residential areas are also permitted in this district. This district should be located adjacent to a major thoroughfare and serve as a buffer between nonresidential development or heavy automobile traffic and medium- or low-density residential development. Areas zoned for the MF district shall have, or shall make provision for, city water and sewer services. They shall be designed to adequately accommodate storm drainage; they shall have paved concrete drive aisles with logical and efficient vehicular circulation patterns; they shall be properly buffered from nonresidential uses; and they shall be protected from pollution and undesirable environmental and noise impacts;

(2) *Permitted uses.* Those uses listed for the MF district in section 74-352 as "X" (permitted) or "S" (specific use permit) are authorized uses permitted by right or

specially permitted uses, respectively. Special permitted uses must be approved utilizing procedures set forth in section 74-293(d). Permitted uses in the MF district are as follows:

a. Multiple-family dwellings greater than two units per building;

b. Municipally owned facilities and uses;

c. Leasing offices for the apartment complex;

d. Temporary field construction offices for uses incidental to construction work on the premises, which the buildings shall be removed upon the completion or abandonment of construction work, by order of the building official. Specific time allowed and location shall be specified by the building official;

e. Accessory buildings and uses customarily incidental to the uses in subsection (d)(2)a through d of this section and located on the same lot therewith, but not involving the conduct of a retail business, except as provided herein:

1. The term "accessory use" shall include home occupations as defined in section 74-2;

2. Accessory buildings greater than 250 square feet require a specific use permit (SUP), must be site built and must conform to the following conditions:

(i) The exterior must be constructed of like and similar materials to those of the primary structure;

(ii) The accessory building, including any item attached to its roof, shall not exceed a maximum height of 15 feet at its tallest point;

(iii) The accessory building shall be constructed with a roof pitch matching that of the primary structure;

(iv) Accessory buildings located closer than ten feet from a side or rear lot line of a corner lot, must be screened from the side and rear with an opaque fence of a minimum six feet in height; and

(v) See section 52-24 for additional accessory building regulations;

f. Swimming pool (available for use by the residents and guests of the multifamily complex);

g. Common areas, community center, recreation center, and other facilities or amenities, provided they are for use by the residents and guests of the multifamily complex;

h. The uses as may be permitted under the provisions of specific use permits, section 74-293(d), for MF Multiple-Family Districts;

(3) *Maximum height.* Maximum height standards for the MF district are as follows:

a. 2½ stories, or 35 feet for the main building/house; where a structure exceeds 25 feet in height, it shall be set back from the front property line one additional foot beyond the required front yard setback for each foot above 25 feet in height;

b. 15 feet for other accessory buildings, including detached garage, garden shed, carports, gazebo, clubhouse, mail kiosks, laundry rooms, etc.;

c. Other requirements (see section 74-418(i));

(4) *Area regulations.* Area regulations for the MF district are as follows:

a. Size of lots:

1. Minimum project area: determined by planned development and maximum percentage for provisional district;

2. Minimum lot area: 3,000 square feet per dwelling unit, not to exceed 14 dwelling units per acre (calculated on gross platted acreage);

3. Minimum lot width: 100 feet;

4. Minimum lot depth: 120 feet;

5. Special exception: If a property was platted or zoned for MF prior to the effective date of the ordinance from which this chapter is derived, then it can remain its original size and configuration and does not have to meet the minimum project size, lot width or lot depth stated above. The property shall conform to all other MF development standards herein, unless the building setbacks shown on a recorded plat vary from those contained herein, in which case the platted setbacks shall prevail unless a replat modifies same;

b. Size of yards:

1. Minimum front yard: 40 feet. All areas adjacent to a street shall be deemed front yards;

2. Minimum side and rear yard: 20 feet, unless adjacent to a single-family or patio home district then side and rear setbacks shall be according to the height of the multifamily building, as follows:

(i) One-story building: 20 feet;

(ii) Two-story building: 60 feet;

(iii) Over two-story building: 75 feet;

3. Building separation:

(i) One-story buildings: 15 feet for buildings without openings; 25 feet for buildings with openings;

(ii) Two-story buildings (or a two-story building adjacent to a one-story building): 20 feet for buildings without openings; 35 feet for buildings with openings;

(iii) Over two-story buildings (or an over two-story building adjacent to a one- or two-story building): 35 feet for buildings with or without openings;

c. Minimum floor area: Minimum floor area per dwelling unit in the MF district is as follows per dwelling unit:

1. Efficiency unit: 500 square feet per unit;
2. One-bedroom unit: 800 square feet per unit;
3. Two- or three-bedroom units: An additional 150 square feet for every bedroom over one (e.g., three-bedroom unit must have 1,100 square feet, etc.);
4. No units larger than three-bedroom is allowed;

d. Dwelling unit mix: Not more than 15 percent of the dwelling units within a complex may be efficiency-type units and not more than ten percent of the dwelling units within a complex may have three bedrooms. The remaining minimum of 75 percent shall be a mix of one- and two-bedroom dwelling units;

e. Maximum lot coverage: 40 percent total, including main and accessory buildings; 60 percent for the main building and any accessory buildings, driveways and parking areas combined;

f. Minimum lot access: No lot shall have less than 35 feet access measured at the right-of-way line;

(5) *Parking regulations.* Parking regulations in the MF district are as follows:

a. One enclosed, attached space for each efficiency unit;

b. Two enclosed, attached spaces for each one-bedroom unit;

c. Two enclosed, attached spaces and one covered space for each two- and three-bedroom unit;

d. An additional one-half parking space shall be provided for each bedroom, including efficiency, within the development. The additional parking spaces are not required to be enclosed or covered;

e. The average number of parking spaces for the total development shall be no less than two spaces per dwelling unit. The minimum required enclosed parking spaces for dwelling units shall be enclosed and attached to the dwelling unit it serves. The remaining required parking spaces for each dwelling unit shall be covered. Both enclosed and covered parking spaces shall be constructed of a masonry product consistent and complementary to the main structure and roof pitch to match the main buildings;

f. No covered parking space may be located closer than six feet from any building or closer than two feet from any side or rear lot line;

g. All parking areas adjacent to public streets shall be screened from view. Screening may be in the form of live plant materials, berms, low masonry walls that match the exterior finish of main buildings, or any combination of the above;

h. See article XIV of this chapter, for additional requirements;

(6) *Minimum exterior construction standards.* Minimum exterior construction standards in the MF district are as follows: All exterior wall elevations of each primary structure shall be constructed of 100 percent masonry construction to include brick, stone, granite or marble; excluding doors and windows;

(7) *Refuse facilities.* Refuse facility standards in the MF district are as follows:

a. Every multifamily dwelling unit shall be located within 200 feet of a refuse facility measured along the designated pedestrian and vehicular travelway. A refuse facility shall provide at least six cubic yards of refuse container for every 30 dwelling units (or portion thereof). A refuse facility shall be a dumpster or other similar receptacle designed for receiving garbage in bulk for more than one dwelling, and all refuse containers shall be maintained in accordance with local public health and sanitary regulations. Refuse dumpsters shall be no closer than 30 feet to any adjacent single-family residential property and shall be located so as to provide safe and convenient pickup by refuse collection agencies;

b. Each refuse facility shall be screened from view, from persons standing at ground level on the site or immediately adjoining property, on three sides by a solid screening wall of brick or stone masonry not less than six feet, nor more than eight feet in height or enclosed within a building, and on the fourth side by gates. Refuse containers shall be provided and maintained in a manner to satisfy local public health and sanitary regulations. Each refuse facility shall have a gate and be located so as to provide safe and convenient pickup by refuse collection agencies. To the extent practicable, the location of the refuse facility shall be identified on the site or concept plan;

(8) *Special requirements.* Special requirements in the MF district are as follows:

a. Driveway spacing: See section 52-58;

b. Site plan review: See section 52-61;

c. Single-family dwelling units constructed in this district shall conform to SF-E, SF-1, SF-2, SF-3 or SF-PH district standards, respectively;

d. Recreational vehicles, travel trailers, camper trailers, campers, trailers, boats, boat trailers, motor homes, other recreational vehicles or equipment or storage units may not be parked or stored in this district nor used for on-site dwelling purposes;

e. Open storage is prohibited;

f. A site plan with façade elevations is required for all multifamily developments in this district in accordance with the requirements for planned development districts and shall be an exhibit to the authorizing ordinance. See section 52-62;

g. Fire lanes, fire hydrants and dwelling unit distances from fire lanes and fire hydrants shall be in compliance with the International Fire Code (IFC) as adopted and as amended;

h. A four-foot-wide paved walkway shall connect the front door of each ground floor unit to the adjacent parking area. The minimum width of any sidewalk parallel and adjacent to head-in parking spaces shall be six feet to accommodate a two-foot bumper overhang for vehicles;

i. Buildings shall not exceed 200 feet in length;

j. All parking areas shall have appropriate lighting and shall be positioned such that no light adversely impacts adjacent residential areas. See section 52-24;

k. All multifamily dwelling units shall have roof slopes with a minimum of 4:12 pitch;

l. Buildings with façades that are longer than 50 feet shall have their façades broken up into smaller areas through the use of varying façade setbacks, arcades, architectural features, such as recessed vestibules, columns, canopies, or other acceptable means;

m. Boats, campers, trailers, and other recreational vehicles shall be prohibited unless oversize parking areas are provided as part of the approved site plan. This parking area shall not be used to meet the minimum parking requirements and shall not be in view from a public street;

n. All buildings containing residential units shall provide a sign, visible from the entrances, identifying the unit numbers (i.e., addresses) within the building. Signage shall be visible from entrances into the complex or from vehicular drive aisles within the complex such that each individual unit is easy to locate by visitors, delivery persons, or emergency personnel;

o. All mechanical, heating, and air conditioning units shall be screened or hidden from view. See chapter 58;

p. Multifamily complexes shall have screening surrounding the property and have a security gate at each point of ingress/egress. All screening walls or other devices shall be placed on the property line (see chapter 58);

q. All living units will be equipped with washer and dryer connections;

r. Landscape area requirements: A minimum of 90 percent of the street yard and 20 percent of the total lot area shall be devoted to a combination of landscaping (i.e., pervious surface area) and usable open space (see above). See chapter 58 for landscaping requirements;

s. Screening requirements: See chapter 58 for screening requirements;

t. Building façade plans (elevations): For any on-site facilities within the MF district, see section 52-62;

u. Site plan approval (see section 74-263(c)) shall be required for any multifamily or nonresidential use (e.g., school, church, child care center, private recreation facility, etc.) in the MF district. Any nonresidential land use which may be

permitted in this district shall conform to the NS Neighborhood Service District standards with respect to building setbacks, landscaping, exterior building construction, screening requirements, lighting, signage, etc.;

v. Additional special requirements are as provided in section 52-27;

(9) *Special provisional district requirements.* Special provisional district requirements in the MF district are as follows: See section 74-292;

(10) *Other regulations.* Other regulations in the MF district are as follows: As established by articles XIII, XIV, and XV of this chapter, chapter 52, and subdivision regulations in chapter 72.

(e) *MH Manufactured Home District.*

(1) *General purpose and description.* The MH Manufactured Home District is a detached residential district establishing standards for the development of manufactured, HUD-code mobile home subdivisions. MH is available only as a provisional district and shall, in no instance, account for more than 15 percent of the total residential units within the approved development. Lots meeting the MH district criteria shall be grouped together and may be used as a buffer between residential and nonresidential districts. Manufactured/mobile home subdivisions include individually platted lots for sale within the subdivision, for the placement of manufactured/mobile home units. The manufactured home district establishes area and design requirements for subdivisions. Subdivisions shall provide open space and recreational areas appropriate for the acreage and number of units contained. Areas zoned for the MH district shall have, or shall make provision for, city water and sewer services. They shall be designed to adequately accommodate storm drainage; they shall have paved concrete streets with logical and efficient vehicular circulation patterns that discourage non-local traffic; they shall be properly buffered from nonresidential uses; and they shall be protected from pollution and undesirable environmental and noise impacts;

(2) *Permitted uses.*

a. Those uses listed for the MH district in section 74-352 as "X" (permitted) or "S" (specific use permit) are authorized uses permitted by right or specially permitted uses, respectively. Special permitted uses must be approved utilizing procedures set forth in section 74-293(d);

b. The installation of mobile homes for use or occupancy as residential dwellings in the city is prohibited. This provision is prospective and shall not apply to any mobile home used and occupied as a residential dwelling in the city on the effective date of the ordinance from which this chapter is derived. An existing mobile home located in the city, as of the date of the ordinance from which this chapter is derived, will be allowed to remain on its existing site until it is removed from the city, or until the condition of the mobile home violates the codes of the city. When the condition of the mobile home violates city codes, the

building official shall require the owner to repair, demolish or move the mobile home out of the city. To the extent required by state and federal law a mobile home may be replaced a by a HUD-code manufactured home with the limitation of one replacement and a HUD-code manufactured home may be replaced by another HUD-code manufactured home, provided it is a newer manufactured home and is at least as large in living space as the prior manufactured home. Any and all structural repair or remodeling of a mobile home shall require a building permit and all work shall be done by a state-certified, licensed contractor or home-occupied owner. An existing, but temporarily vacant, mobile home located in the city as of the date of the ordinance from which this chapter is derived, will be considered occupied for purposes of this provision if it has been an actual residential use within 30 days prior to enactment of the ordinance from which this chapter is derived, is vacant for purposes of refurbishment for future residential use at the time of enactment of the ordinance from which this chapter is derived or subsequently becomes vacant for purposes of refurbishment for future residential use after enactment of the ordinance from which this chapter is derived, and such vacancy is terminated by actual residential use of a mobile home within 60 days of enactment of the ordinance from which this chapter is derived;

(3) *Area regulations.* Area regulations for the MH district are as follows:

a. Size of lot:

1. Minimum project size: Determined by planned development and maximum percentage for provisional district;

2. Minimum lot area: 7,500 square feet; also, the minimum average lot area shall be 9,000 square feet in order to provide diversity in lot sizes within each MH neighborhood; maximum density 3½ dwelling units per acre;

3. Minimum lot width: 70 feet;

4. Minimum lot depth: 100 feet;

b. Size of yards:

1. Minimum front yard: 25 feet from a publicly dedicated street or driveway;

2. Minimum side yard: ten percent or seven feet for interior side yard; 15 feet for a corner lot on a residential or collector street; 25 feet for a corner lot on an arterial street;

3. Minimum rear yard: 20 feet;

c. Maximum lot coverage:

1. 35 percent for the main building; 60 percent for the main building and any accessory buildings, driveways and parking areas combined:

2. The entry (i.e., door) side of any garage shall have a 35-foot setback as measured from any property or street right-of-way line;

d. Minimum floor area per dwelling unit: 1,550 square feet; also, the minimum average floor area shall be 1,700 square feet in order to provide diversity in dwelling sizes with each MH neighborhood;

e. Maximum lot coverage: 35 percent for the main building/unit; 60 percent for the main building and any accessory buildings, driveways and parking areas combined;

f. Minimum lot access: No lot shall have less than 35 feet access measured at the right-of-way line;

(4) *Parking regulations.* Parking regulations in the MH district are as follows: A minimum of two enclosed spaces attached to the dwelling unit by a covered breezeway and located on the same lot as the dwelling unit, plus two additional parking space on a paved driveway having a minimum length of 30 feet as measured from ten feet interior of any paved or improved public surface (i.e., roadway, sidewalk);

(5) *Maximum height limit.* Maximum height limits in the MH district are as follows:

a. 2½ stories, or 35 feet for the main building/house; where a structure exceeds 25 feet in height, it shall be set back from the front property line one additional foot beyond the required front yard setback for each foot above 25 feet in height;

b. 15 feet for other accessory buildings, including detached garage, garden shed, carports, gazebo, clubhouse, mail kiosks, laundry rooms, etc.;

c. Other requirements (see section 74-418(i));

(6) *Minimum exterior construction standards.* Minimum exterior construction standards in the MH district are as follows: Skirting of a HUD-code manufactured home or mobile home shall be of a product with the visual effect of brick or stone;

(7) *Site plan requirement.* Site plan requirements in the MH district are as follows: All new manufactured home subdivisions are allowed only as part of a planned development and, therefore, require a site plan submission for the city's consideration. site plans shall conform to the requirements set forth in section 74-254;

(8) *Mailboxes.* Standards for mailboxes in the in the MH district are as follows: See section 52-23;

(9) *Accessory buildings.* Accessory buildings in the MH district are as follows: See section 52-24;

(10) *Driveways.* Driveway standards in the MH district are as follows: See section 52-25;

(11) *Sidewalks.* Sidewalk standards in the MH district are as follows: See section 52-26;

(12) *Anchorage of manufactured / mobile homes.* Anchorage requirements of manufactured/ mobile homes in the MH district are as follows: To ensure against natural hazards, such as tornados, high winds and electrical storms, full anchorage for each manufactured/mobile home shall be provided according to the following:

a. All manufactured/mobile homes shall be provided an adequate foundation for the placement of tie-downs, thereby securing the superstructure against uplift, sliding, rotation and overturning;

b. The pad shall be constructed of concrete which shall adequately support the weight of the HUD-code manufactured home which may be placed thereon and be durable and well drained under normal use and weather conditions;

c. The height of the HUD-code manufactured home frame above ground elevation, measured at 90 degrees to the frame, shall not exceed four feet from the top of the pad;

d. Provide anchors and tie-downs, such as cast-in-place concrete dead men, eyelets embedded in concrete foundations or runway screw augers, arrowhead anchors, or other devices which secure the stability of the HUD-code manufactured home, and shall be placed at least at each corner of the HUD-code manufactured home; and

e. Cover an area of at least 240 square feet or at least one-third the area of the largest HUD-code manufactured home which may be placed on the space, whichever is greater. No surface provided for a purpose other than the foundation of HUD-code manufactured/mobile home shall be considered a part of such pad;

(13) *Skirting.* Skirting standards in the MH district are as follows:

a. All manufactured/mobile home units located in the city limits shall provide skirting from the top of the unit's frame to grade prior to resident move-in. Also, see subsection (e)(6) of this section;

b. All manufactured/mobile homes located in the city limits as of the effective date of the ordinance from which this chapter is derived shall be required to have skirting no later than 90 days from the enactment of this chapter. However, before being subject to a penalty for violation of this subsection, the city manager or designee shall serve the owner or occupant of any manufactured/mobile home without skirting with written notice, delivered by certified mail, of violation hereof, requiring compliance within such time as designated therein;

c. Access to the underneath of the manufactured/mobile home shall be available for repair purposes only and not for storage or trash accumulation; and

d. A permit shall be applied and paid for prior to the installation of skirting;

(14) *Special requirements.* Special requirements in the MH district are as follows:

a. Single-family, patio home, or townhouse residential units constructed in this district shall conform to SF-E, SF-1, SF-2, SF-3, or SF-PH district standards, respectively;

b. Site plan approval shall be required for any nonresidential use (e.g., school, church, child care center, private recreation facility, etc.) in the MH district. Any nonresidential land use which may be permitted in this district shall conform to the NS Neighborhood Service District standards with respect to building setbacks, landscaping, exterior building construction, screening requirements, lighting, signage, etc. See sections 74-263(c) and 74-291(g);

c. Building façade plans (elevations): For any on-site facilities within the MH district, see section 52-62;

d. Specific on-site storage prohibited: See section 52-63;

e. The storage, handling and use of liquefied petroleum gases and flammable liquids shall be done in compliance with all applicable state law and rules and this Code;

f. All applicable city codes and ordinances, including all building, plumbing, electrical and fire codes as adopted and all applicable state law, are in force in this district;

g. Additional special requirements are as provided in section 52-27;

(15) *Special provisional district requirements.* Special provisional district requirements in the MH district are as follows: See article XII of this chapter;

(16) *Other regulations.* Other regulations in the MH district are as established by chapter 52 and articles XIII, XIV, and XV of this chapter and subdivision regulations in chapter 72.

(Code 1996, ch. 14, exh. 14A, art. IX, § 3; Ord. No. O-03-09, 4-20-2009; Ord. No. O-10-20, 8-18-2020)

Sec. 74-293. Overlay and special districts.

(a) *Purpose.* Overlay districts shall be used in conjunction with base zoning districts where it is appropriate to do so. In the use of the following overlay zoning classifications, the base district shall remain in effect as it is already in existence unless changed by zoning amendment and in accordance with the provisions of article IV of this chapter. New base districts or changes in existing base districts may be requested at the same time overlay or special prefix districts are requested.

(b) *PD Planned Development District.*

(1) *General description and purpose.*

a. The PD Planned Development District is a district which accommodates planned associations of uses or mixed uses developed as integral land use units, such as industrial districts, offices, commercial or service centers, shopping centers, residential developments of multiple or mixed housing, including attached single-family dwellings or any appropriate combination of uses which may be planned, developed or operated as integral land use units either by a single owner or a combination of owners. A PD district may be used to permit new or innovative concepts in land utilization not permitted by other zoning districts in this chapter. While greater flexibility is given to allow special conditions or restrictions which would not otherwise allow the development to occur, procedures are established herein to ensure against misuse of increased flexibility;

b. A planned development district is a tool to permit new or innovative concepts in land utilization not permitted by other zoning districts in this chapter, to ensure the compatibility of land uses, and to allow for the adjustment of changing demands to meet the current needs of the community. This tool shall be required to meet one or more of the following purposes:

1. To provide for a superior design on lots or buildings;

2. To provide for increased recreation and open space opportunities for public use and enjoyment;

3. To provide amenities or features that would be of special benefit to the property users or to the overall community;

4. To protect or preserve natural amenities and environmental assets, such as trees, creeks, ponds, floodplains, slopes, viewscapes, or wildlife habitats;

5. To protect or preserve existing historical buildings, structures, features or places;

6. To provide an appropriate balance between the intensity of development and the ability to provide adequate supporting public facilities and services; and

7. To meet or exceed the standards of this chapter;

c. Planned development applications that do not meet or exceed the minimum requirements of this chapter shall be recommended by staff to be denied. Staff will provide to the planning and zoning commission and city council a written report of deficiencies.

(2) *Permitted uses.*

a. An application for a PD district shall specify the base zoning districts upon which the PD is based, and the use or the combination of uses proposed (particularly if any of the proposed uses are not allowed by right in the base zoning district). PD designations shall not be attached to SUP requirements. Specific use permits allowed in a base zoning districts are allowed in a PD only if specifically identified as allowable by SUP at the time of PD approval, and if specifically cited as an additional use (i.e., to those allowed by right in the PD) in the ordinance establishing the PD. Any use that is not specifically cited as permitted (by right or by SUP) in the applicable base zoning districts or the PD ordinance shall be prohibited unless the PD ordinance is amended using the procedures set forth in this section and in article IV of this chapter;

b. In the case of residential PD districts, the proposed lot sizes shall generally be no smaller than the lot sizes allowed in the base zoning district for each type of housing (e.g., single-family) except for minor changes in a small percentage of the lots in order to provide improved design, or to provide flexibility in the layout of the subdivision or diversity in lot size choices. A residential PD shall

strive to provide choice and variety in lot sizes throughout the neighborhood by specifying an average lot size that is larger than the minimum lot size, and that will truly accomplish the purpose of providing a variety of lot sizes.

(3) *Planned development requirements.*

a. In the PD district, uses shall conform to the standards and regulations of the zoning district to which it is most similar, and the particular zoning district must be stated in the granting ordinance as the base zoning district. All applications to the city shall list all requested deviations from the standard requirements set forth throughout this chapter (applications without this list will be considered incomplete);

b. The city council, after public hearing and proper notice to all parties affected and after recommendation from the planning and zoning commission, may authorize the creation of a PD overlay district;

c. The ordinance granting a PD district shall include a statement as to the purpose and intent of the PD district granted therein. A specific list is required of deviations in each district and general statement citing the reason for the PD request;

d. Development requirements for each separate PD district shall be set forth in the amending ordinance granting the PD district and may include, but not be limited to, uses, density, lot area, lot width, lot depth, yard depths and widths, building height, building elevations, coverage, floor area ratio, parking, access, screening, landscaping, buffer zones between uses, accessory buildings, signs, lighting, project phasing or scheduling, management associations, and other requirements as the city council and planning and zoning commission may deem appropriate. The planned development district shall conform to all other sections of this chapter, the subdivision regulations in chapter 72 and this Code, unless specifically excluded in the granting ordinance;

e. The planned development request shall require a minimum of two distinct uses, residential or nonresidential. A PD district shall not be utilized to vary the standard requirements of a single straight zoning district to accommodate the financial or development desires of the applicant;

f. The minimum acreage for a planned development request shall be as follows:

1. Single-family residential development (e.g., A, SF-E, SF-1, SF-2, SF-3): 30 contiguous acres;

2. Provisional districts (e.g., SF-4, SF-PH, MF, MH): Minimum acreage of a provisional district shall be determined by the maximum acreage set in subsections (a), (b), (c), and (d) of this section and the accompanying mix of uses proposed in the planned development application;

3. Nonresidential development (including office, neighborhood service, retail, commercial or industrial) development: ten contiguous acres;

4. Mixed-use development: The minimum acreage for each portion of a mixed-use PD district shall be as set forth above for each type of land use within the mixed-use district (unless this requirement is recommended by the planning and zoning commission, and waived by city council upon approval of the PD district, due to unusual size constraints that are unique to the subject land parcel itself);

5. Any type of development within the TC area: No minimum acreage requirement, provided that the request is deemed to be in substantial conformance with the TC district regulations with some minor flexibility that would allow and encourage favorable development or redevelopment of a property, and provided that the request cannot be construed as spot zoning;

g. A PD request, which shall be based upon more than one base zoning district, shall also include a legal (i.e., metes and bounds) description and graphic exhibit describing/showing the proposed boundaries of each respective area and its base zoning district (e.g., shown as Proposed PD-SF-2, Proposed PD-NS, etc.);

h. While greater flexibility is given to allow special conditions or restrictions that would not otherwise allow the development to occur, procedures are established herein to ensure against misuse of increased flexibility;

i. As part of the zoning application for a planned development, the city manager or designee may require submission of a written report that discusses the impact the proposed PD will have on city water and wastewater utility systems, the local and regional storm drainage system, private utility service systems (i.e., cable TV, telephone, electric, gas, etc.), solid waste collection, city and other entities' tax base, public safety (i.e., police, fire, emergency medical services, etc.), public schools (i.e., number of school-age children anticipated) and traffic on surrounding and other nearby roadways. Letters from the city's utility and engineering personnel, the school district, and private utility providers may be required prior to approval of the PD in order to ensure that the proposed development will not unreasonably overload these essential systems and services;

j. See article VIII of this chapter for platting standards:

1. Upon written request of the applicant, the city manager may grant a waiver of the minimum acreage requirements for a planned development enumerated in subsection (b)(3)f of this section, but in no event shall any waiver:

(i) Allow a planned development of less than 20 acres minimum acreage for a planned development or component thereof with single-family residential base zoning; or

(ii) Allow a planned development of less than two acres minimum acreage for a planned development or component thereof with a nonresidential base zoning;

2. Any waiver granted hereunder by the city manager shall be based upon the city manager's determination of the following factors:

(i) Whether the proposed use/base zoning for the planned development implements the policies adopted in the comprehensive plan, including the future land use plan;

(ii) Population density impacts of the proposed planned development, including, but not limited to, traffic impacts;

(iii) Whether the proposed use/base zoning for the planned development will be appropriate in the immediate area and for its relationship to the general area and the city as a whole;

(iv) Whether the proposed use/base zoning for the planned development will be in accordance with existing or proposed plans for providing schools, streets, water supply, sanitary sewer, or other utilities in the area;

(v) The amount of vacant land currently classified for developments similar to what is being proposed in the vicinity and elsewhere in the city; and

(vi) The anticipated impact on areas that are already designated for similar development.

(4) *Establishment.*

a. In establishing a planned development district in accordance with this subsection (b), the city council shall approve and file as part of the amending ordinance appropriate plans and standards for each planned development district. To facilitate understanding of the request during the review and public hearing process, the concurrent submission of a concept plan for the proposed nonresidential or provisional district project, or a land study for a proposed single-family residential project, shall be required along with the PD zoning application. A preliminary plat may be submitted in lieu of the concept plan for a single-family PD (see the subdivision regulations in chapter 72 for submission and other requirements) if the applicant prefers to do so, and if the applicant wishes to expend the resources and funds necessary to prepare a complete preliminary plat submission:

b. The concept plan shall be submitted by the applicant at the time of the PD request. The plan shall show the applicant's intent for the use of the land within the proposed planned development district in a graphic manner and, as

may be required, supported by written documentation of proposals and standards for development. The city may prepare application forms which further describe and explain the following requirements:

1. *Residential concept plan.* A concept plan for residential land use shall show general use, thoroughfares and preliminary lotting arrangements (see section 74-262 for concept plan requirements and procedures):
   (i) A concept plan shall be submitted with any residential PD zoning request for a development comprised of single-family dwellings on individually platted lots, and shall show general uses, phasing of the development, access, thoroughfares, alleys (if proposed), preliminary lot arrangements, proposed densities, proposed screening, landscaped or private amenity areas, project scheduling and other pertinent development data;
   (ii) For residential development which does not propose platted lots, the concept plan shall set forth the size, type and location of buildings and building sites, access, density, building height, fire lanes, screening, parking areas, landscaped areas, project scheduling, and other pertinent development data;
2. *Nonresidential concept plan.* A concept plan shall be submitted with any nonresidential, single-family, or provisional district PD zoning request, and shall clearly show all pertinent aspects of the type and nature of the proposed development. Data which may be submitted by the applicant, or required by the planning and zoning commission or city council, may include, but is not limited to, the types of uses, access, topography and boundary of PD area, physical features of the site, existing and proposed streets, alleys and easements, location of existing and proposed public facilities, building heights and locations, parking areas and ratios, fire lanes, screening and landscaped areas, project phasing and scheduling, buffer zones between residential and nonresidential uses, and other information to adequately describe the proposed development and to provide data for approval which is to be used in drafting the preliminary plat (see section 74-262 for concept plan requirements and procedures):
   (i) For a single-family PD (or portion of a PD): A preliminary plat (see the subdivision regulations in chapter 72) shall be submitted for approval within one year from the approval date of the PD covered by the overall PD concept plan. If a preliminary plat is not submitted within one year, then the PD concept plan shall be subject to review by the planning and zoning commission and the city council to determine its continued validity. If the city determines that the PD concept plan is no longer valid or that the proposed development is no longer viable, then a new PD concept plan (along with a zoning application to amend the PD ordinance and its accompanying concept

plan) must be submitted for review and approval prior to preliminary plat review/approval (and any subsequent issuance of a building permit) for any single-family portion of the PD district;

(ii) For a nonresidential, single-family attached, or provisional district PD (or portion of a PD): A detailed site plan and preliminary plat shall be submitted for approval (in accordance with subsection (b)(4)a.3 of this section, and with section 74-254, and with the subdivision regulations in chapter 72) within one year from the approval date of the concept plan for all or some portion of the PD covered by the overall PD concept plan. If a detailed site plan and preliminary plat are not submitted within one year, then the PD concept plan may be subject to review by the planning and zoning commission and the city council to determine its continued validity. If the city determines that the PD concept plan is no longer valid or that the proposed development is no longer viable, then a new PD concept plan (along with a zoning application to amend the PD ordinance and its accompanying concept plan) must be submitted for review and approval prior to detailed site plan and preliminary plat review/approval (and any subsequent issuance of a building permit) for any nonresidential, single-family attached, or provisional district PD or portion of the PD district;

3. *PD site plan (detailed):*

(i) Submission and approval of the detailed PD site plan shall be in accordance with section 74-254, and shall accompany an application for a nonresidential, multifamily, single-family attached, or provisional district planned development zoning if the applicant prefers to submit the detailed site plan in lieu of the required PD concept plan. The detailed PD site plan will establish the final plans for development of the planned development district (or any portion thereof), and it shall substantially conform to the site layout and development data approved on the PD concept plan (adopted along with the PD ordinance). If a PD concept plan was previously approved for the overall PD district, then a detailed PD site plan (along with the required engineering/architectural site construction plans and preliminary plat) may be submitted for only the sections or lots that are proposed for immediate development rather than for the entire PD. If no concept plan was approved with the ordinance establishing the PD, then a concept plan for the entire PD must be submitted and approved prior to approval of a detailed site plan (along with the required engineering/architectural site construction plans and preliminary plat) for only the portions of the PD that are proposed for immediate development (see section 74-254 for site plan requirements and procedures);

(ii) For any single-family residential district (A, SF-E, SF-1, SF-2, SF-3, SF-4, SF-PH, MH), a final plat shall qualify as the site plan;

4. *Lapse, extension and reinstatement.* Lapse, extension and reinstatement of a PD concept plan or PD site plan shall be in accordance with the provisions of section 74-260.

(5) *Approval process and procedures.* The procedure for establishing a planned development district shall follow the procedure for zoning amendments as set forth in article IV of this chapter. This procedure is further expanded as follows for approval of concept or site plan:

a. The planning and zoning commission shall consider and make a recommendation to city council on the concept plan or site plan after holding a public hearing. For the planning and zoning commission to make a recommendation:

1. The applicant submits adequate data with the request for the planned development district to fulfill the requirement for a concept plan or detailed site plan;

2. Information on the concept plan and attached application is sufficient to determine the appropriate use of the land, and the preliminary plat will not deviate substantially from it;

3. If the conditions of subsections (b)(5)a.1 and 2 are not met, then the applicant shall submit any and all additional required information and another public hearing must be held by the planning and zoning commission prior to a recommendation of the concept plan or detailed site plan;

b. After sufficient public notice of a separate public hearing on the application and upon the city council receiving the recommendation from the commission, the city council shall consider the PD application, all development requests and the concept plan or detailed site plan;

c. The ordinance establishing the planned development district shall not be approved or adopted until the concept or site plan is approved by city council and until all other procedural requirements set forth in article VIII of this chapter are satisfied. The concept plan or site plan, architectural plan (elevations), legal description, proof of ownership and other required documents shall be attached to the PD ordinance as an exhibit:

1. The concept plan or site plan may be approved in sections. When the plan is approved in sections, then separate approvals by the planning and zoning commission and city council for the initial and subsequent sections will be required;

2. A concept plan or site plan shall be submitted for approval within six months from the approval of the concept plan for some portion of the concept plan. If a partial development plan is not submitted within six months, the concept plan is subject to review by the planning and zoning

commission and city council. If the entire project is not started within two years, the planning and zoning commission and city council may review the original concept plan to ensure its continued validity. If the city determines the concept is not valid, a new plan must be approved prior to issuing a building permit for any portion of the PD district;

3. Although a public hearing may not be required for the development plan, approval by the planning and zoning commission and city council is still required.

(6) *Written report.* When a zoning request for a PD district is being considered, a written report from the city manager or designated representative, discussing the impact on planning, engineering, water utilities, electric, sanitation, building inspection, tax, police, fire, and traffic, and written comments from the applicable public school district and from private utilities, may be submitted to the planning and zoning commission prior to the commission making any recommendations to the city council. In the event written comments are not forthcoming in a reasonable amount of time, the commission may, at its discretion, make a recommendation to the city council without the comments or advisement.

(7) *Detail site plan.* If three or more buildings are situated on one lot, regardless of the zoning classification, a conceptual plan or a development plan (detail site plan) shall be submitted for consideration and possible approval by the planning and zoning commission and city council. No public hearing is required unless such plan is/are attached to the original zoning amendment or PD ordinance.

(8) *Compliance and record.* All planned development districts approved in accordance with the provisions of this chapter in its original form, or by subsequent amendments thereto, shall be referenced on the zoning district map, and a list of such planned development districts shall be maintained in the city secretary's office. All approved planned development districts shall comply with this article.

(9) *Applicable provisions.* Prior to adoption of the ordinance from which this chapter is derived, the city council had established various planned development districts, some of which are to be continued in full force and effect. The ordinances or parts of ordinances approved prior to this Code shall be carried forth in full force and effect and are the conditions, restrictions, regulations and requirements which apply to the respective planned development districts shown on the zoning map at the date of adoption.

(c) *PD-ED Planned Development-Economic Development District.*

(1) *Purpose and intent.*

a. The PD-ED Economic Development-Planned Development District is a tool that can provide greater flexibility for a variety of large retail and light commercial uses by allowing for unique and innovative concepts in land use not permitted by other zoning districts in this chapter. These projects will promote economic

development while encouraging reliable sales tax revenue streams and enhancing the quality of life for the citizens of the city. While greater flexibility is given to permit special conditions or restrictions which would not otherwise allow the development to occur, procedures are established herein to ensure against misuse of increased flexibility. The approval and creation of a PD-ED district, a successful economic development incentive application and combined with herein specified conditions, the city may choose to participate with the owner/developer in an economic development incentive package;

b. The PD-ED district may only be applied to property of high visibility and has ease of ingress and egress. Two planned development (PD) classifications are created by this subsection (c). Properties adjacent to, within 1,200 feet of or which are tracts with a point of beginning within the 1,200 feet of the Interstate 35 and future Loop 9 corridors may be available for Planned Development-Economic Development Tier 1 (PD-ED Tier 1) classification. Properties adjacent to, within 300 feet of or which are tracts with a point of beginning within the 300 feet of other major arterials (e.g., four-lane divided or larger) may be available for Planned Development-Economic Development Tier 2 (PD-ED Tier 2) classification. Unless otherwise referenced independently, the overall classification shall be referred to as "PD-ED." Each classification, PD-ED Tier 1 and PD-ED Tier 2, is depicted on Illustration B, attached to the ordinance from which this section is derived and made a part of this chapter by reference;

c. All regulations of the underlying base district that are not in conflict with the regulations of the PD-ED district shall apply. In the event of conflict between the regulations of the PD-ED district and the underlying base district, regulations of the PD-ED district shall control.

(2) *Economic development incentives.*

a. Owners or developers of the property have the right to apply for economic development incentives offered by the city, provided the applicant meets all applicable guidelines as set forth in the city's economic development incentive program as adopted by Resolution No. 298-97, as it may be amended. PD-ED district approval is subject to specific requirements satisfying the city's economic development goals as set forth in the city's economic development incentive program;

b. New private capital investment, exclusive of land values and related to targeted retail, commercial and industrial uses will be considered for economic development incentives and will be considered in accordance with the city's economic development incentive program, as it exists and as it may be amended. Targeted uses include large retail facilities, office complexes, shopping and personal service centers, hotels, restaurants, movie theaters, museums or any combination of uses which may be planned, developed or operated as integral land use units either by a single owner or a combination of owners. Further

targeted uses include corporate campuses, business parks, resort uses, business uses related to the telecommunications industry, clean manufacturing uses related to the telecommunications industry or electronic components and logistical warehousing and distribution uses related to the telecommunications industry, electronic components or other high-value products;

c. The incentives will be considered and negotiated on a project-by-project basis commensurate with the quality and character of the development and the extent to which it contributes to accomplishing community character and quality of life objectives. Incentives will be considered for approval by the city council only after community input and public hearing and may include, but are not limited to, expedited development review, permit fee waivers, infrastructure assistance, public-private partnerships and performance-based ad valorem tax abatements. Give-back provisions shall be included in the event of non-performance. The purpose of this criterion is to promote a vigorous, diversified and regionally competitive economy, while creating a balanced tax base to ensure the city's long-term financial ability to respond to the service demands of both new and existing development without placing a disproportionate tax burden on homeowners;

d. At the request of the applicant for a targeted retail, commercial or industrial use exceeding the amount specified in the city's economic development incentive program for new private capital investment, exclusive of land values, the city council may consider approval of certain project-specific waivers or incentives only after community input and public hearing. The waivers or incentives may include, but are not limited to, expedited development review, permit fee waivers, infrastructure assistance, public-private partnerships and performance-based tax abatements. Give-back provisions shall be included in the event of non-performance. Consideration of such waivers or incentives shall precede consideration of the PD-ED.

(3) *Go Green incentives.*

a. The city desires to take a proactive approach in improving the environment. The city recognizes how we grow today will influence not only how we live, but how future generations live. If we unanimously "Go Green" by developing a healthier and more environmentally responsible community, a difference can be realized not only in our community but in the nation and the world;

b. The city is taking a progressive approach in the Go Green movement by making available Go Green development incentives for those projects that seek to mitigate the effects of urbanization, ensure growth does not occur at the expense of environmental quality, preserves natural landscapes and sensitive ecological resources and as much open space as possible;

c. Following are the principles by which the Go Green development incentives will be judged and awarded. In order to qualify for incentives, no less than 50 percent of the following points shall be included in a submitted project:

1. Mix land uses to produce a "live, work, play" community;
2. Take advantage of compact building design;
3. Provide a variety of transportation choices and encourage walkable projects;
4. Design landscape utilizing SmartScape™ or xeriscape criteria;
5. Preserve open space, natural landscape and ecological resources while reducing impervious surfaces;
6. Water conservation (i.e., E.T. irrigation sensors);
7. Promote and utilize recycling;
8. Utilize environmentally friendly lighting sources, appliances, mechanical equipment, etc.; and
9. Exceed the minimum energy standards as adopted in the current International Energy Code (IEC);

d. The incentives will be considered and negotiated on a project-by-project basis commensurate with the quality and character of the development and the extent to which it contributes to accomplishing community goals for improving the environment and quality of life. Incentives will be considered for approval by the city council only after community input and public hearing and may include, but are not limited to, expedited development review, permit fee waivers, infrastructure assistance, public-private partnerships and performance-based ad valorem tax abatements. Give-back provisions shall be included in the event of non-performance. The purpose of this criterion is to promote a vigorous, diversified and regionally competitive economy, while creating a balanced tax base to ensure the city's long-term financial ability to respond to the service demands of both new and existing development without placing a disproportionate tax burden on homeowners;

e. At the request of the applicant who offers a Go Green project and a targeted retail, commercial or industrial use exceeding the amount specified in the city's economic development incentive program for new private capital investment, exclusive of land values, the city council may consider approval of certain project specific waivers or incentives only after community input and public hearing. The waivers or incentives may include, but are not limited to, expedited development review, permit fee waivers, infrastructure assistance, public-private partnerships and performance-based tax abatements. Give-back provisions shall be included in the event of non-performance. Consideration of such waivers or incentives shall precede consideration of the PD-ED;

f. An incentive package available to qualifying developments shall not extend longer than ten years, unless otherwise permitted under the city's economic development incentive program and agreed upon by city council, and will be awarded incrementally depending on the characteristics and quantity of the proposed project.

(4) *Permitted uses.*

a. PD-ED Tier 1:

1. Any permitted use in the base zoning district for the subject property shall be allowed in a PD-ED Tier 1 District;

2. Variations from the base zoning uses shall be identified by the applicant in the zoning request. After consideration by the planning and zoning commission and upon approval by the city council, the permitted uses and conditions necessary for the change shall specifically be identified in the establishing ordinance granting a PD-ED Tier 1 District. The size, location, façade, appearance and method of operation may be specified to the extent necessary to ensure compliance with the purpose of this chapter and the comprehensive plan. The PD-ED Tier 1 District shall conform to all other regulations of the applicable base zoning districts which are not specifically changed or excluded in the granting ordinance;

3. Targeted retail uses for the PD-ED Tier 1 District include land use that qualifies for sales tax or hotel/motel tax generation. These uses include, but are not limited to:

(i) Convenience store;

(ii) Department store;

(iii) Electronic and home appliance store;

(iv) Garden center (five percent outside/sidewalk display);

(v) Grocery store (minimum 20,000 square feet);

(vi) Health-related store;

(vii) Home improvement centers (seasonal outside display only with SUP);

(viii) Medical supplies store;

(ix) Retail service, incidental;

(x) Restaurant (drive-through with SUP)

(xi) Sporting goods store;

4. Targeted professional uses for the PD-ED Tier 1 District include, but are not limited to:

(i) Bank and savings and loan;

(ii) Hospital, clinic and medical facilities;

(iii) Museum or art gallery;

(iv) Neighborhood service (maximum 5,000 square feet);

(v) Professional office complex;

(vi) Radio broadcasting without tower;

5. Targeted leisure/entertainment uses for the PD-ED Tier 1 District include, but are not limited to:

(i) Arts and cultural establishments;

(ii) Commercial amusement (primarily indoor);

(iii) Hotel (minimum 100 units, no outside unit entry);

(iv) Indoor movie theater;

(v) Personal fitness facilities;

(vi) Resort;

6. In unique circumstances, residential uses may be incorporated into the PD-ED Tier 1 District as a mixed use development; however, the residential uses may only constitute a minor portion (less than ten percent) of the use and value generated from the development and may not occupy any ground-level space. The residential development, in whole or in part, will not qualify for economic development incentives, unless the city council, through an economic development agreement, takes such appraised taxable value into account in determining the appropriate incentive;

b. PD-ED Tier 2:

1. Any permitted use in the base zoning district for the subject property shall be allowed in a PD-ED Tier 2 District;

2. Variations from the base zoning uses shall be identified in the zoning request by the applicant. After consideration by the planning and zoning commission and upon approval by the city council, the permitted uses and conditions necessary for the change shall specifically be identified in the establishing ordinance granting a PD-ED Tier 2 District. The size, location, façade, appearance and method of operation may be specified to the extent necessary to ensure compliance with the purpose of this chapter and the comprehensive plan. The PD-ED Tier 2 District shall conform to all other regulations of the applicable base zoning districts which are not specifically changed or excluded in the granting ordinance;

3. Targeted retail uses for the PD-ED Tier 2 District include land use that qualifies for sales tax or hotel/motel tax generation. These uses include, but are not limited to:

(i) Bakery;

(ii) Convenience store;

(iii) Department store;

(iv) Electronic and home appliance store;

(v) Garden center (maximum 15 percent outside display);

(vi) Grocery store (minimum 12,000 square feet);

(vii) Health-related store;

(viii) Home improvement centers (maximum ten percent outside display);

(ix) Medical supplies store;

(x) Retail service, incidental;

(xi) Restaurant (drive-through with SUP);

(xii) Sporting goods store;

4. Targeted professional uses for the PD-ED Tier 2 District include, but are not limited to:

(i) Bank and savings and loan;

(ii) Funeral parlor or mortuary;

(iii) Golf course and country club;

(iv) Greenhouses and nurseries;

(v) Hospital, clinic and medical facilities;

(vi) Museum or art gallery;

(vii) Neighborhood service uses (maximum 5,000 square feet);

(viii) Professional office complex;

(ix) Radio broadcasting without tower;

5. Targeted leisure/entertainment uses for the PD-ED Tier 2 District include, but are not limited to:

(i) Arts and cultural establishments;

(ii) Commercial amusement, inside (outdoor with SUP);

(iii) Hotel (minimum 75 units, no outside unit entry);

(iv) Indoor movie theater;

(v) Miniature golf, driving range and putting course;

(vi) Drive-in movie theater (with SUP);

(vii) Personal fitness facilities;

(viii) Private club with alcoholic beverage sales;

(ix) Resort;

(x) Roller skating rink;

6. Targeted industrial uses for the PD-ED Tier 2 District include, but are not limited to:

(i) Assembly of electronic instruments and devices;

(ii) Automotive repair shop;

(iii) Commercial school;

(iv) Distribution warehouse;

(v) Drugs and pharmaceutical manufacturing;

(vi) Dry cleaning plant or commercial laundry;

(vii) Electronic manufacturing;

(viii) Glass products from previously manufactured glass;

(ix) Instrument and meter manufacturing;

(x) Medical laboratory;

(xi) Optical goods manufacturing;

(xii) Research and scientific laboratories;

7. In unique circumstances, residential uses may be incorporated into the PD-ED Tier 2 District as a mixed use development; however, the residential uses may only constitute a minor portion (less than 20 percent) of the use and value generated from the development and may not occupy any of the ground-level space. The residential development, in whole or in part, will not qualify for economic development incentives unless the city council, through an economic development agreement, takes such appraised taxable value into account in determining the appropriate incentive.

(5) *Conditional uses.* Requested uses which are to be conditioned on other criteria shall be clearly identified and defined by the applicant. Conditional uses shall be considered by the planning and zoning commission and city council, utilizing procedures set forth in article IV of this chapter. If approval is given, the conditions will be detailed in the amending ordinance.

(6) *Permitted accessory uses.* When varying from the uses within the underlying zoning district, the applicant shall provide a list of requested accessory uses and the conditions necessary for change in standards from the underlying zoning district. These permitted accessory uses shall be considered by the planning and zoning commission and city council and, if approved, will be detailed in the amending ordinance.

(7) *Limitation of uses.* Uses prohibited shall be those uses specifically prohibited within the underlying zoning district. The following uses are expressly prohibited within any PD-ED district and cannot be established as a permitted, conditioned or accessory use under any circumstances:

a. Batch plants;

b. Commercial parking lots;

c. Freight forwarding warehouses;

d. Mini-warehouses;

e. Office warehouses;

f. Off-premises/billboard signage;

g. Outside storage of material/equipment;

h. Pawnshops;

i. Retail establishments for used car sales and service;

j. Retail sales of building materials displayed in an unenclosed or incompletely enclosed area with outside storage;

k. Salvage/wrecking yards.

(8) *Density requirements.* The city encourages the applicant to be creative with the design and layout of PD-ED districts. Flexibility may be granted for requirements associated with density, lot size, open space, building coverage and impervious coverage; however, the following are examples of appropriate guidelines. When varying from the guidelines, the applicant shall provide adequate information for consideration:

a. Maximum building height, PD-ED Tier 1 and PD-ED Tier 2:

1. Two stories or 35 feet for the main buildings;

2. One story for accessory buildings;

b. Area regulations:

1. Size of lot:

(i) Minimum lot area:

A. PD-ED Tier 1: ten acres (435,600 square feet);

B. PD-ED Tier 2: two acres (87,120 square feet);

(ii) Minimum lot width:

A. PD-ED Tier 1: 500 feet;

B. PD-ED Tier 2: 200 feet;

C. In the event an I Industrial District achieves access from the PD-ED Tier 1 frontage, the minimum access shall be 50 feet and meet or exceed all required landscaping;

(iii) Minimum lot depth:

A. PD-ED Tier 1: 500 feet;

B. PD-ED Tier 2: 200 feet;

2. Size of yards:

(i) Minimum front yard:

A. PD-ED Tier 1: 60 feet; and

B. PD-ED Tier 2: 30 feet from ultimate right-of-way line of roadway;

C. All yards adjacent to a street shall be considered a front yard;

(ii) Minimum side and rear yard: 15 feet unless adjacent to a residentially zoned property;

(iii) Minimum side and rear yard adjacent to a residential district: 25 feet for a building of 15 feet, and an additional one foot for each foot above 15 feet;

(iv) Interior side yards: The interior side yard setback between two nonresidential buildings may be reduced to zero feet where the two buildings share a common interior lot line, where construction of a party wall in accordance with the city's building codes is used, and when approved by the city council on the site plan following a favorable recommendation by the planning and zoning commission. Where such a reduced side yard setback is utilized, the equivalent open space and landscape plantings and buffers that are normally required along a shared side property boundary shall be provided elsewhere on each respective affected lot (i.e., this requirement shall not be waived but provided elsewhere on site). Furthermore, the applicant shall display on the site plan all required fire access. Approval of a site plan that shows such a reduced zero-foot side yard setback between two nonresidential buildings shall be discretionary in nature and shall be based upon an analysis of the location, the configuration, and the impact and compatibility of the proposed construction with respect to adjacent land uses and structures;

3. Maximum lot coverage: 50 percent, including main and accessory buildings; maximum 80 percent impervious coverage (including all buildings, parking areas, sidewalks, etc.);

4. Maximum floor area ratio (FAR);

   (i) PD-ED Tier 1: 1:1;

   (ii) PD-ED Tier 2: 0.5:1;

5. Maximum building size: The maximum building footprint (first floor) area of a structure shall be determined by applying the lot's size, minimum building setbacks, maximum of 50 percent lot coverage, minimum parking requirement, minimum landscaping percentage and other pertinent development requirements.

(9) *Off-street parking and loading requirements.* Requirements associated with off-street parking shall be initially established in accordance with article XIV of this chapter and the underlying use or zoning district. When varying from these guidelines, the applicant shall provide the method for establishing the new standards and the conditions necessary for the change in standards from those established.

(10) *Exterior building material.* The city encourages the development of properties unique in design and that aids in creating and following through with a theme. The façade of a building should be utilized to create an inviting atmosphere and excitement about the associated business. However, the city also requires materials

to be used that will create integrity of the facility, withstand harsh elements and that will endure time. These requirements allow adequate variations for independent and unique design:

a. Masonry requirements: 100 percent of the exterior of all new buildings (excluding doors and windows) shall be finished in one or more of the following materials indicated below:

   1. Brick, stone, cast stone, rock, marble and granite;

   2. Stucco may be used on up to 40 percent of a building façade but must be an authentic lath and stucco technology. Dryvit type systems (exterior insulation and finish surfaces (EIFS) or Styrofoam™ products may not be used. Control joints in stucco must be coordinated with the architectural design and should be indicated on the plans submitted. No stucco board is permitted;

   3. Architectural glass with less than 20 percent reflectance. However, only a maximum of 25 percent of a building façade may be constructed in architectural glass;

   4. Split-face concrete block, poured-in-place concrete and tilt-wall concrete. Concrete products shall have an integrated color and be textured or patterned. Tilt-wall concrete structures shall include reveals, punch-outs or other similar surface characteristics and adornments to enhance the façade on at least ten percent of each façade;

   5. Allowed wall systems include tilt-up concrete panels and engineered steel wall panels with masonry-like exterior finish. The exterior surface of wall systems must be textured masonry or covered with brick or stone. When tilt-up concrete wall systems are used, the visual effect of the design must reflect the wall support of structural systems that allow attenuated subdivision between openings. Large areas of blank wall, typically seen when such systems are used for retail/industrial/distribution facilities, are not allowed. Rather the exterior wall must be finished providing a predominantly masonry or themed (e.g., Texas star) appearance. Any portion of the tilt-up concrete wall system visually exposed in the building skin must be subdivided in a design that modulates with the features of the building elevation design (such as window bands or lines of structure);

   6. Cementitious board materials (i.e., Hardie® plank) shall not be allowed;

b. Additional accent materials: In addition, a minimum of ten percent of the following accent materials may be allowed, excluding all windows, doors and glass construction, in order to establish a unique architectural theme for the establishment:

   1. Baked-on color finish or anodized aluminum with specific exclusion to galvanized metal;

   2. Glass block; or

3. Tile;

c. Side and rear façades: Sides not facing a road or residential area and rear façades shall be finished in a similar color, texture and material as the main front façade of the building;

d. Architectural features: In addition to the features described in subsection (c)(10)a of this section, the façades of all primary commercial structures which face a street shall also include key architectural features, such as:

1. All primary structures shall be designed with distinguishable architectural elements, such as a distinct base, wall and cornice or top;

2. The use of arcades, covered walkways, architectural awnings, canopies or porticos is required along 25 percent of the primary façade and/or street facing façades;

3. Use of gables is permitted. Gables must be designed as gable parapet, brick gables or craftsmanship gable;

4. No building façade shall extend for a distance greater than three times the mean elevation of the wall's height without having an offset of 15 percent or more of the wall's height. This offset shall extend for a distance equal to at least 25 percent of the maximum length of either adjacent plane;

5. No horizontal wall shall extend for a distance greater than three times the height of the wall without changing height by a minimum of 15 percent of the wall's height. The height change shall continue for a minimum distance equal to at least 25 percent of the maximum length of either adjacent plane;

e. Changes in materials: The location of exterior wall material changes (e.g., brick to stucco or brick to stone) shall have a logical relationship to changes in the form of the structure and not be dictated by the simple economy. Material changes in the same wall plane are prohibited unless the dominant material is terminated with an architectural element, such as a column or an offset. All materials must wrap the corner and change in one of the manners described above;

f. Roof: The implied visible purpose of the roof form is to perform those functions associated with a roof. This is to provide protection, sunshade or water shedding. A roof which exists only to conceal mechanical equipment is not allowed. Roof guidelines are as follows:

1. Sloped roof materials shall be one of the following:

(i) Metal R panel (baked-on color finish or anodized aluminum with specific exclusion to galvanized metal);

(ii) Natural stone;

(iii) High quality clay or concrete tile in warm gray or dark earth tone color range;

(iv) High quality composition shingle with a 40-year warranty or longer. Composition shingles shall be in gray or weathered blend color or other dark color. All roof colors shall be limited to a green, dark bronze or naturally weathered or earth tone color;

2. In instances where pitched roofs are constructed, it is important that the roof mass be balanced with the remainder of the building. Furthermore, design should allow for the intersecting of gables, dormers and other compositional components to achieve asymmetrical balance;

3. Flat roofs shall be concealed behind a parapet or an extension of the wall plane;

4. No plumbing stacks, venting stacks or roof-mounted attic ventilators (except gable or dormer vents) shall penetrate the roof surfaces facing the street. Roof projections must be mounted straight and perpendicular to the ground plane and be painted to blend with the roof color. Roof projections and HVAC equipment mounted on the roof shall be screened from view and shall not be visible from any streets abutting or adjacent to the structure;

5. The minimum roof pitch, visible from the street, shall be 8:12;

g. Outdoor storage and accessory buildings: Any accessory building or storage building, which is allowed under this chapter, shall be of like appearance to the primary building.

(11) *Landscaping and open space requirements.* As the city intends to promote SmartScape™ and xeriscape with the adoption of the ordinance from which this chapter is derived and desires to reward incentives for the use of those practices, the submission of creative open space and landscaping are encouraged.

(12) *Alternatives to SmartScape™ or xeriscape practices.* If the applicant does not desire to utilize SmartScape™ or xeriscape practices or benefit from the incentives associated with those practices, the requirements associated with landscaping and open space shall be initially established in accordance with article III of this chapter and other specific, adopted city ordinances. When varying from the guidelines within the landscaping and open space regulations, the applicant shall provide the method for establishing the new standards and the conditions necessary for the change in standards from those established.

(13) *Utility services.* All utility service lines shall be underground.

(14) *Mechanical equipment.* All air conditioning compressors, boilers, power and meter boxes and satellite dishes must be completely screened from public view. Screening materials must consist of architectural devices that are logical visual extensions of the building design.

(15) *Building services.* All building services (i.e., delivery entrance) must be located on that side of the building which does not front public streets and shall be screened or hidden from the view of adjacent residential uses. Screening materials must consist of architectural devices that are logical visual extensions of the building design.

(16) *Fencing, walls and screening requirements.*

a. In the event that a PD-ED district sides or backs upon any type of residential district, screening is required. See article IV of this chapter for available screening options. Screening shall be erected on the property line separating these districts. The purpose of the screening wall or fence is to provide a visual and protective barrier between the properties;

b. When screening is required between nonresidential and residential uses, it is the responsibility of the nonresidential use to construct and maintain the screening wall;

c. No wall or fence shall be erected in any front or side yard which is adjacent to a public street unless the wall or fence is required to screen the development from an adjacent residential area (particularly if the residence has, or could have, a back yard fence that would be exposed to view from the street if the required screening wall were not extended out to the street right-of-way). In this case, the wall or fence shall be extended out to the street right-of-way line by the developer of the nonresidential development and the wall or fence shall be finished on both sides in a material, manner and color that is compatible to the exterior finish materials used on the main building. Screening walls or fences shall be placed such that they do not impede the visibility of vehicles entering or exiting the nonresidential development;

d. Buffer yards may be allowed in the front yard or side yard of a PD-ED district in a manner that does not impede visibility for vehicles entering and exiting the development. With the construction of buffer yards in the front yard or side yard, masonry monument signs, approximately eight feet tall by ten feet long with uplighting on the face of the sign, shall be constructed immediately interior of the public right-of-way for identification;

e. All wall or fence construction requires a permit;

f. If open storage is approved by the city council, the screening wall or fence shall be a minimum of six feet in height and shall be constructed according to article III of this chapter. No outside storage may exceed the height of the wall, fence or buffer. Outside storage exceeding eight feet shall require approval by the city in the site plan process;

g. Refuse storage areas (e.g., dumpsters) which are not within a screened rear storage area and which are visible from any public right-of-way shall be visually screened by a minimum six-foot solid brick or stone wall on at least three sides. The fourth side, which is to be used for garbage pickup service, must provide a gate to secure the refuse storage area. Each refuse facility shall be located so as

to facilitate pickup by refuse collection agencies. Reinforced concrete-paved pad sites and approaches (according to the city's standard construction details as adopted or as may be amended) shall be provided for refuse facilities for loading and unloading;

h. Plans and specifications for screening walls or fences around ground-mounted utility structures (e.g., transformers, natural gas regulating stations, etc.) shall be approved in writing by the affected utility company and shall be submitted, along with an approval letter from the utility company, to the city manager or designee for review and approval prior to construction of the screening/fencing.

(17) *Lighting.* In an effort to reduce negative effects on the environment, the city encourages the use of Go Green light sources. As stated in subsection (c)(3) of this section, the city desires to participate in this initiative by offering incentives for these practices. Standards of controlling lighting and glare are set forth to reduce the annoyance and inconvenience to property owners and traffic hazards to motorists. These standards are intended to allow reasonable enjoyment of adjacent and nearby properties by their owners and occupants while requiring adequate levels of lighting of parking areas:

a. The city desires to encourage and promote the development of properties unique in design and that which aids in creating or following through with a theme. The outside lighting of a building/complex/project should be utilized to complement an inviting atmosphere and excitement about the associated business. However, the city requires materials to be used that will create integrity of the facility, withstand harsh elements and that will endure time. Minimum standards for light standards are set forth in section 52-24;

b. In order to preserve the night sky and to reduce glare on roadways, pedestrian areas and adjacent properties, light sources (e.g., light bulbs) shall be oriented toward the center of the site or shielded so not to be visible from the nearest property line. This applies to refractory lenses that extend beyond the lighting fixture and are designed to redirect the lighting source horizontally. This does not apply to neon or internally lit signs;

c. The allowable maximum intensity measured at the property line of a residential use in a residential district shall be 0.25 footcandles;

d. Bare bulbs of 15 watts or more or strings of lamps are prohibited, except for temporary lighting not exceeding 45 days per year;

e. All off-street parking areas, for nonresidential uses in a PD-ED district, which are used after dark shall be illuminated beginning at sunset and continuing throughout the hours of use or until 12:00 midnight, whichever is earlier. However, beginning at the close of business for each property and until sunrise, a minimum of 20 percent of all parking area lighting shall remain illuminated. The following minimum requirements are set for lighting of parking areas:

1. On the parking area surface, an average of at least two footcandles, initial measurement, and a minimum average of one footcandle on a maintained basis;

2. Luminaires located in an off-street parking area on privately owned property shall be mounted at a height not to exceed 30 feet as measured vertically from the horizontal surface of the nearest parking pavement.

(18) *Signs.* On-premises signage shall be provided in accordance with the city's sign regulations. The city encourages the use of monument signs constructed of brick or stone and also encourages the submission of a comprehensive sign package to encompass all on-premises and off-premises signage that blends with the overall design of the project and avoids visual blight and pollution:

a. The purpose of this subsection (c)(18) is to allow for a specialized review of signs which may have meritorious design and seek to promote a unique quality for the proposed development, but which require special consideration. The specialized review shall encompass the number, size, height, color, location, lighting or relation to adjacent property, to promote the public health, safety and welfare and be consistent with the goals of community character. The permitting of such evaluation of the physical impact of the proposed sign on adjacent properties, including considerations for size, placement, and lighting, is necessary to ensure compliance with this chapter, to minimize negative effects on the surrounding area, and to ensure adequate mitigation of potentially unfavorable factors, such as the number, size, height, color, location, lighting and other potentially unfavorable impacts. Under these provisions, any form of monument, statue, artwork, tower, signage, as defined herein, or as proposed for a particular development as an architectural feature, other than a prohibited sign, may be presented as a comprehensive sign package for approval as stated herein;

b. No building permit shall be issued in any PD-ED district for any use for which a comprehensive sign package is sought under this section until a special sign permit has been approved according to the requirements of this section;

c. Any person, firm or corporation having a proprietary interest in any property within the city corporate limits requesting approval of a special sign permit as part of a PD-ED district shall submit an application and appropriate filing fee at the same time as the submittal of the zoning application with the following:

1. A clear description of the proposed comprehensive sign package;

2. A drawing, at a scale of not less than one-quarter inch to one foot, including the following:

(i) Each sign proposed;

(ii) The location of each proposed sign on a site plan at a scale of not less than one inch to 200 feet;

3. An 8½-inch by 11-inch photo matte (PMT) reduction of any of the drawings in subsection (c)(18)e.2 of this section;

d. The city council, after public hearing and proper notice to all parties affected and after public hearing and recommendation by the planning and zoning commission, may authorize the issuance of special sign permits for the comprehensive sign package as part of the PD-ED;

e. The planning and zoning commission, in considering and determining its recommendations to the city council on any request for a special sign permit, may require from the applicant plans, information, operating data and expert evaluation concerning the location, function and characteristics of any sign proposed;

f. The city council may, in the interest of the public welfare and to ensure compliance with this chapter, establish conditions of operation, location, arrangement and construction of any use for which a permit is authorized. In authorizing the location of any use listed as a special sign permit, the city council may impose such development standards and safeguards as the conditions and location indicate important to the welfare and protection of adjacent property from glare, offensive view of other undesirable conditions;

g. All special sign permits approved in accordance with the provisions of this subsection (c)(18) shall be referenced on the zoning district map, and a file containing all documents relevant to the application and disposition of such special sign permit shall be maintained by the city manager or designee.

(19) *Temporary outside display.* Temporary (i.e., not long-term or permanent) outside display of seasonal items (e.g., Christmas trees, pumpkins, live vegetation etc.) shall be allowed, but limited to, the following:

a. A permit from the city is required for each seasonal display;

b. Display merchandise may be placed/located at the front façade of the main building but at no time shall display merchandise inhibit pedestrian traffic on the sidewalks, be located in required parking spaces, restrict rights-of-way, or obstruct adjacent properties;

c. Merchandise shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on site or off site, in any way (i.e., sidewalk sales cannot block the sidewalk or extend out into the street);

d. Merchandise shall only be located in front of the property/business that is selling the items;

e. All outside display items shall be removed at the end of business each day (except for large seasonal items, such as Christmas trees);

f. All merchandise shall be displayed in an orderly manner, and the display area shall be maintained in a clean, litter-free manner.

(20) *Long-term and permanent open storage.* Long-term and permanent open storage is prohibited in the TC district.

(21) *Special requirements.* Driveway spacing (i.e., distance between driveways, measured edge-to-edge):

a. Driveway spacing in a PD-ED Tier 1 shall be determined by the rules and regulations of the Texas Department of Transportation (TxDOT). Driveways accessing a local collector street shall be no less than one driveway per 100 linear feet of frontage. From time to time, adjoining properties may be required to share driveways for ingress and egress;

b. Driveway spacing in a PD-ED Tier 2 shall be no less than one driveway per 200 linear feet of frontage. Driveways accessing a local collector street shall be no less than one driveway per 100 linear feet of frontage. From time to time, adjoining properties may be required to share driveways for ingress and egress;

c. Minimum distance from driveway to street corner shall be no less than 75 feet as measured from the street corner radius point of tangency. Fifty feet may be permitted via site plan approval by city council, upon recommendation by the planning and zoning commission, provided that the lesser distance of 50 feet is approved in writing by the city manager, or designee, or, if located on a state roadway, it is approved in writing by the local representative of TxDOT.

(22) *Submittal requirements.* To facilitate understanding of the request during the review and public hearing process, the concurrent submission of a concept plan for the proposed project shall be required along with the PD-ED zoning application:

a. *Concept plan.* A concept plan shall be submitted by the applicant at the time of the PD-ED zoning request. The plan shall show the applicant's intent for the use of the land within the proposed PD-ED district in a graphic manner and, as may be required, supported by written documentation of proposals and standards for development. The city may prepare application forms that further describe and explain the following requirements:

1. A concept plan shall be submitted with any zoning district allowed under this chapter and shall clearly show all pertinent aspects of the type and nature of the proposed development. The concept plan shall show the types of uses proposed; access, topography and boundaries of the PD-ED area; existing physical features of the site; existing and proposed streets, alleys, easements and lot lines; location of existing or proposed public facilities; building heights and locations; parking areas and ratios; fire lanes; screening and landscaped areas; project phasing and scheduling; and other pertinent development data to adequately describe the proposed development;

2. A detailed site plan and preliminary plat shall be submitted in accordance with this chapter for approval within one year from the approval date of the concept plan for all or some portion of the PD-ED district covered by the overall PD-ED concept plan. If the detailed site plan and preliminary plat are not submitted within one year, then the PD-ED concept plan may

be subject to review by the planning and zoning commission and the city council to determine its continued validity. If the city determines that the PD-ED concept plan is no longer valid or that the proposed development is no longer viable, then a new PD-ED concept plan, along with a PD-ED zoning application to amend the PD-ED ordinance and its accompanying concept plan, must be submitted for review and approval prior to detailed site plan and preliminary plat review/approval and any subsequent issuance of a building permit for any portion of the PD-ED district;

b. *PD-ED site plan (detailed) and preliminary plat.* Submission and approval of the detailed PD-ED site plan shall be in accordance with this chapter and shall accompany the preliminary plat. The detailed PD-ED site plan will establish the final plans for development of the PD-ED district, or any portion thereof, and it shall substantially conform to the concept plan and development data approved on the city council. A PD-ED site plan, along with the required engineering and architectural site construction plans and preliminary plat, may be submitted for only the sections or lots that are proposed for immediate development rather than for the entire PD-ED district. Building façade (i.e., elevation) plans shall be submitted for review and approval along with the site plan. Façade plans shall clearly show how the buildings will look, especially as viewed from the major thoroughfare upon which the property faces or sides and will portray a reasonably accurate depiction of the materials and colors to be used. The city manager, or designee, may require submission of additional information and materials (possibly actual samples of materials to be used) during the site plan review process;

c. *Lapse, extension or reinstatement.* Lapse, extension or reinstatement of PD-ED concept plan or PD-ED site plan shall be in accordance with the provisions of article VIII of this chapter.

(23) *Approval process and procedures.*

a. The procedure for establishing a PD-ED district shall follow the procedures for zoning amendments as set forth in article IV of this chapter;

b. The ordinance establishing the PD-ED district shall not be adopted until the accompanying concept plan is approved by the city council, and until all other procedural requirements set forth in this chapter are satisfied;

c. When considering a PD-ED zoning request, the planning and zoning commission and/or city council may require a written report from the city manager, or designee, discussing the project's impact upon planning, engineering, water and wastewater utilities, electric, sanitation, building inspection, tax, police, fire and traffic, as well as written comments from applicable public agencies (e.g., school district, TxDOT, etc.). In the event written comments and advisement

are not forthcoming in a reasonable amount of time, the commission may, at its discretion, make a recommendation to the city council without the comments or advisement;

d. Upon final approval, the PD-ED district, in accordance with the provisions of this chapter, shall be prefixed by a "PD-ED1" or "PD-ED2" designation and assigned a unique identification number (e.g., PD-ED1-1, PD-ED2-1) or title (e.g., PD-ED1-Target, PD-ED2-Hampton Plaza) and shall also be referenced on the official zoning map. A list of such PD-ED districts, showing the developer's (i.e., zoning applicant's) name, acreage and location of the property, base zoning districts, PD-ED ordinance adoption date, uses permitted and any other special stipulations of each PD-ED district, shall be maintained in the city secretary's office;

e. Prior to the adoption of the ordinance from which this chapter is derived, the city council previously established certain PD-ED districts, some of which are to be continued in full force and effect.

(d) *Specific use permits (SUPs).*

(1) *Purpose and intent.*

a. *Nature of conditional, or specific, use.* A conditional or specific use is a land use which, because of its unique nature, is compatible with the permitted land uses in a given zoning district only upon a determination that the external effects of the use in relation to the existing and planned uses of adjoining property and the neighborhood can be mitigated through imposition of certain standards and conditions. This subsection (d), along with the comprehensive master plan, sets forth the standards used to evaluate proposed conditional uses and the procedures for approving specific use permit applications;

b. *Permit required.* No conditional use shall be established and no building permit shall be issued for any use designated as a conditional use within any zoning district until a specific use permit (SUP) is issued in accordance with the provisions of this subsection (d). An application for a specific use permit shall be accompanied by a concept plan or a detailed site plan prepared in the manner described in article VIII of this chapter. The concept plan or site plan shall illustrate the proposed use to be established, its relationship to adjoining properties, and how it meets the approval standards set forth in article VIII of this chapter.

(2) *Status of conditionally permitted uses.* The following general rules apply to all conditional uses:

a. The designation of a use in a zoning district as may be permitted by SUP in this subsection (d) does not constitute an authorization or assurance that such use will be approved;

b. Approval of a specific use permit shall authorize only the particular use for which the SUP is issued. An SUP may only be issued to the identified property and to the applicant. Any change in applicant shall render the SUP null and void. An SUP cannot be transferred to any other owner, applicant or property;

c. No use authorized by a specific use permit shall be enlarged, extended or relocated, nor may the number of dwelling units be increased, unless an application is made for approval of a new specific use permit in accordance with the procedures set forth in this subsection (d);

d. Development of the use shall not be carried out until the applicant has secured all the permits and approvals required by this chapter, this Code, and any permits that may be required by regional, state or federal agencies.

(3) *Application for specific use permit.*

a. *Application requirements.* An application for a specific use permit may be submitted by the property owner or by the property owner's designated representative to the city. The application shall be accompanied by a concept plan or site plan prepared in accordance with the requirements of article VIII of this chapter. If a base zoning district amendment is required or requested, such rezoning application shall accompany the application for a specific use permit;

b. *Subdivision approval.* If the proposed use requires a division of land or requires platting the property, an application for subdivision approval (e.g., site plan or preliminary plat) shall be submitted in conjunction with the application for a specific use permit (see subdivision regulations in chapter 72). Approval of the specific use permit shall not become effective until final approval of the subdivision application, provided that, if the land is to be divided and developed in phases, the approval of the specific use permit shall take effect upon final plat approval of the phase of the subdivision containing the property on which the conditional use is to be located.

(4) *Procedures for specific use permits.*

a. *Planning and zoning commission recommendation.* Upon receipt of the recommendation from the city manager, the planning and zoning commission shall advertise, post and conduct a public hearing in order to formulate its recommendations to the city council on the specific use permit application. Following the public hearing and determination of conformance with the comprehensive master plan, the planning and zoning commission shall recommend approval, approval subject to modification, or denial of the proposal to the city council in accordance with section 74-49(g). If the appropriateness of the use cannot be ensured at the location, the planning and zoning commission shall recommend denial of the application as being incompatible with existing uses or with other uses permitted by right in the district;

b. *City council action.* The city council shall be the final decision-maker on applications for specific use permits. Following a duly advertised and posted public hearing, consideration of the planning and zoning commission's recommendations and determination of conformance with the comprehensive master plan, the city council shall approve, modify or deny the proposal for a specific use permit in accordance with this subsection (d). If the appropriateness of the use cannot be ensured at the location, the application for specific use permit shall be denied as being incompatible with existing uses or with other uses permitted by right in the district.

(5) *Approval criteria and required findings.*

a. *Factors for consideration.* When considering applications for a specific use permit, the planning and zoning commission in making its recommendation and the city council in rendering its decision on the application shall, on the basis of the concept plan/site plan and other information submitted, evaluate the impact of the conditional use on, and the compatibility of the use with, surrounding properties and neighborhoods to ensure the appropriateness of the use at a particular location. The planning and zoning commission and the city council shall specifically consider the extent to which:

1. The proposed use at the specified location is consistent with the goals, objectives and policies contained in the adopted comprehensive master plan;
2. The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;
3. The proposed use meets all supplemental standards specifically applicable to the use as set forth in article XIII of this chapter;
4. The proposed use is compatible with and preserves the harmony, character and integrity of adjacent development and neighborhoods and, as required by the particular circumstances, includes improvements or modifications either on-site or within the public rights-of-way to mitigate development-related adverse impacts, including, but not limited to:
   (i) Situational suitability, which may include, but is not limited to, lighting, noise restrictions, hours of operation, business regulations and loading zones;
   (ii) Adequate ingress and egress to property and proposed structures thereon with particular reference to vehicular and pedestrian safety and convenience, and access in case of fire;
   (iii) Off-street parking and loading areas;
   (iv) Refuse and service areas;
   (v) Utilities with reference to location, availability, and compatibility;
   (vi) Screening and buffering, features to minimize visual impacts, or setbacks from adjacent uses;

(vii) Control of signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

(viii) Required yards and open space;

(ix) Height and bulk of structures;

(x) Hours of operation;

(xi) Exterior construction material and building design; and

(xii) Roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development-generated traffic on neighborhood streets;

5. The proposed use is not materially detrimental to the public health, safety, convenience and welfare, or results in material damage or prejudice to other property in the vicinity;

b. *Conditions.* In approving the application, the planning and zoning commission may recommend, and the city council may impose, such additional conditions (e.g., hours of operation, etc.) as are reasonably necessary to ensure compliance with these standards and the purpose and intent of this section, in accordance with the procedures in article IV of this chapter. The additional conditions shall exceed the minimum standards contained herein or in any other applicable provision of this Code, and they cannot, in effect, relax or grant relief from any of the city's minimum standards (see subsection (d)(5)c of this section). Any conditions imposed shall be set forth in the ordinance approving the conditional use and shall be incorporated into or noted on the concept plan or site plan for final approval. Other than additional conditions specifically amended or altered in the approving ordinance or site plan, all other district regulations of the base zoning district shall apply. The city manager or designee shall verify that the plan incorporates all conditions set forth in the ordinance authorizing the conditional use and shall sign the plan to indicate final approval. The city shall maintain a record of such approved conditional uses and the site plans and conditions attached thereto;

c. *Prohibition on waivers and variances.* The foregoing additional conditions (i.e., standards of development for the SUP) shall not be subject to variances that otherwise could be granted by the zoning board of adjustment, nor may conditions imposed by the city council subsequently be waived or varied by the ZBA. In conformity with the authority of the city council to authorize conditional uses, the city council may waive or modify specific standards otherwise made applicable to the use by this chapter, to secure the general objectives of this section; provided, however, that the city council shall not waive or modify any approval factor set forth in subsection (a) of this section;

d. *General provisions of specific use permit.* A specific use permit shall contain the following provisions, among any others deemed necessary and advisable by the city council for the conduct of operation of a particular use and to ensure continuation of situational suitability:

1. The specific use permit is specific to an identified physical or legal location and to the owner/applicant and shall not be transferred to any other location, entity or person without the approval of the city council in accordance with the procedures for approval of a new SUP; and

2. Any violations of the terms and conditions of the specific use permit shall render the SUP null and void without further notice or hearing.

(6) *Expiration and extension.* A specific use permit may be rescinded by the city council, on its own motion and at its discretion, for failure to commence development or for failure to extend the time for performance for the concept plan or site plan approved along with the SUP.

(7) *Amendment.* No proposed or existing building, premises or land use authorized as a conditional use may be established, enlarged, modified, structurally altered, or otherwise changed from that approved in the specific use permit, unless such amendment is authorized in accordance with the standards and procedures set forth in this subsection (d), and the specific use permit and approved concept plan or site plan are amended accordingly.

(8) *Other regulations.* The zoning board of adjustment shall not have jurisdiction to hear, review, reverse, or modify any decision, determination, or ruling with respect to the specific land use designated by any specific use permit.

(9) *Use regulations.* Uses allowed by SUP are specified in section 74-352.

(10) *Identification of specific use permits.* All SUPs approved in accordance with the provisions of this chapter, as may be amended, shall be prefixed by an SUP designation and assigned a unique identification number (e.g., SUP-1, SUP-2, SUP-3, and so on), and shall also be referenced on the zoning map. A list of such SUPs, showing the developer's (i.e., zoning applicant's) name, acreage and location of the property, base zoning districts, SUP ordinance adoption date, uses permitted and any other special stipulations of each SUP, shall be maintained in the city secretary's office.

(11) *Prior specific use permit ordinances remaining in effect.* Prior to adoption of the ordinance from which this chapter is derived, the city council previously established certain SUPs, some of which are to be continued in full force and effect. The ordinances or parts of ordinances approved prior to the effective date of the ordinance from which this chapter is derived shall be carried forth in full force and effect and are the conditions, restrictions, regulations and requirements which apply to the respective SUPs shown on the zoning map as of the effective date of the ordinance from which this chapter is derived. Each prior SUP ordinance is assigned

a unique identification number (e.g., SUP-1, SUP-2, SUP-3, and so on), and subsequent SUP ordinances adopted after the effective date of the ordinance from which this chapter is derived shall be similarly numbered for identification purposes.

(Code 1996, ch. 14, exh. 14A, art. IX, § 4; Ord. No. O-03-24, 1-23-2024)

Sec. 74-294. Obsolete districts.

The zoning regulations of this section shall apply only to planned development districts approved prior to the effective date of the ordinance from which this chapter is derived. This section contains the following types of obsolete zoning regulations:

(1) *Former zoning districts.* The SF-5, BP and HC districts have been removed from the remainder of this chapter and shall not henceforth be applied to any property in the city. The standards of these districts shall continue to apply only in planned development districts approved prior to the effective date of the ordinance from which this chapter is derived that reference the regulations of these districts in the adopting ordinance;

(2) *Modified dimensional regulations.* Some of the dimensional regulations for single-family detached dwellings have been modified as of the effective date of the ordinance from which this chapter is derived. The original regulations existing prior to the effective date of the ordinance from which this chapter is derived and retained in this section shall continue to apply only to planned development districts approved prior to the effective date of the ordinance from which this chapter is derived that reference the dimensional regulations of such districts in the adopting ordinance;

(3) *Obsolete use.* Some planned development districts approved prior to the effective date of the ordinance from which this chapter is derived authorize the development of single-family detached (medium density) dwellings. The development standards for single-family detached (medium density) dwellings contained in this section shall continue to apply to such districts;

(4) *Obsolete planned development standards.* Prior to the effective date of the ordinance from which this chapter is derived, the city's zoning ordinance contained specific development standards for uses other than single-family detached (medium density) dwellings in planned development districts. These standards applied in planned development districts where no other standards were specifically referenced in the adopting ordinance. These standards shall continue to apply to such districts but shall not be applicable to planned development districts approved after the effective date of the ordinance from which this chapter is derived.

(Code 1996, ch. 14, exh. 14A, art. IX, § 5)

Secs. 74-295—74-321. Reserved.

ARTICLE X. ZONING DISTRICT MAP

Sec. 74-322. Purpose.

The zoning regulations and districts as herein established have been prepared in consonance with the adopted comprehensive plan. The regulations are designed to promote the health, safety, morals and general welfare of the city. They have been designed to lessen the congestion in the streets; to secure safety from fire, panic and other dangers; to ensure adequate light and air; to prevent the overcrowding of land, to avoid undue concentration of population; to facilitate the adequate provision of transportation, circulation, water, sewerage, schools, parks, and other public requirements. They have 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.
(Code 1996, ch. 14, exh. 14A, art. X, § 1; Ord. No. O-03-09, 4-20-2009)

Sec. 74-323. Zoning map.

(a) *Division of city into boundaries.* The city is divided into zones, or districts, and the boundaries of zoning districts set out herein are delineated upon a zoning district map (the zoning map) of the city, adopted as a part of Ordinance No. O-06-18 as if the same were set forth herein in detail.

(b) *Original zoning map.* One original of the zoning map shall be filed in the office of the city secretary and labeled as "Official Zoning Map of the City of Glenn Heights, Texas, Exhibit A to Ordinance No. O-06-18." This original shall be the official zoning map and shall bear the signature of the mayor and attestation of the city secretary. This original shall not be changed in any manner. In case of any question, this original, together with subsequent amending ordinances, shall be controlling. Reproductions for informational purposes may be made of the official zoning map.

(c) *Replica zoning map.* An additional copy (replica copy) of the official zoning map shall be placed in the office of the city manager or designee. The replica copy shall be used for reference and shall be maintained up-to-date by posting thereon all subsequent amendments, including annexations.

(d) *Changes or amendments.* Any changes or amendments made to the zoning map shall be made on the replica copy promptly after the amendment has been approved by the city council, together with a descriptive entry on the map that shows the ordinance number and the date upon which each official action was taken by the city council to amend the zoning map, and the effective date of such map change.
(Code 1996, ch. 14, exh. 14A, art. X, § 2; Ord. No. O-06-18, 6-5-2018)

Sec. 74-324. Delineation and interpretation of district boundaries.

The district boundary lines shown on the zoning map are usually along streets, alleys, property lines, or extensions thereof. Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

(1) Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines;

(2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;

(3) Boundaries indicated as approximately following city limits shall be construed as following city limits;

(4) Boundaries indicated as following stream lines shall be construed to follow such stream lines, and in the event of change in the stream line shall be construed as moving with the actual stream line;

(5) Boundaries indicated as following railroad lines shall be construed to be located along the centerline of the railroad right-of-way lines;

(6) Boundaries indicated as parallel to or extensions of features indicated in subsections (1) through (5) of this section shall be so construed. Distances not specifically indicated on the original zoning maps shall be determined by the scale of the map;

(7) When any street, alley, or other public way is vacated by official action of the city council or whenever such area is franchised for building purposes, the zoning district line adjoining each side of such street, alley, or other public way shall be automatically extended to the centerline of such vacated street, alley, or way, and all areas so involved shall then and henceforth be subject to all regulations of the extended districts;

(8) The zoning classification applied to a tract of land adjacent to a street shall extend to the centerline of the street unless, as a condition of zoning approval, it is stated that the zoning classification shall not apply to the street;

(9) Where physical features on the ground are at variance with information shown on the official zoning district map or when there arises a question as to how or whether a parcel of property is zoned and such question cannot be resolved by the application of sections 74-322 and 74-323, the property shall be considered as classified A Agricultural District in the same manner as provided for newly annexed territory;

(10) If the zoning of property is invalidated by a judgment of a court of competent jurisdiction, the property shall be considered classified as A Agricultural District in the same manner as provided for newly annexed territory until such time as the property can be rezoned;

(11) Zoning changes which are still valid and which were made between the effective date of the previous version of this chapter (Ordinance No. O-10-08, as amended), adopted on April 21, 2008, and the effective date of the ordinance from which this chapter is

derived are indicated in approximate locations on the zoning map. For exact legal descriptions, refer to adopting ordinances for each particular permanent zoning change.

(Code 1996, ch. 14, exh. 14A, art. X, § 2; Ord. No. O-03-09, 4-20-2009)

Secs. 74-325—74-351. Reserved.

ARTICLE XI. PERMITTED USES

Sec. 74-352. Use charts.

The use of land or buildings shall be in accordance with those listed in the following use charts. No land or building shall hereafter be used and no building or structure shall be erected, altered, or converted other than for those uses specified in the zoning district in which it is located. The following legend indicates the status of each land use in a corresponding district:

X: Permitted

____: Not Permitted

S: Specific Use Permit

a. For clarification and understanding of each use set out below, see section 74-2;

b. If a use is not listed or if the designation remains blank, it is not allowed in the zoning district. (see the legend above).

Use	*A*	*SF-E*	*SF-1*	*SF-2*	*SF-3*	*SF-4*	*SFPH*	*MF*	*MH*	*TC*	*O*	*NS*	*R*	*C*	*I*	*PD*	*PDED*
Accessory building >650 sq. ft.	S	X	X	X	S	S		S			S	S	S	S	S	X	
Accessory building w/main	X	X	X	X	S	S		X			X	X	X	X	X	X	
Accessory residence/ guest house	S	S	S	S	S	S										S	
Accessory use	S										S	S	S	S	S	X	X
Administrative/ corporate headquarters											X		X	X	X	X	
Airport																X	
Amusement park, permanent														S	S	X	
Amusement, commercial (ind)													S	S	S	X	X
Amusement, commercial (out)														S	S	X	
Animal clinic (inside)											S	S	S	X	X	X	
Animal pound, municipal											X	X	X	X	X	X	
Antenna, CB/amateur	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
Antenna, commercial											S	S	S	S	S	X	
Antenna, satellite dish	X	X	X	X	X	X	X	X	X	S	X	X	X	X	X	X	X
Antique shop										S	S	X	X	S			X
Apartment house								X								X	X
Appliance service/ repair											S	S	S	S	S	X	S
Appliance store, home											S	S	X	X	X	X	X
Assembly hall										S	S	X	S	S		X	
Assembly, electronics															S	X	
Athletic stadium/field (public)	S	S	S	S	S	S		S			S	S	X S	X	S	S	S
Auto assembly and rebuild													S	S	S	X	

Use	*A*	*SF-E*	*SF-1*	*SF-2*	*SF-3*	*SF-4*	*SFPH*	*MF*	*MH*	*TC*	*O*	*NS*	*R*	*C*	*I*	*PD*	*PDED*
Auto paint, body and upholstery repair													S	S	S	X	
Auto center													S	S	S	X	
Auto leasing/rental											S	S	S	X	S	X	X
Auto parts, inside											S	S	X	X	S	X	X
Auto parts, outside																	
Auto repair, major													S	S	S	X	
Auto repair, minor													S	S	S	X	
Auto storage														S	S		
Automobile sales, new													S	S	S	X	
Automobile sales, used													S	S	S	X	
Automobile sales/ service													S	S	S	X	
Bakery/confectionary												X	X	X	X	X	S
Bank										X	X	X	X	X	X	X	X
Bank, automatic teller										X	X	X	X	X	X	X	X
Bar										S		S	S	S	S	S	X
Barber shop/college										S		X	X	X	S	X	X
Basement/cellar	X	X	X	X	X												
Batch plant, asphalt, permanent																	
Batch plant, asphalt, temporary	S	S	S	S	S	S	S	S	S		S	S	S	S	S	S	S
Batch plant, concrete, permanent																	
Batch plant, concrete, temporary	S	S	S	S	S	S	S	S	S		S	S	S	S	S	S	S
Bath house																	
Battery manufacturing																	
Beauty shop										S	S	X	X	X		X	X

Use	*A*	*SF-E*	*SF-1*	*SF-2*	*SF-3*	*SF-4*	*SFPH*	*MF*	*MH*	*TC*	*O*	*NS*	*R*	*C*	*I*	*PD*	*PDED*
Bed and breakfast																	
Big box (anchor)										S			S	S	S	S	X
Boardinghouse																S	
Boat sales													S	S	S	S	
Boat storage, dry	S													S	S	S	
Bookbindery														S	S	X	
Bottling works														S	S		
Building material, inside													S	X	S	X	X
Building material, outside														S	S	S	
Building, public agency										S	X	X		X	X	X	X
Building, temporary																	
Bus stop										S	S	S	S	S	S	X	X
Business service											X	X	S	S		X	X
Cabinet shop/ upholstery													S	S	S	X	
Camping sites																	
Caretaker/guard quarters	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	X	X
Carnival, temporary													S	S	S	S	
Carport	X	X	X	X	S	S	S	X			S	S	S	S	S	S	S
Carting														S	S	X	
Carwash, automated												S	S	S		X	X
Carwash, manual												S	S	S		X	
Cemetery, human															S	X	
Child care (in-home)	S	S	S	S	S	S											
Church/rectory	S	S	S	S	S	S	S	S	S	S	S	S	X	X		X	X
Clothing/apparel store										S		X	X	X	S	X	X
Club, country, private												S	S	S	S	X	X
Club, fraternal										S	S	S	S	S	S	S	S

Use	*A*	*SF-E*	*SF-1*	*SF-2*	*SF-3*	*SF-4*	*SFPH*	*MF*	*MH*	*TC*	*O*	*NS*	*R*	*C*	*I*	*PD*	*PDED*
Club, private										S	S	S	S	S	S	S	S
College/university	S	S	S	S	S	S		S			S	S	S	S	S	X	
Common area	X	X	X	X	X	X	X	X	X	S	S	S	S	S	S	X	X
Community center, private	S	S	S	S	S	S		S		S		X	X	X	X	X	
Community center, public										S	X	S	S	S		X	X
Community home	X	X	X	X	X	X	X	X	X								
Construction yard, temporary	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	
Contractor's shop													S	S	S	X	
Convenience store										S	S	S	S	X		S	X
Credit access business													S	S			
Credit union										X	X	X	X	X	X	X	X
Cultural establishment	S	S	S	S	S	S		S		S	S	S	S	S	S	X	X
Dairy processing															S	X	
Dance hall										S		S	S	S	S	S	S
Day care, registered	S	S	S								S	S	S	S		S	
Dental clinic/office										S	X	X	X	X	X	X	X
Department store										S	S	S	X	X		X	X
Distribution center/ warehouse															S	X	
Drapery manufacturing														S	S	X	
Drapery sales										S	S	S	X	X	X	X	X
Drug/pharmaceutical manufacturing															S	X	
Dry cleaning plant, commercial														S	S	X S	
Dry cleaning shop small										S	S	S	X	X	X	X	X
Easement/ROW	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X

Use	*A*	*SF-E*	*SF-1*	*SF-2*	*SF-3*	*SF-4*	*SFPH*	*MF*	*MH*	*TC*	*O*	*NS*	*R*	*C*	*I*	*PD*	*PDED*
Elderly housing, assisted living													S	S			
Elderly housing, retirement													S	S			
Electric products manufacturing															S	X	
Electrical substation	S	S	S	S	S	S	S	S	S		S	S	S	S	S	X	
Electric transmission line	S	S	S	S	S	S	S	S	S		S	S	S	S	S	S	S
Electronic manufacturing															S	X	
Electronics store										S	S	X	X	X	X	X	X
Engine/motor repair														S	S		
Excavation, sand/ gravel																	
Express hauling														S	X S	X	
Family home	X	X	X	X	X	X	X	X								S	
Farm equipment display/storage													S	X	X	X	
Farm, ranch, garden or orchard	X																
Feed lot																	
Feed/grain store													S	X	X	X	S
Field construction office, temporary	S	S	S	S	S	S	S	S			S	S	S	S	S	S	S
Fitness facility/ personal										S	S	X	X	X		X	X
Flea market																	
Florist shop										S	X	X	X	X	X		X
Food product manufacturing										S					S	X	
Food/convenience store										S	S	S	S	S	S	S	X
Foundry casting, non-ferrous																	

Use	*A*	*SF-E*	*SF-1*	*SF-2*	*SF-3*	*SF-4*	*SFPH*	*MF*	*MH*	*TC*	*O*	*NS*	*R*	*C*	*I*	*PD*	*PDED*
Frozen food locker															X	X	
Funeral home/ mortuary													S	X	X	X	
Fur goods manufacturing															S	X	
Furniture manufacturing															S	X	
Furniture, home furnishing and equipment rental										S	S	S	S	S	S	X	X
Furniture, home furnishing and equipment store										S	S	S	S	X	S	X	X
Garage apartment	S	S	S														
Garage, commercial parking										S			S	S	S	X	X
Garage, detached	X	X	X	S X	S	S								S	S	X	
Garage, public										S	S	S	S	S	X	X	X
Garden center, nursery, greenhouse/ shop													S	X	S	X	X
Gasoline/petro drilling	S														S		
Gasoline/petro storage	S														S		
Gasoline/petro distribution	S														S		
Gift shop/novelty										S	S	X	X	X		S	S
Glass products manufacturing															X	X	
Golf course, miniature	S											S	S	X	S	X	
Golf course, municipal	S											S	X	X	X	X	
Golf course, private	S											S	S	S	S	S	
Golf course, putting	S											S	S	S	S	X	

Use	*A*	*SF-E*	*SF-1*	*SF-2*	*SF-3*	*SF-4*	*SFPH*	*MF*	*MH*	*TC*	*O*	*NS*	*R*	*C*	*I*	*PD*	*PDED*
Golf driving range	S											S	S	S	S	X	
Grocery store										S		S	S	S	S	S	X
Grooming shop, animal												S	S	S		X	X
Gymnastic/dance studio										S		X	X	X			
Hardware sales, inside										S		S	S	X		X	X
Hardware sales, outside														S			
Hauling/storage company														S	S		
Health center										S	X	X	X	X		X	
Heavy machinery sales														S	S	X	
Heavy machinery service														S	S	X	
Heliport/helistop	S										S		S	S	S	X	
Home improvement center													S	X	S	X	X
Home occupation	X	X	X	X	X	X	X	X	X							X	
Hospital											S		S	S	S	S	
Hospital, acute/ chronic/rehabilitation											S		S	S	S	S	
Hotel/motel											S		S	S	S	S	S
Hotel/motel <75 rooms																	
Hotel/motel, residence														S			S
HUD-code manufactured home									X							X	
HUD-code manufactured home sales																	

Use	*A*	*SF-E*	*SF-1*	*SF-2*	*SF-3*	*SF-4*	*SFPH*	*MF*	*MH*	*TC*	*O*	*NS*	*R*	*C*	*I*	*PD*	*PDED*
HUD-code manufactured home subdivision									X								
Industrial park															S	X	
Industrial/prefab housing									X						S		
Industrial, general															S	X	
Instrument/meter manufacturing															S	X	
Insurance agent office										S	X	X	X	X	S	X	X
Insurance estimator										S	X	X	X	X	S	X	X
Interior decorator office										S	X	X	X	X	S	X	X
Jail/prison/holding facility																X	
Kennels	S													S	S	X	
Key shop/locksmith												X	X	X	X	X	
Kiosk										S	S	S	S	S	S	S	S
Kiosk, recycling														S	S	S	
Laboratory, medical											X	X	X	X	X	X	
Laboratory, science/ research	S										S	S	S	S	S	S	
Laundromat												S	S	S	S		
Laundry, commercial														S	S	X	
Law office										S	X	X	X	X		X	X
Leather goods fabrication															S	X	
Leather goods shop										S		S	X	X			X
Library, public										X	S	X	X	X	X	X	X
Light fabrication/assembly															S	X	
Light manufacturing															S	X	
Light sheet metal products															S	X	

Use	*A*	*SF-E*	*SF-1*	*SF-2*	*SF-3*	*SF-4*	*SFPH*	*MF*	*MH*	*TC*	*O*	*NS*	*R*	*C*	*I*	*PD*	*PDED*
Lumber yard, inside														S	S	X	X
Lumber yard, outside														S	S	S	
Machinery sales/ service														S	S	X	
Manufacturing, general															S	X	
Massage establish-ment													S	S			
Mausoleum														S	S	X	
Medical clinic/office										S	X	X	X	X		X	
Medical supplies store										S	X	X	X	X		X	X
Model home	X	X	X	X	X	X	X										
Modular home									X								
Monopole											S	S	S	S	S		
Mortuary/funeral home													S	S	S	X	
Motor freight company															S		
Motorcycle sales/ service														X		X	
Motor raceway/track																	
Multifamily building								X									
Multifamily residence								X									
Multi-use entertain-ment													S	S		X	
Municipal building										X	X	X	X	X	X	X	X
Municipal facility/use	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Museum private	S	S	S	S	S	S		S		S	S	S	S	S	S	X	X
Music/art studio										S	X	S	X	S		X	X
Musical instrument manufacturing															X	X	
NS use, <5,000 sq. ft.										S	S	X	S	S	S	S	S
Newspaper printing												S	S	S	S	X	

Use	*A*	*SF-E*	*SF-1*	*SF-2*	*SF-3*	*SF-4*	*SFPH*	*MF*	*MH*	*TC*	*O*	*NS*	*R*	*C*	*I*	*PD*	*PDED*
Nightclub										S		S	S	S	S	S	X
Novelty manufacturing															S	X	
Nursing home													S	S			
Office center										S	X	X	X	X	S	X	X
Office showroom													S	X	S	X	
Office warehouse														S	S	X	
Office, business general										S	X	X	X	X	S	X	X
Office, field construction	S	S	S	S	S	S	S	S		S	S	S	S	X	S	X	X
Office, professional										S	X	X	X	X		X	X
Oilfield equipment storage															S	X	
Open space	X	X	X	X	X	X	X	X	X	S	X	X	X	X	X	X	X
Optical goods manufacturing														S	S	X	
Optician/optometrist										S	X	X	X	X	X	X	X
Osteopathic clinic/office										S	X	X	X	X	X	X	X
Paint shop														S	S	X	
Paper products manufacturing															S	X	
Park and ride														X	X	X	
Park/playground	X	X	X	X	X	X	X	X	X	S	X	X	X	X		X	X
Parking lot, commercial										X	X	X	X	X		X	X
Parking lot, off-street							X	X	X	X	X	X	X	X	S	X	X
Parking lot, permitted use											X	X	X	X	S	X	
Parking lot, truck														S	S		
Patio home							X									X	X
Pawnshop													S	S			
Pet shop										S		S	X	X		X	X

Use	*A*	*SF-E*	*SF-1*	*SF-2*	*SF-3*	*SF-4*	*SFPH*	*MF*	*MH*	*TC*	*O*	*NS*	*R*	*C*	*I*	*PD*	*PDED*
Petroleum extraction															S		
Pharmacy/drugstore										S		X	X	X		S	X
Philanthropic institution										S	X	X	X	X	S	X	X
Photographer studio										S	X	X	X	X	X	X	X
Plant, commercial, general															S	X	
Plastic products, manufacturing															S	X	
Portable building, sales														S	S	X	
Print shop										S	S	S	X	X	S	X	X
Produce stand	X											S		S	S		
Produce stand, temporary	X											S	S	S	S	X	
Professional service										S	X	X	X	X	S	X	X
Propane sales													S	X	S		
Psychologist/ psychiatrist										S	S	S	S	X	S	X	X
Public agency building/facility										S	S	S	S	S	S	S	S
Quarry, rock																	
Radio broadcasting/ tower	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S		
Real estate sales office										S	X	X	X	X	S	X	X
Recreation center	S	S	S	S	S	S		S		S	S	X	X	X	S	X	
Recreation facility, private	S	S	S	S	S	S		S			S	S	X	X	S	X	
Recreation facility, public	X	X	X	X	X	X		X			X	X	X	X	S	X	
RV/camper sale/lease														S	S	X	
Rehabilitation care/ halfway house								S								S	

Use	*A*	*SF-E*	*SF-1*	*SF-2*	*SF-3*	*SF-4*	*SFPH*	*MF*	*MH*	*TC*	*O*	*NS*	*R*	*C*	*I*	*PD*	*PDED*
Rental, tool/ machinery													S	X	S	X	
Rental, trailer													S	X	S	X	
Rental, truck/bus													S	X	S	X	
Rental/sales, trailer													S	X	S	X	
Repair shop, truck/ bus															S		
Residential, MF dwelling								X								X	X
Resort														S		X	X
Restaurant, accessory										S	S	S	S	S	S	S	X
Restaurant, dine-in										S	S	S	X	X	S	S	X
Restaurant, drive-in										S	S	S	S	S	S	S	X
Restaurant with drive-through										S	S	S	S	S	S	S	X
Restaurant without drive-through										S	S	S	X	X	S	S	X
Retail service, acces- sory										S	X	X	X	X	S	X	X
Retail stores and shops										S	X	X	X	X	S	X	X
Retail stores, general										S	S	S	S	S	S	S	S
Salvage/reclamation														S	S		
Salvage/junkyard														S	S		
Sand/gravel extrac- tion														S	S		
Sanitarium											S			S		X	
Sanitary landfill																	
Savings and loan										S	S	S	X	X	X	X	X
School, boarding, private													S	S		X	
School, business													S	S	S	x	
School, commercial/ trade														S	S	S	

Use	*A*	*SF-E*	*SF-1*	*SF-2*	*SF-3*	*SF-4*	*SFPH*	*MF*	*MH*	*TC*	*O*	*NS*	*R*	*C*	*I*	*PD*	*PDED*
School, parochial	S	S	S	S	S	S		S			S	S	S	X		X	
School, private										S				S		X	
School, public	X	X	X	X	X	X	X	X	X		X	X	X	X	X	X	X
Sexually oriented business																	
Shoe manufacturing															S	X	
Shopping center										S	S	S	S	S	S	S	X
Single-family residence	X	X	X	X	X	X	X		X							X	X
Skating rink, ice/ roller													S	S		S	S
Skating rink, roller													S	S	S	X	S
Sporting goods										S		X	X	X		X	X
Sporting goods manufacturing															S	X	
Stable, commercial	X													S	S	X	
Stable, private	X															X	
Stadium/playfield, private														S	S	X	
Station, train, RR, bus														S		X	
Storage/wholesale warehouse														X	S	X	
Storage yard (outside storage)														S	S	X	
Studio, radio/televi- sion										S	S			X	S	X	S
Swimming instruc- tion as a home occupation	S	S	S	S	S	S	S	S	S								
Swimming pool, comm														X	S	X	
Swimming pool, private	X	X	X	X	X	X	X	X	X				X	X			
Telemarketing center											X	X		S	S	X	

Use	*A*	*SF-E*	*SF-1*	*SF-2*	*SF-3*	*SF-4*	*SFPH*	*MF*	*MH*	*TC*	*O*	*NS*	*R*	*C*	*I*	*PD*	*PDED*
Telephone exchange/ switching											S	S	S	S	S	X	
Tennis court, private	X	X	X													X	
Terminal/transfer storage														X	S	X	
Terminal, bus													S	X	S	X	
Terminal, freight															S	X	
Terminal, truck															S	X	
Terminal, baggage														X	S	X	
Theater, drive-in													S	S	S	X	
Theater, indoor										S			X	X	S	X	X
Tire dealer, inside													S	S	S		
Tire dealer, outside																	
Tire retreading/ capping															S	X	
Tire sales/service													S	S	S	X	
Trailer court																	
Trailer park/RV park																	
Transit station/ turnaround															S	X	
Transmission lines	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Transportation structure														S	S	X	
Truck/bus repair														S	S	X	
Truck sales, heavy															S	X	
Utilities, municipal	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Utility distribution	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Utility service yard, public															S	X	
Utility structure														S	S	X	
Utility, other than listed	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	X	X
Utility, private	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S

Use	*A*	*SF-E*	*SF-1*	*SF-2*	*SF-3*	*SF-4*	*SFPH*	*MF*	*MH*	*TC*	*O*	*NS*	*R*	*C*	*I*	*PD*	*PDED*
Vapor shop													S	S			
Vehicle service, for hire														S			
Veterinarian clinic										S	X	X	X	X	S	X	
Warehouse, freight															S	X	
Warehouse, air conditioned													S	S	S	X	
Warehouse, self-storage/mini-													S	S	S	X	
Warehouse, wholesale heavy														S	S	X	
Warehouse, wholesale light														S	S	X	
Washateria, self-serve												S	S	S	S	X	
WWTP	S	S	S	S	S	S		S	S		S	S	S	S	S	X	
Wholesale distribution center															S	X	
Wind system, small	S	S	S														
Wrecking yard																	
Zero lot line residence							X									X	X

(Code 1996, ch. 14, exh. 14A, art. XI, § 1; Ord. No. O-03-09, 4-20-2009; Ord. No. O-14-15, § 1, 10-20-2015; Ord. No. O-13-15, § 1, 11-16-2015; Ord. No. O-15-15, § 1, 12-1-2015; Ord. No. O-16-24, exh. A, 9-3-2024)

Sec. 74-353. Classification of new and unlisted uses.

It is recognized that new types of land use will develop and arise in the future, and forms of land use not anticipated may seek to locate in the city and the possible change in intensity of use for a listed use may occur. In order to provide for such changes and contingencies, a determination as to the appropriate classification of any new or unlisted form of land use, or modification for listing of a use of land, shall be made as follows:

(1) Initiation:

a. A person, city department, the commission or the city council may propose zoning amendments to regulate new and previously unlisted uses;

b. A person requesting the addition of a new or unlisted use shall submit to the city manager or designee all information necessary for the classification of the use, including, but not limited to:

1. The nature of the use and whether the use involves dwelling activity, sales, services or processing;
2. The type of product sold or produced under the use;
3. Whether the use has enclosed or open storage and the amount and nature of the storage;
4. Anticipated employment typically associated with the use;
5. Transportation requirements;
6. The nature and time of occupancy and operation of the premises;
7. The off-street parking and loading requirements;
8. The amount of noise, odor, fumes, dust, toxic materials and vibration likely to be generated;
9. The requirements for public utilities, such as sanitary sewer and water and any special public services that may be required; and
10. Impervious surface coverage.

(2) The city manager or designee shall refer the question concerning any new or unlisted use to the commission requesting an interpretation as to whether a new use shall be permitted or into which zoning district a new use may be placed. The referral of the use interpretation question shall be accompanied by a statement of facts from the applicant, if requested by a city department, from the city manager or designee. This statement of facts shall be directed by items delineated in subsection (1)b of this section. An amendment to this chapter shall be required as set forth in section 74-135.

(3) The planning and zoning commission shall consider the nature and described performance of the proposed use and its compatibility with the uses permitted in the various districts and determine the zoning district within which such use is most similar and should be permitted, whether by right or by SUP.

(4) The planning and zoning commission shall transmit its findings and recommendations to the city council as to the classification proposed for any new or unlisted use. The city council shall, by zoning amendment, approve or deny the recommendation of the planning and zoning commission or make such determination concerning the proper placement of such use as is determined appropriate based upon its findings. If approved, the new or unlisted use shall be amended in the use charts of this chapter according to article IV of this chapter after notification and public hearing as required.

(5) Standards for new and unlisted uses may be interpreted by the city manager or designee as those of a similar use. When determination of the appropriate zoning district and minimum requirements cannot be readily ascertained, the same process outlined in subsections (1), (2), and (3) of this section shall be followed for determination of the new standards. The decision of the city manager or designee may be appealed according to the process outlined in subsections (2), (3), and (4) of this section.

(Code 1996, ch. 14, exh. 14A, art. XI, § 2)

Sec. 74-354. Special residential use; home occupation.

(a) *General regulations.* The following are the general regulations for home occupations:

(1) *Purpose.* Standards for controlling home occupations are set forth to minimize annoyance and inconvenience to neighboring property owners within residential areas. These standards are intended to allow reasonable and comfortable enjoyment of adjacent and nearby property by their owners and by occupants of neighboring residential dwellings, while providing opportunities for the pursuit of home-based businesses.

(2) *Special provisions for home occupations.*

a. Home occupations shall be permitted as accessory use in single-family residential zoning districts A, SF-E, and SF-1, provided that they comply with all restrictions herein;

b. The occupation shall produce no alteration or change in the character or exterior appearance of the principal building from that of a residential dwelling, and performance of the occupation activity shall not be visible from the street;

c. The use shall be incidental and secondary to the use of the premises for residential purposes, and shall not utilize floor area exceeding 20 percent of the combined gross floor area of dwelling unit and any accessory buildings that are used for the home occupation (in no case shall the combined floor area utilized for a home occupation exceed 500 square feet);

d. The occupation shall not employ more than one person who is not a member of the household in which the home occupation occurs;

e. Not more than two patron or business-related vehicles shall be present at one time, and the proprietor shall provide adequate off-street parking on the property where the use is located;

f. The operation of such an occupation shall be between the hours of 8:00 a.m. and 6:00 p.m. for outdoor activities, and between 7:00 a.m. and 10:00 p.m. for indoor activities;

g. One commercial vehicle, capacity of one ton or less (according to the manufacturer's classification), may be used or parked (behind the front building line) on the property in connection with the home occupation, but the vehicle may not be parked in the street or within the front yard setback;

h. The occupation activity shall not increase vehicular traffic flow beyond what normally occurs within a residential district, and shall not require regular and frequent deliveries by large delivery trucks or vehicles with a rated capacity in excess of 1.5 tons, according to the manufacturer's classification;

i. There shall be no outside storage, including trailers, or outside display related to the home occupation use;

j. No mechanical or electrical equipment shall be employed on the premises other than that which is customarily found in a home environment, and that which is customarily associated with a hobby or a vocation which is conducted solely for pleasure and not for profit or financial gain;

k. The home occupation shall not generate noise, vibration, glare, fumes/odors, heat or electrical interference beyond what normally occurs within a residential district;

l. The occupation shall not require the use of chemicals on the property that are noxious or hazardous to the welfare of the neighborhood;

m. The home occupation shall not involve the use of advertising signs or window displays, or any other device that calls attention to the business use of the premises through audio or visual means;

n. Inventory for the home occupation of any commodity for sale located on the premises shall not occupy or utilize floor area exceeding the allowed 20 percent (and not to exceed 500 square feet) as identified in subsection (a)(2)c of this section; and

o. The occupation shall not be harmful or detrimental to the health, welfare and safety of the neighborhood, nor shall it interfere with the comfortable enjoyment of life, property and recreation by residents of the area.

(b) *Applicability of other regulations.* Home occupations shall also be subject to any and all other provisions of local, state or federal regulations and laws that govern such uses.

(c) *Uses allowed as home occupations.* Subject to the provisions of subsection (a)(2) of this section, home occupations may be limited in the use charts but can include the following uses:

(1) Office facility of an accountant, architect, landscape architect, attorney, engineer, consultant, insurance agent, realtor, broker, or similar profession;

(2) Author, artist or sculptor;

(3) Dressmaker, seamstress or tailor;

(4) Music/dance teacher, or similar types of instructor, provided that instruction shall be limited to no more than one pupil at a time;

(5) Individual tutoring and home schooling;

(6) Millinery;

(7) Office facility of a minister, rabbi, priest or other clergy;

(8) Home crafts, such as rug weaving, model making, etc.;

(9) Office facility of a salesperson, sales or manufacturer's representative, etc., provided that no retail or wholesale transactions or provisions of services are personally and physically made on the premises;

(10) Repair shop for small electrical appliances, cameras, watches/clocks, and other small items, provided that the items can be carried by one person without using special equipment, provided that there are no items stored or displayed outside, and provided that the items are not equipped with an internal combustion engine;

(11) Food preparation establishments, such as cake making/decorating and catering, provided that there is no on-premises consumption by customers, and provided that all aspects of the business comply with all state and local health regulations;

(12) Registered family homes (see definition in section 74-2), in compliance with applicable state laws, which are incorporated herein by reference, with no more than four children;

(13) Swimming lessons and water safety instruction, provided that such instruction involves no more than six pupils at any one time; and

(14) Bed and breakfast facility (see definition in section 74-2), provided that no more than five guests are accommodated/served at a time.

(d) *Uses prohibited as home occupations.* Home occupations shall not, in any event, be deemed to include the following uses:

(1) Animal hospitals or clinics, commercial stables, or kennels;

(2) Schooling or instruction, except swimming/water safety classes and home schooling with no more than one pupil at one time;

(3) Restaurants or on-premises food or beverage (including private clubs) consumption of any kind, except for limited food/meal consumption associated with the operation of a licensed registered family home or a bed and breakfast facility;

(4) Automobile, boat or trailer paint or repair shops; small engine or motorcycle repair shops; welding shops; large household appliance repair shops; or other similar type of businesses;

(5) Office facilities for a doctor, dentist, veterinarian or other medical-related professions;

(6) On-premises retail or wholesale sales of any kind, except for items that are produced entirely on the premises in conformance with this chapter, and except for occasional garage sales (see subsection 74-354(c)(9) of this section);

(7) Commercial clothing laundering or cleaning;

(8) Mortuaries or funeral homes;

(9) Trailer, vehicle, tool or equipment rentals;

(10) Repair shops or services, except as specifically provided in subsection (c)(10) of this section;

(11) Drapery or furniture upholstery shops;

(12) Antique, gift or specialty shops;

(13) Repair shops for any items having internal combustion engines; and

(14) Any uses that would be defined by the building code as assembly, factory/industrial, hazardous, institutional or mercantile occupancy.

(e) *Home occupation uses not classified.* Any use that is neither expressly allowed nor expressly prohibited in subsection (c) or (d) of this section, respectively, is considered prohibited, unless and until such use is classified by amendment to this chapter upon recommendation by the planning and zoning commission and approval by the city council, as required for any zoning amendment.

(f) *Effect upon existing home occupations.*

(1) Any home occupation that was legally in existence as of the effective date of the ordinance from which this chapter is derived and that is not in full conformity with the provisions herein shall be deemed a legal nonconforming use, and is subject to the provisions of section 74-192(a), provided that the owner/proprietor of such home occupation registers the business with the city within 90 days of the effective date of the ordinance from which this chapter is derived, and provided that the home occupation use was not in violation of any other local, state or federal law or regulation on that date. Proof of the existence of such home occupation use prior to the effective date of the ordinance from which this chapter is derived shall be required upon registration;

(2) Any home occupation that was legally in existence as of the effective date of the ordinance from which this chapter is derived and that conforms with (i.e., is not in violation of) the provisions herein shall be authorized to continue, provided that the home occupation use is registered with the city as described in subsection (a) of this section.

(Code 1996, ch. 14, exh. 14A, art. XI, § 3)

Sec. 74-355. Modular or industrialized housing.

A modular home may be permitted in the MH Manufactured Home District only provided that the following requirements are met:

(1) The dwelling meets or exceeds all building code requirements that apply to other dwelling units concerning on-site construction;

(2) The dwelling conforms to all applicable zoning standards for the respective zoning district;

(3) The dwelling is affixed to a permanent foundation;

(4) The building official is so notified in writing for the purpose of establishing procedures for the inspection, issuing of building permits, and compliance with V.T.C.A., Occupations Code ch. 1202.

(Code 1996, ch. 14, exh. 14A, art. XI, § 4)

Secs. 74-356—74-383. Reserved.

ARTICLE XII. PROVISIONAL DISTRICT SPECIAL REQUIREMENTS

Sec. 74-384. Recreational facilities.

Each provisional district shall provide recreational facilities designed for use by the residents and guests of residents of the project.

(1) Recreational facilities shall consist of swimming pools for projects with 30 or more dwelling units and a swimming pool for each additional 100 dwelling units or fraction thereof;

(2) One playground area shall be provided for each 50 dwelling units, or fraction thereof. The playground shall contain a minimum of five pieces of play equipment. The playground equipment shall be of heavy-duty and weather-resistant construction, such as is normally used in public parks or on public school playgrounds.

(Code 1996, ch. 14, exh. 14A, art. XIII, § 1)

Sec. 74-385. Community building.

Each complex or subdivision shall have a community building that meets all required exterior construction standards and is available for use by all residents and guests of residents of the project.
(Code 1996, ch. 14, exh. 14A, art. XIII, § 2)

Sec. 74-386. Swimming pools.

Swimming pools, spas and hot tubs shall comply with the standards set forth in the ICC International Swimming Pool and Spa Code, adopted in section 50-27, and other provisions of this Code pertaining to same. All swimming pools shall be enclosed behind the main structure.
(Code 1996, ch. 14, exh. 14A, art. XIII, § 3)

Sec. 74-387. Usable open space.

Each lot or parcel of land, which is within a provisional district shall provide, within the same project, usable open space (as defined below) in accordance with the following requirements:

Number of Bedrooms or Sleeping Rooms	*Amount of Open Space for Each Sleeping Room*
1 or less	600 square feet
Each additional bedroom over 1	300 square feet

(1) An area of common usable open space shall have a slope not exceeding ten percent and shall have no dimension of less than ten feet and may include landscaping, walkways, recreational facilities, water features, playgrounds and decorative objects, such as artwork or water fountains. Usable open space shall not include rooftops, accessory buildings, parking areas, driveways, turnaround areas, or the right-of-way or easement for streets or alleys;

(2) At the time of site plan approval, the planning and zoning commission may recommend and the city council may approve credit for usable open space requirements under the following conditions:

a. Up to three square feet for each one square foot of area provided for the following recreational facilities:

1. Swimming pools, tennis courts, racquetball courts, or similar facilities;
2. Decks, patios, or lounge areas adjacent to or within ten feet of swimming pools;
3. Children's play areas developed with play equipment as identified in section 74-384(2);
4. Portions of recreational buildings dedicated to the use of residents and guests of residents of the complex or subdivision;

b. Partial or full credit may be given for on-site open space that exceeds the minimum slope (as defined in subsection (1) of this section) if it is determined that such areas are environmentally or aesthetically significant and their preservation would enhance the development and community. In determining environmental and aesthetic significance, the planning and zoning commission will consider:

1. Preservation of significant trees or other natural vegetation;
2. Contribution to on-site retention of stormwater or natural control of drainage;
3. Presentation of vistas and other qualities;
4. Buffer or transition between the multifamily use and other uses;

c. Within usable open space areas, there shall be at least one large shade tree for every 1,000 square feet of space. New trees planted to meet this requirement shall be a minimum three-inch caliper, and at least 25 percent of the trees shall be nondeciduous;

d. Available off-site open space may be credited for up to one-third of the usable open space requirement if:

1. 15 percent or more of the project boundary is adjacent to and has direct access to parkland;
2. There are defined pedestrian connections between the project and parkland;
3. Permanent usable open space is within 100 feet of the development that is available for use by the general public;
4. The design of the development provides a significant visual and pedestrian connection to public parkland;

e. The combined credit for areas calculated at a three-to-one basis and off-site parks or usable open space shall not exceed 50 percent of the total usable open space requirement for each development within a provisional district.

(Code 1996, ch. 14, exh. 14A, art. XIII, § 4)

Secs. 74-388—74-417. Reserved.

ARTICLE XIII. SUPPLEMENTAL DEVELOPMENT REGULATIONS

Sec. 74-418. General standards applicable to land use.

(a) *Public and semi-public institutional uses.* Public and semi-public institutional uses, such as hospitals, churches, and schools located in any district shall have a minimum site area of one acre.

(b) *Number of buildings.* Only one main building for single-family and two-family use, with permitted accessory buildings, may be located upon a lot or unplatted tract.

(c) *Approval required when.* When two or more main buildings, or portions thereof, are placed upon a single lot or tract and such buildings do not face upon a public street, the same may be permitted when the site plan for such development is approved by the planning and zoning commission so as to comply with the city subdivision regulations (in chapter 72) requirements for platting. No parking area, storage area, or required open space for one building shall be computed as being the open space, yard, or area requirements for any other dwelling or other use.

(d) *Measurement.*

(1) *Measuring setbacks.* All setback measurements shall be measured from the property line;

(2) *Configuration of lots.* Flag lots (i.e., lots with minimal, or panhandle-type, frontage) and through lots (i.e., double frontage), particularly within residential zoning districts, shall be prohibited;

(3) *Building setbacks.* All setbacks established on a recorded plat shall be enforced, even if they are less than or they exceed the required setbacks in this chapter. Setbacks established on a recorded plat shall only be changed through replat proceedings as set out in the subdivision regulations in chapter 72.

(e) *Front yard.*

(1) On corner lots, the front yard setback shall be observed along the frontage of both intersecting streets, unless approved specifically otherwise on a final plat. When single-family and duplex lots have double frontage, extending from one street to another, or are on a corner, a required front yard shall be provided on both streets unless a side or rear yard building line has been established along one frontage on the plat, in which event only one required front yard need be observed. The side or rear yards, in the case of single-family and duplex uses, shall be identified and the front of the structure shall not face the side or rear yard;

(2) When the frontage on one side of a street between two intersecting streets is divided by two or more zoning districts, the front yard shall comply with the requirements of the most restrictive district for the entire frontage;

(3) When a building line has been established by a plat approved by the city council or by ordinance, and such line required a greater or lesser front yard setback than is prescribed by this chapter for the district in which the building line is located, the required front yard shall comply with the building line so established by such authorizing ordinance or plat, provided no such building line shall be less than 20 feet;

(4) The front yard shall be measured from the property line to the front face of the building, to the nearest supporting member of a covered porch or covered terrace, or to any attached accessory building. Eaves and roof extensions or a porch without posts or columns may project into the required front yard setback for a distance not to exceed four feet, and subsurface structures, platforms or slabs may not project into

the front yard setback to a height greater than 30 inches above the average grade of the yard. Open porches extending into the front yard setback shall not be enclosed. Fireplaces, bay windows and other similar construction not exceeding seven feet in width may extend two feet into a required setback, provided the total length of all such projections into a setback shall not exceed one-third the length of the exterior wall;

(5) Minimum lot widths for lots with predominant frontage on the curved radius of a street (e.g., cul-de-sac or "eyebrow" portion of a street) shall be measured as the linear distance of the curved front building line and shall be shown on the subdivision plat. The same shall be enforced on a street curvilinear in design. (The term "curvilinear in design" shall refer to any street segment which is designed with a degree of curvature not less than three degrees, 30 minutes and not greater than 22 degrees, 55 minutes, and which shall offset a minimum distance of 30 feet, the offset being measured perpendicular to the initial tangent line of the curve. Computation of percentage of curvilinear streets shall utilize the centerline of all interior streets.) Lot widths for all lots shall be as set forth in the respective zoning district for each lot;

(6) The minimum front yard setback requirements may be reduced by five feet in all single-family districts, provided that at least 50 percent of the structures on a given block are set back an additional five feet from the original setback. The average setback would equal the original setback requirements. The purpose of this requirement is to encourage a variety of front yard setbacks along a street creating a more pleasing appearance of houses in the subdivision. In no case shall the setback be less than 20 feet. The desired setbacks for each lot shall be designated on the approved final plat;

(7) Gasoline service station pump islands that parallel a public street may not be located less than 18 feet to the front property line adjacent to a public street. For pump islands that are perpendicular or diagonal to a public street, the setback shall be 30 feet in order to prevent vehicles stacking out into the street while waiting for a pump position. Pump islands may extend beyond the front building line as described above (provided that all other requirements of this chapter are met) but shall not be closer than 15 feet to any property line that is not adjacent to a public street. An unenclosed canopy for a gasoline filling station pump island may extend beyond the front building line but shall never be closer than ten feet to any property line or street right-of-way line;

(8) Where a future right-of-way line has been established for future widening or opening of a street or thoroughfare, upon which a lot abuts, then the front, side or rear yard shall be measured from the future right-of-way line.

(f) *Front yard accessory building setbacks.* Attached front accessory buildings shall have a front yard not less than the main building and as specified in the particular district. Detached accessory buildings shall be located in the area defined as the rear yard (setback), with a minimum setback of 60 feet from the front property line.

(g) *Side and rear yards.*

(1) In the planned development district, the minimum rear yard for residential uses shall be in accordance with the defining base district unless the site plan approval requires a greater depth;

(2) On a corner lot used for one- or two-family dwellings, both street exposures shall be treated as front yards on all lots platted after the effective date of the ordinance from which this chapter is derived, except where one street exposure is designated as a side yard for both adjacent lots or where the two lots are separated by an alley, street right-of-way, creek/floodplain area, or other similar phenomenon. In such case, a building line may be designated by the city manager or designee with a minimum side yard of 15 feet or more (as determined by the applicable zoning district standards). On lots which were official lots of record prior to the effective date of the ordinance from which this chapter is derived, the minimum side yard adjacent to a side street shall comply with the minimum required side yard for the respective district unless otherwise established on the filed plat (in which case replatting is necessary to change the setback lines, per the subdivision regulations in chapter 72);

(3) Every part of a required side and rear yard setback shall be open and unobstructed except for the ordinary projections of windowsills, belt courses, cornices, and roof eaves and other architectural features not to exceed 12 inches into the required side or rear yard setbacks. Air conditioning compressors and similar equipment are not permitted in the side yard setbacks. Open porches and patios (on ground floors only) extending into side or rear yard setbacks shall not be enclosed, but upper story balconies may not encroach into a side or rear yard setback. A canopy may project into a required side or rear yard setback, provided that it is not enclosed, and provided that it is at least five feet from the property line. No obstruction of setbacks, as discussed herein, shall be permitted in the SF-PH district;

(4) Where a future right-of-way line has been established for future widening or opening of a street or thoroughfare, upon which a lot abuts, then the front, side, or rear yard shall be measured from the future right-of-way line.

(h) *Conforming lot coverage or floor area ratio.* Any existing building at the effective date of the ordinance from which this chapter is derived, having a greater percentage of lot coverage or a higher floor area ratio than herein prescribed, shall be considered conforming.

(i) *Special height regulations.* In the districts where the height of buildings is restricted to two or more stories or 35 feet or less, cooling towers, roof gables, chimneys and vent stacks may extend an additional height and not to exceed 40 feet above the average grade line of the building. Water standpipes and tanks, church steeples, domes, and spires, ornamental cupolas, city and school buildings, and institutional buildings may be erected to exceed the particular zoning district, provided that one additional foot shall be added to the width and depth of front, side, and rear yards for each foot that such structures exceed the district height limit.

(j) *Communications, antennas and support structures / towers.*

(1) *Applicability.*

a. This subsection (j) applies to all commercial and amateur antennas and support structures, unless exempted in subsections (j)(2) and (3) of this section;

b. Direct broadcast satellite reception, multi-channel multi-point distribution (as defined by the FCC), television reception antennas, and amateur radio antennas meeting the following requirements do not require a permit unless mounted on a pole or mast that is 20 feet or more in height:

1. In any zoning district, antennas that are one meter (i.e., 39 inches) or less in diameter;

2. In a nonresidential zoning district, antennas that are two meters or less in diameter;

3. In any zoning district, antennas designed to only receive television broadcasts;

4. In any zoning district, amateur radio antennas concealed behind or located upon or within attics, eaves, gutters or roofing components of the building; and

5. In any zoning district, amateur radio ground-mounted whips and wire antennas, unless mounted upon a pole or mast over 20 feet in height;

c. Antennas mounted on existing city water towers shall be exempt from the requirements of this subsection (j), provided a license or lease authorizing such antennas has been approved by the city council. All other antennas or towers located on property owned, leased or otherwise controlled by the city shall be subject to the requirements herein;

d. Support structures or antennas legally installed before the effective date of the ordinance from which this chapter is derived are not required to comply with this subsection (j), but must meet all applicable state, federal and local requirements, building codes and safety standards.

(2) *Special definitions.* For the purpose of this section, the following special definitions shall apply:

a. *Antenna, microwave reflector and antenna support structure.* An antenna is the arrangement of wires or metal rods used in transmission, retransmission or reception of radio, television, electromagnetic or microwave signals (includes microwave reflectors/antennas). A microwave reflector is an apparatus constructed of solid, open mesh, bar-configured, or perforated materials of any shape/configuration that is used to receive or transmit microwave signals from a terrestrial or orbitally located transmitter or transmitter relay. Microwave reflectors are also commonly referred to as satellite receive only earth stations

(TVROs), or satellite dishes. An antenna support structure is any tower, mast, pole, tripod, box frame, or other structure utilized for the purpose of supporting one or more antennas or microwave reflectors;

b. *Antenna (noncommercial/amateur).* An antenna or antenna support structure used for the purpose of transmission, retransmission, or reception of radio, television, electromagnetic, or microwave signals for private or personal use and not for the purpose of operating a business or for financial gain. A satellite dish antenna not exceeding six feet in diameter shall also be considered as a noncommercial antenna;

c. *Antenna (commercial).* An antenna or antenna support structure used for the purpose of transmission, retransmission, or reception of radio, television, electromagnetic, or microwave signals primarily for the purpose of operating a business or for financial gain (e.g., commercial broadcasting, cellular/wireless telecommunications, etc.). A satellite dish antenna that exceeds six feet in diameter shall also be considered as a commercial antenna;

d. *Co-location.* The use of a single support structure or site by more than one communications provider;

e. *Communications operations (noncommercial/amateur).* The transmission, retransmission or reception of radio, television, electromagnetic, or microwave signals for private or personal use, and not for the purpose of operating a business and/or for financial gain;

f. *Communications operations (commercial).* The transmission, retransmission, or reception of radio, television, electromagnetic, or microwave signals primarily for the purpose of operating a business or for financial gain;

g. *Height.* The distance measured from the finished grade of the lot/parcel to the highest point on the support structure or other structure, including the base pad and any antennas;

h. *Radio, television or microwave tower.* See subsection (j)(2)a of this section;

i. *Telecommunications tower or structure.* See subsection (j)(2)a of this section;

j. *Temporary/mobile antenna.* An antenna and any associated support structure/equipment (including, but not limited to, a support pole, a vehicle, etc.) that is placed or used on a temporary basis only (i.e., not intended to be permanent), usually in conjunction with a special event, news coverage or emergency situation, or in case of equipment failure or temporary augmentation of permanent communications equipment;

k. *Wireless communication tower or structure.* See subsection (j)(2)a of this section.

(3) *General requirements.*

a. Antennas and support structures may be considered either principal or accessory uses;

b. Antenna installations shall comply with all other requirements of this Code with the exception of those specifically cited within this subsection (j);

c. No commercial antenna support structure shall be closer to any residential district boundary line or residential dwelling than a distance equal to twice the height of the support structure. The setback/distance shall be measured as the shortest possible distance in a straight line from the structure to the closest point of a residential district boundary line or residential dwelling. Setbacks from residentially zoned property do not apply to antennas attached to utility structures that exceed 50 feet in height or to antennas placed wholly within or mounted upon a building;

d. No amateur or commercial antenna, antenna support structure, microwave reflector/antenna, or associated foundations or support wires or appurtenances shall be located within any required setback area for the front, side or rear yards;

e. All antennas and support structures must meet or exceed the current standards and regulations of the Federal Communications Commission (FCC), the Federal Aviation Administration (FAA), or all other applicable federal, state and local authorities. If those standards change, then the owner/user of an antenna or support structure must bring the antenna/structure into compliance within six months (i.e., 180 calendar days) or as may otherwise be required by the applicable regulating authority;

f. A building permit is required to erect or install an antenna, antenna support structure and related structures/equipment, unless the particular antenna is exempt from this subsection (j). All installations shall comply with applicable federal, state and local building codes and the standards published by the Electronic Industries Association. Owners/users shall have 30 days after receiving notice that an installation is in violation of applicable codes in order to bring it into full compliance;

g. Antennas (amateur or commercial) shall not create electromagnetic or other interference with the city, county, or any other government agency radio frequencies and public safety operations, as required by the FCC. Antennas also shall not interfere with radio or television reception of nearby property owners. In no manner shall the use of such equipment infringe upon adjoining property owners;

h. No antenna or support structure shall be located so as to create a visual obstruction within critical visibility areas (such as at street intersections or where a private driveway enters a roadway) or a traffic safety problem;

i. Safeguards shall be utilized to prevent unauthorized access to an antenna installation (e.g., on a water tower or utility structure, a freestanding installation, etc.). Safeguards include certain devices identified/recommended by the

manufacturer of the antenna or support structure, a fence, a climbing guard, or other commercially available safety devices. Climbing spikes or other similar climbing devices, if utilized, shall be removed immediately following use;

j. Temporary antennas shall only be allowed in the following instances:

1. In conjunction with a festival, carnival, rodeo or other special event/ activity;

2. In case of an emergency (e.g., severe weather, etc.) or a news coverage event;

3. When needed to restore service on a temporary basis after failure of an antenna installation;

The city must be notified prior to the placement of a temporary antenna. If the temporary antenna is to be needed for more than seven days, then the owner/user must apply for and acquire a permit for the temporary installation on or before the eighth day following initial placement of the antenna;

k. Co-location is greatly encouraged by the city:

1. All new support structures over 50 feet in height shall be constructed to support antennas for at least two carriers, unless the structure is an alternative or stealth design or the support structure is replacing an existing utility structure or light standard. Sufficient area for associated structures and equipment shall also be provided;

2. A support structure which is modified or reconstructed in order to accommodate co-location shall be of the same type, design and height as the existing structure, and it may be moved on the same property within 50 feet of its original location, provided that it is not moved any closer to residentially zoned or use of property (if the structure was allowed by SUP, then its new location shall be within the physical/land boundaries of the SUP). The original (i.e., former) support structure shall be removed from the property within 90 days following completion of the new structure;

3. Where an additional antenna is to be attached to an existing support structure that already has an antenna mounted upon it, the new antenna shall comply with and be compatible with the design of the existing antenna on the co-located structure;

l. Support buildings and equipment storage areas/buildings shall be screened from public view if mounted on a rooftop. When ground-mounted, they shall meet all applicable front, side and rear yard setback requirements of the applicable base zoning district. They shall also be of a neutral color and shall use exterior finish colors and materials that are compatible with nearby structures. A six-foot solid masonry wall may be used to screen the area provided exterior finish materials are compatible with nearby structures. The use of a wood fence for screening is prohibited; however, a wrought iron fence

with masonry columns may be used in conjunction with a dense, opaque evergreen landscaped screen with an initial planting height of three feet, and which will attain an ultimate height of six feet within two years;

m. Satellite dishes and other similar antennas shall be permitted on the roof of a building, as long as satellite dishes do not exceed one meter (39 inches) in diameter and antennas do not extend over ten feet above the roof of the building. A letter certifying the roof's/building's structural stability shall be written and sealed by a registered architect or engineer and shall be submitted to the city manager or designee prior to any approval of a roof-mounted antenna. Roof-mounted antennas that comply with the provisions of this subsection (j) do not require additional yard setbacks or setbacks from residential areas or dwellings;

n. Only one amateur antenna/support structure shall be permitted per residential lot, except that a maximum of two satellite dishes may be allowed if both units are no larger than one meter (39 inches) in diameter (only one allowed if over one meter in diameter). Satellite dishes in any residential district shall not exceed 12 feet in diameter and must be approved by the city prior to installation. A written request shall be submitted to the city manager or designee prior to applying for a permit. The city manager or designee may require additional information to ensure the safety of the structure. The city manager or designee may or may not approve the request. In the event the request is approved, installation of the satellite dish shall be screened, be behind the main building and meet all other requirements of this subsection (j) and other applicable provisions of this Code;

o. All commercial signs, flags, lights and attachments other than those required for emergency identification, communications operations, structural stability, or as required for flight visibility by the FAA or FCC, shall be prohibited on any antenna or antenna support structure. However, lights may remain or be placed upon light standards that are altered or replaced in order for them to serve as antenna support structures, provided that the lights are not commercial (i.e., for-profit) in nature, and provided that the lights are placed/replaced as the same size, configuration, number of bulbs, degree of luminance, etc., as they previously existed prior to support structure modification/replacement;

p. Any publicly owned antennas or antenna support structures shall be permitted in any zoning district (e.g., public safety communications, etc.);

q. In all residential zoning districts (including A, SF-E, SF-1, SF-2, SF-3, SF-4, SF-PH, MF and MH), commercial antennas and antenna support structures are prohibited, except as specified as follows:

1. A commercial antenna may be attached to a utility structure (e.g., electrical transmission/distribution tower, elevated water storage tank,

etc.), provided that the utility structure exceeds 50 feet in height, and provided that the antenna does not extend more than ten feet above the height of the utility structure;

2. A commercial antenna may be placed wholly within any building permitted in the zoning district. A commercial antenna may also be mounted flush to the exterior of a building/structure if it is painted or disguised to integrate into the overall architectural design and it is not readily visible/identifiable as an antenna from public roadways or from neighboring residential properties;

r. In nonresidential zoning districts (including O, NS, R, TC, C, and I), commercial antennas and antenna support structures are allowed as follows:

1. Commercial antenna support structures are allowed by right if they do not exceed the maximum building height allowed for the zoning district in which they are located. Structures in excess of the height allowed in the zoning district may be allowed by specific use permit (SUP), provided the structure conforms in all other aspects of the base zoning district's regulations, and provided that all applicable setback requirements are satisfied. In all nonresidential zoning districts, antenna support structures must meet all setback requirements, particularly from residential zoning districts;

2. A commercial antenna may be attached to a utility structure (e.g., electrical transmission/distribution tower, elevated water storage tank, etc.), provided that the utility structure exceeds 50 feet in height, and provided that the antenna does not extend more than ten feet above the height of the utility structure;

3. A commercial antenna may be placed wholly within any building permitted in the zoning district. A commercial antenna may also be mounted flush to the exterior of a building/structure if it is painted or disguised to integrate into the overall architectural design, and it is not readily visible/identifiable as an antenna from public roadways or from neighboring residential properties.

(k) *Minimum dwelling unit area.* Minimum dwelling unit areas specified in this chapter shall be computed exclusive of breezeways, garages, open porches, carports and accessory buildings.

(l) *Open storage areas.* Open storage of materials, commodities or equipment (where allowed in the specific zoning district) shall be located behind the front building line and observe all setback requirements for the main structure or building. This subsection does not apply to outside display.

(m) *Sight visibility.*

(1) Visual clearance shall be provided in all zoning districts so that no fence, wall, architectural screen, earth mounding, landscaping or other feature obstructs the

vision of a motor vehicle driver approaching any street, alley, or driveway intersection. When an intersection of streets, alley, or driveway occurs, a triangular visibility area shall be created. Landscaping, fences, signs, walls, earthen berms and other features within the triangular visibility area shall be designed so as to provide unobstructed cross-visibility at a level between 30 inches and eight feet above the ground. The triangular areas are defined as follows:

a. *Alley intersects a public street right-of-way.* The areas on both sides of the intersection of an alley and a public street shall have a triangular visibility area with two sides of each triangle being a minimum of ten feet in length from the point of intersection, and the third side being a line connecting the ends of the other two sides;

b. *Street intersection or intersection of private driveway onto a public street.* These areas shall have a triangular visibility area with two sides of each triangle being a minimum of 25 feet in length along the right-of-way lines (or along the driveway curbline and the street right-of-way line) from the point of the intersection, and the third side being a line connecting the ends of the other two sides;

(2) Shrubs and plant materials that are typically less than 30 inches in height at maturity may be located within sight visibility areas, provided that they are kept maintained at a maximum height of 30 inches;

(3) A limited number of single-trunked trees having a clear trunk (i.e., no branching) height of at least eight feet may be located within sight visibility areas, provided that they are trimmed in such a manner that no limbs or foliage extend into the cross-visibility area defined in subsection (m)(1) of this section, and provided that they are spaced and positioned such that their trunks will not produce a visibility-inhibiting "picket-fence" effect when they attain mature size.

(n) *Nonresidential structures in residential districts.* Nonresidential structures (e.g., churches, schools, day care centers, etc.) which are permitted in residential zoning districts (A, SF-E, SF-1, SF-2, SF-3, SF-4, SF-PH, MF and MH) shall be designed and constructed such that they conform to the development standards set forth in the NS district (i.e., with respect to maximum height, minimum lot size, minimum front/side/rear setbacks, screening, exterior building construction, etc.) unless otherwise stated in this chapter or in an ordinance establishing a PD.

(Code 1996, ch. 14, exh. 14A, art. XV, § 1)

Secs. 74-419—74-449. Reserved.

ARTICLE XIV. OFF-STREET PARKING AND LOADING REQUIREMENTS

Sec. 74-450. Purpose.

(a) *Special off-street parking provisions—Residential districts.*

(1) All required enclosed off-street parking spaces within single-family residential districts shall be located behind all front building lines. A minimum of two spaces shall be enclosed and two additional spaces on an approved paved driveway;

(2) Additional parking spaces, in excess of those required in subsection (a)(1) of this section, shall have a minimum paved surface of eight feet by 20 feet, and in no instance shall all development on the site/lot, including the additional parking spaces, occupy more than the maximum lot coverage as defined in the specific residential districts;

(3) Required off-street parking shall be provided on the same lot/site as the use it is to serve;

(4) No required parking shall be allowed except on a paved concrete or asphalt surface as defined in the city's standard construction details and according to the city's adopted standard construction details;

(5) No required parking space, garage, carport, or other automobile storage space shall be used for the storage of any heavy load vehicle, as defined in section 74-2.

(b) *Special off-street parking provisions—Nonresidential and MF districts.*

(1) To prevent nuisance situations, all parking area lighting shall be designed and operated so as not to reflect or shine on adjacent properties and in accordance with the standards established in section 56-60(s);

(2) For safety and firefighting purposes, free access through to adjacent nonresidential parking areas shall be provided as set forth in section 74-450(k);

(3) In office, retail, town center, commercial and industrial zoning districts, all required parking, maneuvering, loading and storage areas shall be provided on paved concrete. Paved concrete shall be in accordance with the city's standard construction details as adopted and as may be amended. All driveway approaches shall be of reinforced concrete as described above and shall be curbed to city standards. No paved parking space or area shall be designed such that a vehicle has to back up into a public street or across a public sidewalk, except for single-family dwellings, which are only allowed to egress onto a local (50-foot right-of-way) or residential collector (74-foot right-of-way) street but not onto any larger or more heavily traveled street. All parking spaces shall be permanently and clearly identified by stripes, buttons, tiles, curbs, barriers, or other approved methods. Non-permanent type marking, such as paint, shall be regularly maintained to ensure continuous clear identification of the space;

(4) Each standard off-street surface parking space shall be in accordance with the design standards for space size and design as set forth below. Concrete paving standards are as defined in subsection (c) of this section. Specific parking space sizes, exclusive of aisles, driveways and maneuvering areas, shall be in accordance with the following minimum sizes:

a. Standard: Nine feet by 20 feet, exclusive of access drives and aisles, shall have wheel stops and shall be of usable shape and condition. Where it is possible for

a vehicle to overhang the front of a parking space above a paved, stoned, mulched, or grassed area other than a sidewalk, street right-of-way or adjacent property the length of the standard space length may be reduced to 18 feet;

b. Compact: Eight feet by 16 feet; must be clearly designated with appropriate signage and pavement markings. Compact parking spaces may only make up ten percent of the total required parking spaces;

c. Parallel: Eight feet by 22 feet; must be clearly striped with appropriate pavement markings and shall only make up ten percent of the total required parking spaces;

(5) All parking, loading spaces, and vehicle sales areas on private property shall have a vehicle stopping device (e.g., curb, wheel stop, etc.) installed so as to prevent parking of motor vehicles in any required landscaped areas, to prevent vehicles from hitting buildings, to protect public or private utility structures/facilities, and to prevent any parked vehicle from overhanging a public right-of-way line, public sidewalk or private property. An extra-wide sidewalk on private property may be permitted so as to allow encroachment of vehicle overhang while maintaining an unobstructed four-foot minimum sidewalk width. This requirement shall apply only where spaces are adjacent to the walks, right-of-way, and landscaping on private property. Parking shall not be permitted to encroach upon the public right-of-way in any case. For new construction only, all vehicle maneuvering shall take place on site. No public right-of-way shall be used for backing or maneuvering into or from a parking space or for circulation within the parking lot. All entrances into parking lots shall be at least 50 feet from the beginning point of any street corner radius. All entrances into parking lots shall be at least 24 feet in width, or a maximum of 45 feet in width or 50 feet for a divided entrance. Divided entrances into parking lots shall have a minimum ingress lane of 18 feet in width, a minimum landscaped median width of five feet, and a minimum egress lane of 22 feet;

(6) In all nonresidential and multifamily zoned districts, the perimeter of all parking lots and driveways shall be provided with concrete curbs or other means to control traffic. Any driveway onto a state- or county-controlled roadway shall be reviewed and approved by the appropriate entities (i.e., TxDOT, Dallas County, Ellis County, etc.), and written evidence of such approval shall be submitted to the city prior to release for construction of the driveway or for improvements on the site;

(7) Refuse storage facilities placed in a parking lot shall not be located in a designated parking or loading space. Each refuse facility shall be maintained so as to comply with all public health and sanitary regulations. Each refuse facility shall be located so as to facilitate pickup by refuse collection agencies and ease of egress from the site without having to back up further than 20 feet and without having to go the wrong way in a traffic aisle. Masonry screening or city council-approved landscape screening of all refuse storage facilities is required on three sides with gates concealing the fourth side;

(8) Parking spaces for persons with disabilities and other associated provisions (e.g., clear and unobstructed pathways into buildings, crosswalks across parking lots, etc.) shall be provided according to current building codes, state laws, and requirements of the Americans with Disabilities Act (ADA). Parking spaces for persons with disabilities shall be as close as possible to the main entrance of the building, and shall be appropriately and clearly marked;

(9) In all nonresidential and multifamily zoned districts, designated parking and loading areas shall not be used for the repair, storage, dismantling or servicing of vehicles or equipment, for the placement of signs or refuse facilities, or for the storage of materials or supplies, or for any other use in conflict with the designated parking and loading areas (i.e., advertising or open storage of raw materials);

(10) To ensure that all requirements set forth in this section are carried forward, it will be the responsibility of the owner of the parking area to adequately maintain the facility. All off-street parking areas shall be kept free of trash, debris, vehicle repair operation or display and advertising uses. At no time after initial approval of the parking area layout can changes be made in the location and number of provided spaces without approval of a revised site plan.

(c) *Off-street stacking requirements for drive-through facilities.*

(1) A stacking space shall be an area on a site measuring eight feet by 20 feet with direct forward access to a service window or station of a drive-through facility which does not constitute space for any other traffic circulation, driveway, parking space, or maneuvering area. An escape lane of at least eight feet in width and with negotiable geometric design must be provided to allow vehicles to get out of stacking lane in the event of a stalled vehicle, emergency, accidental entry, etc.;

(2) For financial institutions with drive-through facilities, each teller window or station, human or mechanical, shall be provided with a minimum of five stacking spaces. One escape lane shall be provided;

(3) For each service window of a drive-through restaurant, a minimum of five spaces shall be provided for the first vehicle stop (usually the menu/order board), and two spaces shall be provided for each additional vehicle stop (order/pickup windows, etc.). One escape lane shall be provided from the beginning of the stacking lane to the first stop (e.g., menu order board);

(4) For retail operations (other than restaurants, banks, etc.) and kiosks that provide drive-up service (e.g., pharmacy, dry cleaner, etc.), a minimum of three stacking spaces for each service window shall be provided;

(5) For a full-service carwash, each vacuum or gas pump lane shall be provided with a minimum of four stacking spaces. For the finish/drying area, adequate vehicle stacking and storage space must be provided to keep finished vehicles out of circulation aisles, access easements, fire lanes, streets, etc.;

(6) For each automated self-service (drive-through/rollover) carwash bay, a minimum of three stacking spaces, in addition to the wash bay itself, shall be provided. One stacking space shall be provided at the exit end of each wash bay for window-drying and other detailing;

(7) For each wand-type self-service (open) carwash bay, a minimum of two stacking spaces, in addition to the wash bay itself, shall be provided. One stacking space shall be provided at the exit end of each wash bay for window-drying and other detailing, unless a separate area/shade structure is provided (outside of circulation aisles) for these activities;

(8) For automobile quick-lube type facilities, a minimum of three stacking spaces shall be provided for each service bay in addition to the service bay itself;

(9) Dead-end parking areas shall be avoided if possible. If dead-end parking is necessary, then it shall be designed such that it is no more than three parking spaces deep unless adequate turnaround space is provided. A minimum five-foot deep hammerhead backup space shall be provided at the end of any dead-end parking area;

(10) All parking structures must conform to the construction and design standards of the zoning district in which they are located;

(11) For multifamily uses (i.e., apartment complexes), all parking spaces shall be located behind the required front setback line on all street frontages.

(d) *Off-street loading space; all districts.*

(1) All retail and similar nonresidential structures shall provide and maintain off-street facilities for receiving and loading merchandise, supplies and materials within a building or on the lot or tract. All drives and approaches shall provide adequate space and clearances to allow for the maneuvering of trucks off-street. Each site shall provide a designated on-site maneuvering area for trucks. The off-street loading space may be adjacent to (but not any portion of) a public alley or private service drive, or it may consist of a truck berth within the structure. The minimum dimensions of a regular loading space shall be 12 feet by 30 feet, and a large loading space shall be at least 12 feet by 65 feet. Loading spaces or berths shall be provided in accordance with the following schedule:

a. Office uses, or portions of a building devoted to office uses:

1. Zero to 9,999 square feet: zero spaces;

2. 10,000 to 49,999 square feet: one regular space;

3. 50,000 to 99,999 square feet: one regular space and one large space;

4. 100,000 to 150,000 square feet: two regular spaces and one large space;

5. Each additional 50,000 square feet, or portion thereof, over 150,000 square feet: one additional regular space;

b. Retail/commercial and restaurant uses, or portions of a building devoted to retail/commercial and restaurant uses:

1. Zero to 3,999 square feet: zero spaces;
2. 4,000 to 9,999 square feet: one regular space;
3. 10,000 to 29,999 square feet: one regular space and one large space;
4. 30,000 to 99,999 square feet: two regular spaces and one large space;
5. 100,000 to 200,000 square feet: two regular spaces and two large spaces;
6. Each additional 100,000 square feet, or portion thereof, over 200,000 square feet: one additional large space;

c. Industrial or warehouse uses, or portions of a building devoted to industrial or warehouse uses:

1. Zero to 10,000 square feet: two large spaces;
2. Each additional 15,000 square feet, or portion thereof, over 10,000 square feet: one additional large space;

d. Schools: one large space per main school building on the campus;

(2) In all nonresidential zoning districts, loading docks or service/delivery entrances shall not be constructed facing any public street (except for large industrial uses; see subsection (d)(3) of this section), and shall not be visible from any public street. The loading areas shall be screened from view of any public street by the building itself, or by a masonry screening wing wall at least 12 feet in height with large evergreen trees and shrubs planted in front of it such that limited portions of the wing wall will be visible when the trees and shrubs are mature. The masonry wing wall shall match the exterior construction materials and colors of the main building and shall be located no closer than 100 feet to any public street right-of-way line;

(3) For large industrial or warehouse uses in the I district only, the loading docks may face a public street, and shall not be required to provide a masonry screening wing wall, provided that a minimum 30-foot-wide landscape buffer area is provided adjacent to the street right-of-way line. One large shade tree (minimum three inches caliper, and minimum ten feet planted height) shall be provided within the landscape buffer area for every 20 feet of street frontage, or one small ornamental tree (minimum 1.5 inch caliper, and minimum seven feet planted height) shall be provided for every 12 feet of street frontage (or some combination thereof). At least 50 percent of the required street buffer trees shall be large shade trees, and the rest of the trees may be small ornamental trees. In addition, a solid massing of large evergreen shrubs and three- to four-foot-tall berms shall be provided to further screen loading area from view of the street;

(4) Loading docks for any establishment which customarily receives goods between the hours of 9:00 p.m. and 8:00 a.m. and is adjacent to or within 300 feet of a residential use or district shall be designed and constructed so as to enclose the loading operation on at least three sides in order to reduce the effects of the noise of the

operation on adjacent residences. Other screening/buffering alternatives may be required and approved on the site plan, provided that the city council makes a finding that the alternative method of screening/buffering will be adequate to protect nearby residences;

(5) Nonresidential districts with loading docks shall not design and construct parking and loading facilities in a manner that there is a dead-end loading dock area. Maneuvering space and clearances shall be provided. In no instance shall a loading facility allow for trucks backing into roadways or interfering with the flow of traffic due to ingress and egress of the parking and loading facility. Adequate clearances shall be designated on the site plan;

(6) Kindergartens, elementary schools, day schools, and similar child training and care establishments shall provide one paved off-street pedestrian loading and unloading space for an automobile on a through or circular drive for each ten students cared for (excluding childcare in a residence). An additional lane shall also be required to allow pass-by or through traffic to move while automobiles waiting or parked to pick up children occupy loading/unloading areas;

(7) For large shopping centers only, loading spaces that are adjacent and easily accessible to several buildings or uses, including buildings and uses on separate lots, shall be allowed to satisfy the loading requirements for the individual buildings or uses, provided that:

a. The number of spaces satisfies the requirements for the combined square footages for the buildings or uses in question; and

b. For loading spaces to be shared among separate lots, they must be in reasonably close proximity to all potential users and an agreement granting mutual use by the owners of each building shall be executed, filed of record in deed records of the county where the property is located, in conjunction with the filing of the final plat. The shared use agreement must be submitted and approved at the time of final plat, with a file-marked copy provided to the city.

(e) *Parking access from a public street; all districts.*

(1) In all districts (except all residential districts) the site plan and paving plans shall provide for entrance/exit drives appropriately designed and located to minimize traffic congestion or conflict within the site and with adjoining public streets as approved by the city manager or designee. When requested, the applicant shall submit a traffic impact analysis, as defined in section 74-2, performed by a certified professional traffic operations engineer (PTOE) for the purpose of determining how the impact of projected volumes of traffic entering or leaving the proposed development are likely to interfere with the projected peak traffic flow volumes on adjoining streets, additional right-of-way and paving in the form of a deceleration lane, a turn lane, or other roadway improvements may be required to be furnished by the developer in order to reduce such interference and to help ensure traffic safety and

efficiency. The dedication of additional right-of-way or street paving may also be required and shall be determined at the time of site plan and preliminary plat approval;

(2) In the approval of a development plan (site plan), consideration shall be given to providing entrance/exit drives which extend into the site to provide adequate queuing of vehicles on the site. The drives shall have curbs or other barriers to prohibit access from parking areas and other drives;

(3) The radius of all drive approaches shall be constructed so that the curb return shall not extend beyond any projection of the property line which the drive does not cross, except by platted easement or written agreement of both property owners filed for record with the county clerk with proof supplied to the city;

(4) Vehicular access to nonresidential uses shall not be permitted from alleys serving residential areas and shall not be configured as head-in parking spaces that are accessed directly from the street.

(f) *Parking requirements based on use.* In all districts, there shall be provided at the time any building or structure is erected or structurally altered, or change of use, off-street parking spaces in accordance with the following requirements, unless a shared agreement is approved by city council:

(1) Automobile carwash (full-service) and detail shop: one space per 500 square feet of gross floor area;

(2) Automobile parts sales (indoor): one space per 500 square feet of gross floor area;

(3) Automobile sales and service: see motor vehicle sales;

(4) Bank, savings and loan, or similar institution: one space per 300 square feet in addition to required queuing spaces;

(5) Bed and breakfast facility: one space per guest room in addition to the requirements for a normal residential use;

(6) Bowling alley or center: six parking spaces for each alley or lane;

(7) Business or professional office (general): one space per 300 square feet of gross floor area except as otherwise specified herein;

(8) Carwash (self-service): one space per washing bay or stall in addition to the washing areas/stalls themselves and required queuing spaces;

(9) Church, rectory, or other place of worship: one parking space for each three seats in the main auditorium/sanctuary;

(10) College, university or technical school: one space for each three students, based upon maximum enrollment or design capacity, whichever is greater;

(11) Commercial amusement (indoor): one space per 100 square feet of gross floor area, or as follows:

a. Racquetball or handball courts: three spaces for each court;

b. Indoor tennis courts: six spaces for each court;

c. Gymnasium, skating rink, and martial arts school: one space for each three seats at a maximum seating capacity (based upon maximum occupancy), plus one space for each 200 square feet;

d. Swimming pool: one space for each 100 square feet of gross water surface and deck area;

e. Weightlifting or exercise area: one space for each 100 square feet;

f. Indoor jogging or running track: one space for each 100 linear feet;

g. Motion picture theater (which does not include live performances): one space for each three seats for single-screen theaters or one space for each five seats for motion picture theaters with two or more screens;

h. Amusement center: one space for each game table and one space for each amusement device;

i. All areas for subsidiary uses not listed above or in other parts of this section (such as restaurant, office, etc.) shall be calculated in with the minimum specified for those individual uses;

(12) Commercial amusement (outdoor): ten spaces, plus one space for each 500 square feet over 5,000 square feet of building and recreational area;

(13) Commercial uses: one space per 250 square feet of floor area;

(14) Community center, library, museum, or art gallery: ten parking spaces, plus one additional space for each 300 square feet of floor area in excess of 2,000 square feet. If an auditorium is included as a part of the building, its floor area shall be deducted from the total and additional parking provided on the basis of one space for each four seats that it contains;

(15) Convenience store (with gasoline pumps): one space per 200 square feet of floor area, plus one parking space for each side of a gasoline pump unit (a unit may have up to six nozzles for gasoline disbursement). Spaces within pump areas qualify as spaces for the parking requirement. If no gasoline sales are provided, then the parking requirements shall be the same as for a retail store. Adequate space shall be provided for waiting, stacking, and maneuvering automobiles for refueling;

(16) Country club, golf club: one parking space for each 150 square feet of floor area or for every five members, whichever is greater;

(17) Dance hall, dance/aerobics studio, assembly or exhibition hall without fixed seats: one parking space for each 100 square feet of floor area thereof;

(18) Day nursery, day care center: one space per ten pupils (based upon maximum occupancy or licensing capacity), plus one space per teacher, plus one space for each bus or van stored on the property (and sized to accommodate the vehicle);

(19) Dwelling units (all except MF): two spaces for each unit;

(20) Dwelling units, multifamily: two spaces per one- and two-bedroom units and 2½ spaces per three-bedroom unit and one space for visitor parking for each five units;

(21) Fast food or drive-in restaurant: one parking space per 100 square feet of gross floor area (including indoor/outdoor play areas and patio dining areas), or one space for every three seats under maximum seating arrangement (i.e., occupancy), whichever is greater; required parking spaces are in addition to any stacking spaces that may be needed/provided for drive-through or drive-in facilities;

(22) Fraternity, sorority, or dormitory: one parking space for each two beds;

(23) Furniture or appliance store, hardware store, wholesale establishments, machinery or equipment sales and service, clothing or shoe repair or service: two parking spaces, plus one additional parking space for each 300 square feet of floor area over 1,000;

(24) Gasoline station: one space per 200 square feet of floor area, plus one space for each side of a gasoline pump unit (a unit may have up to six nozzles for gasoline disbursement). Spaces within pump areas qualify as spaces for the parking requirement. A minimum of six spaces for employees. Adequate space shall be provided for waiting, stacking, and maneuvering automobiles for refueling;

(25) Golf course: three parking spaces per hole or green, plus requirements for retail, office and clubhouse areas and one space per each two employees;

(26) Golf driving range: 1½ spaces for each driving tee;

(27) Health club, health spa or exercise club: one space per 150 square feet of floor area;

(28) Hospital: one space per employee on the largest shift, plus 1½ spaces per each bed or examination room, whichever is applicable;

(29) Hotel or motel: one parking space for each sleeping room or suite or two spaces for any guest room provided with full kitchen facilities, plus one space for each four seats (based on maximum occupancy) of commercial area contained therein, plus one space per 125 square feet of meeting/conference areas, plus one space for every two employees during peak (i.e., busiest) time periods when the hotel/motel is fully occupied;

(30) Institutions of a philanthropic nature: ten spaces, plus one space for each employee;

(31) Library or museum: ten spaces, plus one space for every 300 square feet;

(32) Lodge or fraternal organization: one space per 200 square feet;

(33) Lumber yard/home improvement center: one space per 400 square feet display area, plus one space per 1,000 square feet of warehouse;

(34) Manufactured/mobile home or manufactured/mobile home park: two spaces for each manufactured/mobile home unit, plus one visitors/supplemental parking for each dwelling unit, plus additional spaces as required herein for accessory uses;

(35) Manufacturing or industrial establishment, research or testing laboratory, creamery, bottling plant, warehouse, printing or plumbing shop, or similar establishment: one parking space for each employee on the maximum working shift, plus space to accommodate all trucks and other vehicles (in appropriate sizes) used in connection therewith, but not less than one parking space for each 1,000 square feet of floor area;

(36) Medical or dental office: one space per 150 square feet of floor area; facilities over 20,000 square feet shall use the parking standards set forth for hospitals;

(37) Mini-warehouse: four spaces per complex, plus one additional space per 5,000 square feet of storage area, plus two spaces for an on-site manager's residence (if applicable), plus one appropriately sized space for any type of vehicle to be stored on-site (e.g., rental trucks, boats, RVs, etc.);

(38) Mortuary or funeral home: one parking space for each 100 square feet of floor space in slumber rooms, parlors or individual funeral service rooms, or one space for each three seats in the auditorium/sanctuary, whichever is greater. Adequate on-site stacking spaces shall also be provided for the organization and forming of processions such that these activities do not cause excessive or extended traffic congestion/delays on a public roadway;

(39) Motor vehicle salesroom and used car lots: one parking space for each 500 square feet of sales floor/office or other indoor uses, or one parking space for each 1,000 square feet of lot area for outdoor storage, sales and parking areas, plus one parking space per repair bay in service areas (indoors or outdoors), plus one parking space per service/towing vehicle to be stored on-site (required parking spaces are in addition to those to be used for the storage/display of vehicles for sale/lease);

(40) Nursing home, convalescent home, or home for the aged: one space per five beds, plus one parking space for each 1,000 square feet of lot area for outdoor uses, plus one parking space for each 300 square feet of floor area devoted to offices, cafeterias, exercise/therapeutic rooms and other similar ancillary uses, plus one space for every two employees at full occupancy;

(41) Office (administrative or professional): one space for each 300 square feet of floor area;

(42) Outdoor display: one space for each 600 square feet of open sales/display area;

(43) Pawnshop: one space for each 200 square feet of floor area;

(44) Places of public assembly not listed: one space for each three seats provided;

(45) Restaurant, private club, nightclub, café or similar recreation or amusement establishment: one parking space for each 100 square feet of gross floor area (including indoor/outdoor play areas and patio dining areas), or one space for every three seats under maximum seating arrangement (i.e., occupancy), whichever is greater; required parking spaces are in addition to any stacking spaces that may be needed/provided for drive-through or drive-in facilities;

(46) Retail store or personal service establishment, except as otherwise specified herein: one space per 200 square feet of gross floor area in addition to any required stacking spaces for drive-through facilities;

(47) Roominghouse/boardinghouse or group quarters: one parking space for each sleeping room, plus one parking space for each host resident or employee during maximum (i.e., peak) shift;

(48) School, elementary (grades K—6): one parking space for each 15 students (design capacity);

(49) School, secondary or middle (grades 7—8): one parking space for each 12 students (design capacity);

(50) School, high school (grades 9—12): one space for each 1.5 students, faculty and staff (design capacity);

(51) Storage or warehousing and light manufacturing: one space for each two employees on duty at peak shifts, or one space for each 1,000 square feet of total floor area, whichever is greater;

(52) Telemarketing: one space for each 250 square feet of floor space;

(53) Terminal facilities (truck, bus depot, or other): for warehouse and staging/loading areas, one space for each two employees on duty at peak shifts, or one space for each 1,000 square feet of floor area, whichever is greater; for bus depot or other human transportation use, one space per 100 square feet of passenger waiting area, plus parking spaces for any warehouse and staging/loading areas on the premises (as above);

(54) Theater (indoor or outdoor), auditorium (except school), or sports arena, stadium: one parking space for each three seats or bench seating spaces (see subsection (g)(2) of this section);

(55) Veterinarian clinic: one space per 300 square feet of gross floor space;

(56) Warehouse, wholesale, manufacturing and other industrial type uses: one space for each two employees on duty at peak shifts, or 1,000 square feet of gross floor area, whichever is greater.

(g) *Rules for computing number of parking spaces and miscellaneous off-street parking requirements.* In computing the number of parking spaces required for each of the above uses, the following rules shall govern:

(1) The term "floor area" means the gross floor area of the specific use;

(2) The term "seat" shall be interpreted as follows:

a. For fixed (e.g., church pews, grandstands, benches, etc.) seating, one seat equals 1.75 feet of length; and

b. For flexible (e.g., folding chairs, etc.) seating areas, one seat equals eight square feet of floor area occupied by such seating area (including aisles);

(3) Where fractional spaces result, the parking spaces required shall be constructed to be the next higher whole number;

(4) The parking space requirements for a new or unlisted use not specifically mentioned herein shall be the same as required for a use of similar nature. If the proposed use is not similar to any of the uses listed herein, a determination shall be made by the city manager or designee, in accordance with the requirements for the most closely related use specified in this section. In the event the applicant disagrees with this determination, then the applicant may submit a request for determination by the planning and zoning commission and the city council using the same process as provided in article IV of this chapter for classifying new and unlisted uses;

(5) When a building or use is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need for an increase of ten percent or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change. When a building or use existing prior to the effective date of the ordinance from which this chapter is derived is enlarged to the extent of 50 percent or more in floor area, number of employees, number of dwelling units, seating capacity or otherwise, then the building or use shall be required to conform with the parking requirements herein for the entire building or use;

(6) In the case of mixed uses in the same building or on the same premises (such as retail or office), the off-street parking spaces required shall equal the sum of the requirements of the various uses computed separately. No parking space for one particular use shall be allowed to count toward the parking requirement for some other use on the premises except in the case of a shared parking arrangement (see subsection (g)(7) of this section);

(7) Shared parking, with determination to be feasible, may be allowed in the case of mixed uses (different/separate buildings) under the following conditions:

a. Up to 60 percent of the parking spaces required for a theater or other place of evening entertainment (after 6:00 p.m.), or for a church, may be provided and used jointly by banks, offices, and similar uses not normally open, used, or operated during evening hours;

b. Shared parking must be on the same parking lot and specifically recommended by the planning and zoning commission and city council at the time of the site plan approval under the shared parking provisions. The approval may only be denied by the city council and additional parking obtained by the owners in the event that the city council determines that such joint use is resulting in a public nuisance by providing an inadequate number of parking spaces or otherwise adversely affecting the public health, safety, or welfare;

c. To ensure retention of the shared parking spaces, each property owner shall properly draw and execute an irrevocable mutual parking agreement, approved by the city attorney, expressing the same, shall file this agreement in the deed records of the county where the property is located, and shall provide a copy of the filed agreement to the city prior to the filing of the final plat and shall be a condition of final plat approval;

(8) Compact car and parallel parking spaces in the O, NS, R, C and IP districts only, and for nonresidential uses (e.g., school, church, day care facility, etc.) that are allowed in residential zoning districts, compact car or parallel parking spaces may be permitted when approved as part of a detailed site plan by the planning and zoning commission and the city council, providing at least one of the following conditions apply:

a. Where it is necessary to preserve the natural landscape and native trees, a maximum of ten percent of required parking may be designated for compact cars or parallel parking spaces (either one, or in combination);

b. For parking lots larger than 100 spaces involving a shopping center, a maximum of ten percent of the required parking may be for compact cars and/or parallel parking spaces (either one, or in combination);

c. For parking lots larger than 100 spaces involving large single-tenant industrial or office buildings, a maximum of ten percent of the required parking may be for compact cars or parallel parking spaces (either one, or in combination);

The city shall not be responsible for policing the use of compact car or parallel parking spaces on private property, or for citing violations thereof.

(h) *Location of parking spaces.* All residential parking spaces required herein shall be located on the same lot with the building or use served. In the case of nonresidential building/uses, the required parking shall be within no more than 200 feet, except as follows:

(1) Where an increase in the number of spaces is required by a change or enlargement of use, or where such spaces are provided collectively or used jointly by two or more buildings or establishments, the required additional spaces may be located not to exceed 200 feet from any nonresidential building served and as set forth in the mutual parking agreement;

(2) In any case where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, approval by the planning and zoning commission and the city council is

required, the parking spaces must be located on an immediately contiguous lot or tract or on a lot or tract within 200 feet of such building or structure, and shall be filed with the appropriate county and a file-marked "copy" shall be included with the application for a building permit according to either:

a. A permanent, irrevocable easement of the parking facilities in favor of the premises benefitted and shall be dedicated and recorded as a condition of such use; or

b. An irrevocable mutual parking agreement with the approval first of the city attorney and also by the city as a condition of such use. The agreement shall be recorded in the deed records of the county where the property is located.

(i) *Use of parking spaces; all districts.* Required off-street parking and loading spaces shall be used only for these respective purposes and shall not be used for storage or permanent display of goods, materials, or products for sale/lease/rent, refuse containers, cart corrals, recycling kiosks, signs or sign support structures, telecommunications towers or support structures.

(j) *Handicap parking.* Handicap parking spaces shall be provided according to the elimination of architectural barriers program at the state department of licensing and regulation (V.T.C.A., Government Code ch. 469) and shall conform to the Americans with Disabilities Act (ADA) of 1991, accessibility guidelines or the Uniform Federal Accessibility Standards.

(k) *Fire lanes.* Fire lanes shall be provided in all multifamily, single-family attached, manufactured (mobile) home and nonresidential developments, as required by the adopted fire code of the city (also see the subdivision regulations in chapter 72 for certain fire lane regulations). Fire lanes shall be a minimum width of 24 feet of paving, or as may be amended by the fire code or NCTCOG amendments. The fire lanes shall also have a minimum inside turning radius at curves of 20 feet, or as required by the fire code or the fire chief. The minimum overhead vertical clearance over fire lanes shall be 14 feet for a linear distance of 50 feet on each side (i.e., in front of and behind, as a fire apparatus would traverse underneath) of any overhead structure (e.g., canopy, roof overhang, vertical height control device, etc.).

(l) *Parking regulations for special motor vehicles.*

(1) For purposes of these regulations, the term "special motor vehicles" is defined as including boats, boat trailers, travel trailers, pickup campers and coaches (designed to be mounted upon automotive vehicles), motorized dwellings (RVs), tent trailers and the like, as well as cases or boxes used for transporting such vehicles, whether occupied by such vehicles or not. No such vehicles shall be used for living, sleeping or housekeeping or similar purposes when parked or stored on a residential lot, or in any location not approved for such use, except as specified in this chapter;

(2) No special motor vehicle, heavy load vehicle (as defined in section 74-2) or recreational vehicle shall be left unattended or parked for more than 24 hours within

any parking lot, parking spaces, drive aisle, vacant or unused property, or pervious/unpaved surface area (except an appropriately zoned and approved/paved parking lot for such vehicles);

(3) No required parking space, garage, carport, or other automobile storage space shall be used for the storage of any special motor vehicle, limousine, RV, trailer, boat, wrecker, truck tractor rig or trailer, camper or camper shell, or other similar recreational, dwelling or business vehicle;

(4) No heavy load vehicles are allowed to be stored or parked in residential areas on a regular or repetitive basis.

(Code 1996, ch. 14, exh. 14A, art. XVI, § 1)

Secs. 74-451—74-468. Reserved.

ARTICLE XV. MINIMUM ZONING DESIGN CRITERIA

Sec. 74-469. Utilities.

All utility service lines shall be constructed underground.

(Code 1996, ch. 14, exh. 14A, art. XVII, § 3)

Sec. 74-470. Accessory buildings and dwelling units.

(a) *Accessory buildings in residential districts.*

(1) In a residential or multifamily district, an accessory building is a subordinate or incidental building, attached to or detached from the main building without kitchen facilities but may include a separate bath, not used for commercial purposes and not rented or used as a dwelling unit. Accessory buildings shall be located toward the rear portion of the property, generally behind the main buildings, and accessory buildings that exceed 250 square feet in floor area shall be site built (i.e., cannot be a pre-manufactured or kit building), and shall conform with applicable exterior construction requirements for accessory buildings and be designed and constructed so that they are in keeping with the general architecture of the adjoining residential development. Accessory buildings of any size shall conform to applicable setbacks for the appropriate zoning district and shall conform to all applicable city building codes;

(2) Accessory buildings shall not be permitted without a main building or primary use being in existence. In the event the main or primary building becomes dilapidated, substandard or destroyed, or removed, and not replaced within six months of the destruction or removal, the accessory building must be removed, unless additional time for the construction of the main structure is granted by the board of adjustment after application, hearing and evidence of the financial ability and work plan for the construction of such main building.

(b) *Accessory buildings in nonresidential districts.*

(1) In any nonresidential district, an accessory building or incidental accessory use is a subordinate building or use, the use of which is incidental to and used only within or in conjunction with the main building. The accessory shall not have kitchen or bath facilities. Accessory buildings shall not be permitted without a main building or primary use being in existence. Accessory buildings shall be located toward the rear portion of the property, generally behind the main buildings, and accessory buildings that exceed 250 square feet in floor area shall be site built (i.e., cannot be a pre-manufactured or kit building), and shall conform with applicable exterior construction requirements for accessory buildings and be designed and constructed so that they are in keeping with the general architecture of the adjoining residential development;

(2) Accessory buildings of any size shall conform to the same setbacks as the main building and shall conform to all applicable city building codes;

(3) Accessory buildings shall not be permitted without a main building or primary use being in existence. In the event the main or primary building becomes dilapidated, substandard or destroyed, or removed, and not replaced within six months of the destruction or removal, the accessory building must be removed, unless additional time for the construction of the main structure is granted by the board of adjustment after application, hearing and evidence of the financial ability and work plan for the construction of such main building.

(c) *Accessory dwelling units.* Accessory dwelling units shall only be allowed in A, SF-E and SF-1 districts and shall require a specific use permit. Accessory dwelling units are for guests on a temporary and intermittent residential use only and may be on the same lot as the main dwelling unit, provided they meet the following standards:

(1) Accessory dwelling buildings must be designed and constructed so that they are in keeping with the general architecture of the adjoining residential development;

(2) As a separate dwelling unit, the accessory dwelling building shall only be occupied by a blood relative or guest of those in the main residence and an independent water meter shall be required;

(3) Accessory buildings shall be constructed of similar and complementary material and color to the main structure;

(4) The accessory dwelling unit must be constructed to the rear of the main dwelling. Accessory dwelling units shall be allowed in the residential A, SF-E and SF-1 districts only and shall comply with all required setbacks and total lot coverage;

(5) An accessory dwelling unit shall not exceed 650 square feet;

(6) The accessory dwelling unit may be constructed only with the submission and approval of a specific use permit and site plan. Failure to comply with the

requirements of the SUP shall render it null and void and the city may take all necessary action to render the accessory dwelling unit uninhabitable by removal of kitchen and plumbing facilities;

(7) The accessory dwelling unit may not be sold separately from sale of the entire property, including the main dwelling unit, and shall not be rented or leased.

(d) *Special regulations for accessory buildings and dwelling units.*

(1) All detached accessory buildings shall, in no instance, be less than 60 feet from the front building line or in front of the main building;

(2) All side and rear yard setbacks shall be in accordance with the requirements for that zoning district;

(3) Garages or carports with required minimum exterior construction, located and arranged so as to be entered from an interior side yard, shall have a minimum of 25 feet from the side lot line. Carports or garages arranged to be entered from the side yard, facing a public street, or from a rear or side alley shall have a minimum distance equal to the required yard for the main building or 25 feet, whichever is greater;

(4) Carports with required minimum exterior construction shall be measured from the columns supporting the roof nearest to the street or alley;

(5) Accessory buildings shall not exceed the height allowed in the specific zoning district, except taller accessory buildings may be allowed in nonresidential districts by specific use permit (SUP) only.

(Code 1996, ch. 14, exh. 14A, art. XVII, § 4)

Sec. 74-471. Alternate bodies of water.

(a) An alternate body of water shall be defined as any at- or below-grade pond, lake or open tank that is not constructed as a swimming pool (i.e., concrete- or gunite-lined pool, or a prefabricated masonry, plastic or plexiglass pool) and that contains water in any portion of it at a depth of 1.5 feet, or a greater depth, at any given time.

(b) No alternate body of water shall be constructed, maintained or operated in any zoning district except the A districts without issuance of a specific use permit (SUP) or without specific incorporation into the ordinance and development standards of an approved PD Planned Development District.

(c) Construction of any approved alternate body of water shall require issuance of a grading permit from the city prior to any construction activity on the site and shall be designed such that it facilitates, and will not hinder, stormwater drainage in the area.

(d) Any approved alternate body of water (i.e., by SUP or in a PD district) shall be shown on the plat (and on the site plan, if such is required for the development), and language shall be shown on the plat and site plan (if applicable) that describes ownership and maintenance responsibility for such body of water.

(e) Any approved alternate body of water (i.e., by SUP or in a PD district) shall comply with all city, county, state and federal laws pertaining to safety, and shall have the following safety features:

(1) Shall be lighted at night for pedestrian and user safety (not required in the agricultural district) unless it is secured by fencing;

(2) Shall include an adequate water circulation device (e.g., pump, fountain, aerator, etc.) that will minimize stagnation and the growth of algae and other undesirable aquatic growths; and

(3) Shall be posted with visible signage that prohibits swimming and wading, and that warns users of potential dangers (i.e., no lifeguard on duty, the presence of aquatic wildlife, etc.).

(Code 1996, ch. 14, exh. 14A, art. XVII, § 6)

Sec. 74-472. Performance standards; noise, smoke, particulate matter, etc.

(a) *All uses must conform.* In all zoning districts, any use indicated in the permitted use list shall conform in operation, location, and construction to the performance standards as administered by county, state and federal agencies. All uses, including those which may be allowed by PD or SUP, shall conform in operation, location, and construction to appropriate performance standards for noise, smoke, and particulate matter, odorous matter, fire, or explosive hazard material, toxic and noxious matter, vibration, and glare.

(b) *Must comply with federal and state regulations.* All federal and state pollution, noise, and requirements for toxic waste disposal shall be observed.

(c) *Noise.* At no point at the bounding property line of any use shall the sound pressure level of any operation or land use exceed the decibel limits specified in the octave band groups designated in the following table:

(1) Maximum permissible daytime* octave band:

	*Decibel Limits at the Bounding Property Line***								
Octave band (CPS)	37—75	75—150	150—300	300—600	600—1,200	1,200—2,400	2,400—4,800	4,800—9,600	A Scale
Decibel band limit (dB re 0.0002 microbar)	86	76	70	65	63	58	55	53	65

Note: "A scale" levels are provided for monitoring purposes only and are not applicable to detailed sound analysis:

* "Daytime" shall refer to the hours between sunrise and sunset on any given day;

** "Bounding property line" shall be interpreted as being at the near side 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 interpreted as the bounding property line.

(2) The following corrections shall be made to the table of octave band-decibel limits above in determining compliance with the noise level standards:

a. When noise is present at nighttime, subtract (-7 dB);

b. When noise contains strong pure-tone components or is impulsive (i.e., when meter changes at ten decibels or more per second), subtract (-7 dB);

c. When noise is present for not more than the following, add (+10 dB):

1. One-half minute in any half-hour period;

2. One minute in any one-hour period;

3. Ten minutes in any two-hour period;

4. 20 minutes in any four-hour period.

(3) Measurement of noise shall be made with a sound level meter on octave band analyzer meeting the standards prescribed by the American Standards Association.

(4) Exemptions: The following uses and activities shall be exempt from the noise level regulations herein specified:

a. Noises not directly under control of the property owner or user;

b. Noises emanating from construction and maintenance activities between the hours of 7:00 a.m. and 7:00 p.m. (i.e., daylight hours);

c. Noises of safety signals, warning devices and emergency pressure relief valves;

d. Transient noise of moving sources, such as automobiles (i.e., not to include idling automobiles), trucks, and airplanes;

e. Events sanctioned by the city.

(d) *Smoke and particulate matter.* No operation or use shall cause, create, or allow the emission for more than three minutes in any one hour of air contaminants that at the emission point or within the bounds of the property are:

(1) Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke or contaminants in the standard prescribed by the ASTM except for when the presence of uncombined water is the only reason for failure to comply, or when such contaminants are emitted inside a building which prevents their escape into the atmosphere;

(2) The emission of particulate matter from all sources shall not exceed 0.5 pounds per acre of property within the operation's site per any one hour;

(3) Open storage and open processing operations, including on-site transportation movements which are the source of wind-borne or airborne dust or other particulate matter; or which involves dust or other particulate air contaminants, generating

equipment, such as used in paint spraying, grain handling, sand or gravel processing or storage or sandblasting, shall be so conducted that dust and other particulate matter so generated are not transported across the boundary line of the tract on which the use is located in concentrations exceeding four grains per 1,000 cubic feet of air.

(e) *Odorous matter.*

(1) No use shall be located or operated which involves the emission of odorous matter from a source of operation where the odorous matter exceeds the odor threshold at the bounding property line or any point beyond the tract on which such use or operation is located;

(2) The odor threshold as herein set forth shall be determined by observation by the city manager or designee. In any case, where uncertainty may arise or where the operator or owner of an odor-emitting use may disagree with the enforcing officer or where specific measurement of odor concentration is required, the method and procedures specified by the American Society for Testing Materials (ASTMD) shall be followed.

(f) *Fire or explosive hazard material.*

(1) No use involving the manufacture or storage of compounds or products which decompose by detonation shall be permitted, except that chlorates, nitrates, perchlorates, phosphorus, and similar substances and compounds in small quantities for use by industry, school laboratories, druggists or wholesalers may be permitted when approved by the city fire chief;

(2) The storage and use of all flammable liquids and materials, such as pyroxylin plastics, nitrocellulose film, solvents, and petroleum products shall be permitted only when such storage or use conforms to the standards and regulations of the city's adopted fire code or are approved by the fire chief;

(3) Commercial fireworks displays shall be allowed in accordance with this Code.

(g) *Toxic and noxious matter.* No operation or use shall 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 will exceed ten percent of the concentration (exposure) considered as the threshold limit for an industrial worker as such standards are set forth by the state department of health in Threshold Limit Values Occupational Health Regulation No. 3, a copy of which is incorporated by reference.

(h) *Vibration.* No operation or use shall at any time create earth-borne vibrations which, when measured at the bounding property line of the source operation, exceed the limits of displacement set forth in the following table in the frequency ranges specified:

Frequency in Cycles per Second	*Displacement in Inches*
0 to 10	0.0010
10 to 20	0.0008
20 to 30	0.0005
30 to 40	0.0004
40 and over	0.0003

(Code 1996, ch. 14, exh. 14A, art. XVII, § 7)

Sec. 74-473. Required visual sight distance.

(a) Visual clearance shall be provided in all zoning districts so that no fence, wall, architectural screen, earth mounding or landscaping, or other feature obstructs the vision of a motor vehicle driver approaching any street, alley, or driveway intersection. When an intersection of a street, alley, or driveway occurs, a triangular visibility area shall be created. Landscaping, fences, signs, walls, earthen berms and other features within the triangular visibility area shall be designed so as to provide unobstructed cross-visibility at a level between 30 inches and eight feet above the ground. The triangular areas are defined as follows:

(1) Street intersection or intersection of private driveway onto a public street area shall have a triangular visibility area, with two sides of each triangle being a minimum of 25 feet in length along the right-of-way (or along the driveway curb line and the street right-of-way line) from the point of the intersection and the third side being a line connecting the ends of the other two sides;

(2) When an alley intersects a public street right-of-way, the areas on both sides of the intersection of an alley and a public street shall have a triangular visibility area, with two sides of each triangle being a minimum of ten feet in length from the point of intersection and the third side being a line connecting the ends of the other two sides;

(3) Fences, walls, and hedges three feet in height or less may be located in the visual clearance areas of all districts, provided that they are kept maintained at a maximum height of three feet;

(4) A limited number of single-trunked trees having no branching below the height of eight feet may be located within sight visibility areas, provided that they are trimmed in such a manner that no limbs or foliage extend into the cross-visibility area defined above, and provided that they are spaced and positioned such that their trunks will not produce a visibility-inhibiting, picket-fence effect when they attain mature size.

(b) Nonresidential structures (e.g., churches, schools, day care centers, etc.) which are permitted in residential zoning districts (A, SF-E, SF-1, SF-2, SF-3, SF-PH, PD) shall be designed and constructed such that they conform to the development standards set forth in

the NS Neighborhood Service District (i.e., with respect to maximum height, minimum lot size, minimum front/side/rear setbacks, screening, exterior building construction, etc.) unless otherwise stated in this chapter or in the ordinance establishing a PD.
(Code 1996, ch. 14, exh. 14A, art. XVII, § 9)

Sec. 74-474. Supplementary standards for uses selling alcoholic beverages.

(a) Any use or business which sells alcoholic beverages shall be no closer than 300 feet to church or public hospital, or to a day care or child care facility, as defined in V.T.C.A., Human Resources Code § 42.002, measured along property lines along public streets from front door to front door and in a direct line across intersections.

(b) To the extent allowed by applicable law, as it exists and as it may be amended, any use or business which sells alcoholic beverages shall be no closer than 1,000 feet to a public school or private school as measured in a direct line from property line of the school to property line of the use or business, and in a direct line across intersections, if the board of trustees of the school district or the governing body of a private school requests such separation in writing. Otherwise, the distance shall be as provided in subsection (a) of this section.

(c) The distance standards in subsection (a) of this section do not apply to a day care or child care facility if the use or business selling alcoholic beverages and day care or child care facility are on different stories of a multi-story building, or are located in separate buildings and the use or business or the day care or child care facility is located on the second story or higher of a multi-story building.

(d) The sale of beer and wine is expressly prohibited in residential areas.

(e) If the establishment derives 75 percent or more of its gross revenue from the on-premises sale of alcoholic beverages, the applicant must obtain a SUP for such use in accordance with the procedure set forth for SUPs in zoning districts that permit the use with an SUP.
(Code 1996, ch. 14, exh. 14A, art. XVII, § 10; Ord. No. O-03-09, 4-20-2009)

Sec. 74-475. Supplementary standards for credit access businesses.

(a) A structure containing a credit access business shall be located at least 1,000 feet from another structure containing another credit access business, as measured in a straight line between the nearest points of one structure to the other structure.

(b) A lot containing a credit access business shall be located at least 1,000 feet from any lot zoned or used for residential purposes, churches, schools and pawn shops, as measured in a straight line between the nearest points of one lot to the residential lot.

(c) A lot containing a credit access business shall not be located on property fronting a street classified as a major arterial or greater.

(d) A credit access business shall be situated only within a freestanding structure and shall not be co-located in the same structure as other uses.
(Code 1996, ch. 14, exh. 14A, art. XVII, § 1; Ord. No. O-13-15, § 3, 11-16-2015)

Sec. 74-476. Supplementary standards for pawnshops.

(a) A structure containing a pawnshop shall be located at least 1,000 feet from another structure containing another pawnshop or credit access business, as measured in a straight line between the nearest points of one structure to the other structure.

(b) A lot containing a pawnshop shall be located at least 1,000 feet from any lot zoned or used for residential purposes, churches and schools, as measured in a straight line between the nearest points of the pawnshop lot to the residential lot.

(c) A lot containing a pawnshop shall not be located on property fronting a street classified as a major arterial or greater.

(d) A pawnshop shall be situated only within a freestanding structure and shall not be co-located in the same structure as other uses.
(Code 1996, ch. 14, exh. 14A, art. XVII, § 12; Ord. No. O-14-15, § 2, 10-20-2015)

Sec. 74-477. Supplementary standards for vapor shops.

(a) A structure containing a vapor shops shall be located at least 1,000 feet from another structure containing another credit access business, as measured in a straight line between the nearest points of one structure to the other structure.

(b) A lot containing a vapor shops shall be located at least 1,000 feet from any lot zoned or used for residential purposes, churches and schools as measured in a straight line between the nearest points of the vapor shop lot to the residential lot.

(c) A lot containing a vapor shops shall not be located on property fronting a street classified as a major arterial or greater.

(d) A credit access business shall be situated only within a freestanding structure and shall not be co-located in the same structure as other uses.
(Code 1996, ch. 14, exh. 14A, art. XVII, § 13; Ord. No. O-15-15, § 4, 12-1-2015)

Secs. 74-478—74-507. Reserved.

ARTICLE XVI. TEMPORARY USES AND PERMITS

Sec. 74-508. General authorization and requirements.

(a) *Temporary uses.* The temporary uses addressed in this section shall be permitted, as a temporary use permit (TUP), in all zoning district categories unless otherwise indicated in this chapter. The applicant for a temporary use permit must meet all of the conditions for such temporary use as set forth in this section. Temporary use permits may be issued by the

city manager or designee subject to the provisions of this section. An appeal to the city council may be made by an applicant whose temporary use permit was denied by the city manager. The appeal shall be submitted within ten calendar days of the city manager's decision and be in writing and accompanied by the appropriate fee. Any exceptions to the terms and provisions of this section must be approved by the city council, which the council may authorize if it determines that an exception or waiver of the provisions of this section is warranted due to special conditions. All temporary use permits shall contain a specified time limit for the discontinuance of the temporary use.

(b) *Asphalt or concrete batching plant.* A temporary asphalt or concrete batching plant permit may be approved by the city manager, subject to the conditions of this section. Any exceptions to the following conditions shall require approval of the city council:

(1) The batching plant site shall comply with all applicable provisions of city, state and federal laws;

(2) The batch plant shall not be located within 500 feet of an inhabited residence;

(3) Hours of operation and hauling shall be limited to Monday through Friday, 7:00 a.m. to 6:00 p.m., and Saturday, 9:00 a.m. to 5:00 p.m. Aggregate trucks shall be prohibited from hauling to or from the site on Sunday;

(4) The batch plant permit shall be valid for a three-month period. No extensions will be allowed without approval of the city council;

(5) No portion of the batch plant or its operation shall be located on a public or private street, or on land dedicated to the city for parks and open space;

(6) The batch plant shall only furnish concrete, asphalt, or both, to the specific project for which the temporary permit is issued. The placement of a temporary batching plant for a private project is restricted to the site of the project;

(7) The temporary plant shall be operated in a manner that eliminates unnecessary dust, noise and odor (as illustrated by, but not limited to, covering trucks, hoppers, chutes, loading and unloading devices and mixing operations, and maintaining driveways and parking areas free of dust);

(8) A bond issued to the city, in the amount determined by the city manager or designee, shall be required prior to the issuance of the TUP for the restoration of the site. The site must be clear of all equipment, material and debris as well as all contaminated soil, chemicals and hazardous waste within seven calendar days of completion of the project. In the event the site has been restored the bond will be returned to the applicant. In the event the site has not been restored to the satisfaction of the city manager, the city will make every attempt to have the repairs complete within a period of 180 days thereupon returning any dollar amount in excess of the bond;

(9) A bond issued to the city, in an amount determined by the city manager or designee, shall be required prior to the issuance of the TUP for the repair of all public improvements that are damaged by any and all equipment necessary for and during

the operation of the temporary batching plant. The applicant may choose to make the necessary repairs or replacements within 30 calendar days of completion of the project for the return of the bond. In the event these repairs and replacements have not been made to the satisfaction of the city manager, the city will make every attempt to have the repairs complete within a period of 180 days thereupon returning any dollar amount in excess of the bond;

(10) Upon issuance and expiration of the temporary permit and cessation of activities, the city building official and permittee shall walk the site to verify compliance with these special conditions;

(11) Every attempt should be made by the applicant to ensure that no residential street is utilized for ingress and egress to the batch plant.

(c) *Sales trailer.*

(1) A temporary permit allowing sales from a modular trailer (mobile office) shall be valid until the issuance of a certificate of occupancy for a model home or for 150 days, whichever comes first. There shall be no extensions of such temporary permit. A trailer shall not be used for living or sleeping purposes;

(2) The trailer must be removed within 30 days after the issuance of a certificate of occupancy for a model home or 150 days, whichever comes first;

(3) The trailer must be single-wide with a maximum length of 70 feet;

(4) The trailer must have ground anchors for every ten feet of the length of the trailer;

(5) The trailer must have skirting around the trailer to conceal the undercarriage;

(6) The trailer must be located in a platted subdivision on a lot which is owned by the applicant, builder, or developer and be located behind the front yard building lot line;

(7) Location of the trailer and landscaping plans must be approved by the city manager or designee;

(8) At a minimum, landscaping shall include foundation plantings for the front of the trailer to conceal the skirting, and the front yard (25 feet or building line whichever is greater) and side yards (four feet minimum) must be grassed. Side yards must have a one to five gallon shrubs every three feet with seasonal flowers between;

(9) A temporary three-foot-wide concrete sidewalk to the parking area is required from the trailer to the curb;

(10) Building permit fees for the temporary sales trailer will be required and assessed according to the fee schedule and any necessary utility connection fees shall be paid;

(11) Temporary off-street parking of an approved all-weather surface shall be provided at a minimum rate of two spaces per proposed model home on the same side of the street as the models. Parking must also include at least one hard surface (i.e., concrete, asphalt, etc.) parking space for handicapped citizens;

(12) Upon issuance and expiration of the temporary permit and cessation of activities, the city building official and permittee shall walk the site to verify compliance with these special conditions. Upon the expiration of the temporary permit or the completion of the model home, whichever comes first, the city building official and permittee shall walk the site and verify that all temporary facilities have been removed.

(d) *Model homes.* The construction of model homes after approval of the final plat and prior to the acceptance of public improvements by the city shall be subject to the conditions of this section. Any exceptions to the following conditions shall require the approval of the city council:

(1) No model home may be constructed prior to the approval of the final plat and issuance of a building permit by the city;

(2) No model home shall be sold until a final certificate of occupancy has been issued for the structure;

(3) The developer/owner shall file a hold harmless agreement, in a form acceptable to the city attorney, with the city agreeing to fully indemnify and release the city from all claims, suits, judgments and demands against the city which have accrued or which may accrue, and to hold the city harmless from all claims, suits, judgments and demands against the city, either severally or jointly, which have accrued or which may accrue as a result of the improvements, including sidewalks, streets, water and sewer lines, installations of electricity and other utilities, not having been fully inspected and approved by the city;

(4) The hold harmless agreement shall also indicate that the city shall assume no liability for the development or construction of the development or the improvements. The city only grants permission for the construction and showing of the model homes and in no way shall be held liable for the development of the subdivision/project or for any injury or damages which may result from the improvements, including those mentioned in subsection (d)(3) of this section, not having been fully inspected and accepted by the city;

(5) Upon expiration of the temporary permit and cessation of activities, the city building official and permittee shall walk the site to verify compliance with these special conditions;

(6) Failure to fully construct a model home within six months of the issuance of the building permit shall constitute a substandard structure and a public nuisance that may subject the structure to proceedings associated with the repair or demolition of substandard structures and to permit a lien to be placed upon the property.

(e) *Seasonal sales.* A temporary use permit may be issued by the city manager or designee for a seasonal sales use. The city manager or designee shall consider each request independently and may or may not approve the request. Temporary use permits for seasonal sales shall be subject to the following conditions:

(1) Temporary use permits shall be issued only for the seasonal sales merchandise, such as Christmas trees, pumpkins, landscape vegetation and fresh produce;

(2) The outdoor display and sales of seasonal items, such as mentioned in subsection (e)(1) of this section shall only be allowed in nonresidential districts;

(3) A temporary permit shall only be issued to any applicant and for any property twice per calendar year and only for 30-day periods;

(4) The use shall not involve more than one tent or temporary building on a lot;

(5) The applicant shall have written permission from the property owner;

(6) No structure or activity relating to the temporary use shall be located within the required yard setbacks, easements, pedestrian walkways or rights-of-way;

(7) All outdoor displays shall be removed within two calendar days after the expiration of the permitted time;

(8) Upon both the issuance and expiration of the temporary permit and cessation of activities, the city building official and permittee shall walk the site to verify compliance with these special conditions.

(f) *Carnival, circus, tent revival or special event.* A temporary use permit for a carnival, circus, tent revival or special event may be issued by the city manager or designee, subject to the following conditions:

(1) Coordination with the city manager or designee shall begin a minimum of 90 days prior to submission of an application for TUP. Application for a permit shall be made no less than ten business days prior to the date such temporary carnival, circus, tent revival or special event shall commence operation;

(2) The fee for such permit shall be charged according to the fee schedule. Nonprofit organizations shall be exempt from permit fees upon submission of evidence of the nonprofit status of the organization;

(3) The application for a permit shall contain the following:

a. The name, address and telephone number of person, organization or company conducting the event;

b. The dates and times of operation of the carnival, circus, tent revival or special event;

c. A plan showing in detail the different component parts of the temporary carnival, circus, tent revival or special event, including all shows, concessions, amusements, businesses, and the locations of each on the property;

d. A written lease or agreement from the owner of such property stating permission to the applicant to operate a temporary carnival, circus, tent revival or special event on the property;

e. A written agreement with the city, signed by all parties, dictating all pertinent understanding regarding reimbursement to the city for expenses incurred relevant to this event;

f. The proposed location and size of parking area;

g. The location and quantity of sanitary facilities, including, but not limited to, toilets and hand washing stations;

h. The approximate number of persons who are attending and, if applicable, the number and types of animals and vehicles that will constitute such event;

i. The location and orientation of loudspeakers or sound amplification devices, if any;

j. Proof of public liability insurance with minimum combined limits of $5,000,000. The city shall be named as an additional insured on the policy;

k. Any other information the city shall deem necessary under the standards for issuance;

(4) Safe and orderly movement of normal vehicular and pedestrian traffic shall not be interrupted. However, street closures may be coordinated with and approved by the city manager or designee;

(5) The temporary use shall not impede the movement of firefighting equipment, police, ambulances or public works;

(6) Police security (state certified police officer) must be provided at the applicant's expense. However, the city police chief shall have the discretionary authority to determine the number of officers and hours of operation when the police security shall be necessary;

(7) Waste from animals shall be removed frequently, but no less than daily, from the premises. Reduction of odor and insurance of a sanitary environment shall determine the frequency of animal waste removal. Animals shall not be kept closer than 300 feet to any residence or commercial establishment during non-operating hours of such event. Should the event involve the use of wild animals as defined by state law and city ordinances, regulations associated with such animals shall apply and require compliance;

(8) The application shall be reviewed by the building official and police and fire departments for security, fire and safety related issues;

(9) The permit will be valid for a maximum period of ten consecutive days which time includes event set-up, take-down and cleanup;

(10) The city will review the permit application in conjunction with the city's special event regulations;

(11) Prior to the opening of the carnival, circus, tent revival or special event and upon expiration of the temporary permit and cessation of activities, the city building official and permittee shall walk the site to verify compliance with these special conditions.

(g) *Refreshment stands.* A temporary use permit for a refreshment stand may be issued by the city manager or designee, subject to compliance with the following conditions:

(1) A portable building may be used on a temporary basis as a refreshment stand for a period not to exceed six months on the same lot or parcel within any consecutive 12-month period, measured from the date of the issuance of the temporary permit;

(2) It shall be the responsibility of the applicant to comply with all provisions of this section;

(3) A deposit in a sum according to the fee schedule shall be required at the time the temporary permit for the refreshment stand is obtained to ensure the removal of the stand if the use is discontinued and the stand is not removed from the site within ten calendar days of the expiration or abandonment of the permit. The deposit will be refunded once the stand has been removed, prior to ten calendar days after the permit expires, and all other requirements have been met. Failure to timely remove the stand and otherwise comply with these requirements shall cause the deposit to be forfeited and deposited into the city's general fund;

(4) All other applicable permits relative to providing food service must be obtained and satisfy all applicable state and local regulations associated with food sanitation. Failure to so comply may render the permit null and void and require immediate cessation of food service;

(5) A refreshment stand and all appurtenances thereto, shall comply with all applicable requirements of the zoning district in which it is located. The facility shall not be required, however, to meet the landscaping, exterior masonry or underground utility requirements of the applicable zoning district;

(6) A refreshment stand may only be located on parking spaces of retail or commercial property, provided that such spaces are not necessary to meet the minimum parking requirements of the other uses on the lot or parcel;

(7) A refreshment stand in a portable building shall not be located within, nor encroach upon, a fire lane, maneuvering aisle, vehicle stacking space or required landscaping areas of the lot or parcel upon which the facility is placed. The location of such facility shall comply with all visibility obstruction regulations of the city;

(8) A site plan shall be submitted providing a well-delineated safety area to keep vehicles from entry into the stand and table area. The site plan shall be prepared to scale and reviewed and approved by the building official and the fire marshal;

(9) The refreshment stand shall be located on an approved concrete surface;

(10) The refreshment stand shall be no more than a maximum of eight feet by 12 feet in size;

(11) The refreshment stand shall obtain a health permit and meet all health requirements promulgated by Dallas or Ellis County (whichever is applicable) health regulations and the state department of health and as set forth in the city's regulations governing same. Failure to so comply shall render the permit null and void and require the immediate cessation of food services;

(12) Upon both the issuance and expiration of the temporary permit and cessation of activities, the city building official and permittee shall walk the site to verify compliance with these special conditions.

(Code 1996, ch. 14, exh. 14A, art. XVIII, § 1; Ord. No. O-03-09, 4-20-2009; Ord. No. O-06-21, 7-20-2021)

Secs. 74-509—74-539. Reserved.

ARTICLE XVII. ENFORCEMENT AND REVIEW

Sec. 74-540. Effect of interpretation.

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity or to annul any easements, covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon this use of buildings or premises or upon height of buildings, or requires larger open spaces than are imposed or required by agreements, the provisions of this chapter shall govern. This chapter is also not intended to abrogate or annul any lawfully obtained permit issued prior to the effective date of the ordinance from which this chapter is derived.

(Code 1996, ch. 14, exh. 14A, art. XX, § 1)

Sec. 74-541. Preserving rights in pending litigation and violations under existing ordinances.

By the passage of the ordinance from which this chapter is derived, no presently illegal use shall be deemed to have been legalized unless such use specifically falls within a use district where the actual use is a conforming use. Otherwise, such uses shall remain nonconforming uses where recognized, or an illegal use, as the case may be. It is further the intent and declared purpose of this chapter that no offense committed, and no liability, penalty or forfeiture, either civil or criminal, incurred prior to the time the chapter previous to this chapter was repealed and this ordinance from which this chapter is derived was adopted, shall be discharged or affected by such repeal and adoption; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures may be instituted or causes presently pending proceeded with in all respects as if such prior chapter had not been repealed.

(Code 1996, ch. 14, exh. 14A, art. XX, § 2)

Sec. 74-542. Complaints regarding violations; parties liable; procedures upon discovery of violations.

(a) *Complaints regarding violations.* When the city manager receives a written, signed complaint alleging a violation of this chapter, the city manager shall investigate the complaint, take whatever action is warranted, and inform the complainant in writing what actions have been or will be taken.

(b) *Parties liable.* The owner, tenant, or occupant of any building or land or part thereof and any architect, building contractor, agent, or other person who participated in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this chapter, or has care, custody or control of the building, land or part thereof may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.

(c) *Procedures upon discovery of violations.*

(1) If the city manager finds that any provision of this chapter is being violated, the city manager shall send a written notice to the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. Additional written notices may be sent at the city manager's discretion;

(2) The final written notice (an initial written notice may be the final notice) shall state what action the city intends to take if the violation is not corrected and shall advise that the city manager's decision or order may be appealed to the board of adjustment in accordance with section 74-137 if a zoning matter, or the city planning and zoning commission if a platting matter;

(3) Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this chapter or pose a danger to the public health, safety, or welfare, the city manager may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in section 74-543.

(Code 1996, ch. 14, exh. 14A, art. XX, § 3)

Sec. 74-543. Penalties and remedies for violations.

(a) Any person, firm, or corporation who shall intentionally or knowingly violate any of the provisions of this chapter, or who shall fail to comply with any requirement or provision hereof within the territorial limits of the city, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine not to exceed $2,000.00, and every day that such violation continues shall constitute a separate offense and shall be punishable accordingly. In addition to the penalty provided for, the right is conferred and extended upon any property owner owning property in any district, where such property owner may be affected or invaded, by a violation of the terms of this chapter, to bring suit in such court having jurisdiction thereof and obtain such remedies as may be available at law and equity in the protection of the rights of such property owners.

(b) Any violation of this Code which occurs outside the territorial limits of the city and within the ETJ of the city shall not constitute a misdemeanor under this chapter; however, under this Code, the city shall have the right to institute an action in the district court to enjoin the violation of any provision of such Code in such extraterritorial jurisdiction, and the district court shall have the power to grant any or all types of injunctive relief in such cases.

(c) Notwithstanding the potential criminal penalties outlined herein, nothing herein shall prevent or preclude the city from taking all appropriate legal actions and seeking such legal redress as permitted by law, including civil, administrative, and injunctive relief.
(Code 1996, ch. 14, exh. 14A, art. XX, § 4)

Appendix A

FEE SCHEDULE*

Article A1.000. General Provisions

Sec. A1.001. City manager authority to amend fee schedule.

Article A2.000. Planning Department

Sec. A2.001. Planning department.

Article A3.000. Building Inspection Department

Sec. A3.001. General fees.
Sec. A3.002. Building permit fee schedule.
Sec. A3.003. Rental registration and inspection fees.

Article A4.000. Food Service Fees

Sec. A4.001. Food service fees.
Sec. A4.002. Food service inspection fees.
Sec. A4.003. Food service definitions.

Article A5.000. Utilities

Sec. A5.001. Water rates and charges.
Sec. A5.002. Wastewater rates and charges.
Sec. A5.003. Irrigation rates and charges.
Sec. A5.004. Utility billing.
Sec. A5.005. Tap fees.
Sec. A5.006. Backflow device inspection.
Sec. A5.007. Solid waste collection.
Sec. A5.008. Smart water meter fees.
Sec. A5.009. Water well drilling permit fee.
Sec. A5.010. Appeals application fee.

Article A6.000. Code Enforcement

Sec. A6.001. Code enforcement.

Article A7.000. Coin-Operated Machines

Sec. A7.001. Coin-operated machines.

***Editor's note—**Printed herein is the schedule of fees, rates, and charges for the city services indicated as established by the city council and amended from time to time as the council deems necessary and appropriate.

Article A8.000. Animal Control

Sec. A8.001. Animal control.

Article A9.000. City Secretary

Sec. A9.001. Business-related fees.

Article A10.000. Miscellaneous Fees

Sec. A10.001. Credit card service charge and returned check fee.
Sec. A10.002. Garage sales.

Article A11.000. Municipal Court

Sec. A11.001. Warrant fee.
Sec. A11.002. Appeals; transcript preparation fee.

Article A12.000. Parks and Recreation

Sec. A12.001. Parks and recreation.
Sec. A12.002. Supplement fees established; citywide park fee and a neighborhood park fee.

Article A13.000. Police Department

Sec. A13.001. Police department.

Article A14.000. Fire Department

Sec. A14.001. Annual inspection fees.
Sec. A14.002. Ambulance service.
Sec. A14.003. Plan review and acceptance testing fees.
Sec. A14.004. EMS fees.
Sec. A14.005. Report fees.

Article A15.000. Businesses and Occupations

Sec. A15.001. Permit application fee.

Article A16.000. Gas and Well Drilling

Sec. A16.001. Gas well fees.

Article A17.000. Manufactured Homes

Sec. A17.001. Park license requirements; license, application and transfer fees.

Article A18.000. Offenses and Nuisances

Sec. A18.001. Permits for relief; processing permit application.

APPENDIX A—FEE SCHEDULE

Article A19.000. Signs and Advertising

Sec. A19.001. Temporary signs; zoning change application.

Article A20.000. Stormwater Management and Control

Sec. A20.001. Administration procedure; permit review fees.

Article A21.000. Streets, Sidewalks, and Other Public Places

Sec. A21.001. City authorization required; construction permit application fee.

ARTICLE A1.000. GENERAL PROVISIONS

Sec. A1.001. City manager authority to amend fee schedule.

The city manager shall have authority to propose new fees and amendments to the following fee schedule as he or she deems appropriate or necessary. Said proposed or amended fees shall become effective after being placed on a city council meeting agenda and approved by the council.
(Ord. No. O-13-11, 9-19-2011; Ord. No. O-13-17, 9-12-2017; Ord. No. O-14-17, 9-12-2017; Ord. No. O-12-23, 10-3-2023)

ARTICLE A2.000. PLANNING DEPARTMENT

Sec. A2.001. Planning department.

(a) Annexation: $750.00

(b) Zoning Change:

(1) $1,000.00: (1—10 acres).

(2) $1,500.00: (11—29 acres).

(3) $1,500.00 + $15.00/acre: (30 + acres).

* A total of $2,800.00 is the maximum amount for zoning change under this subsection.

(c) Special Use Permit (SUP): $750.00 + $10/Acre

(d) Planned Development (PD): $1,500.00, plus $10.00/acre, plus actual cost of third-party review fee(s).

(e) Temporary Use Permit or Renewal: $500.00 and $250.00 for Renewal

(f) Zoning Verification Letter: $60.00.

(g) Appeal/Variance: $600.00

(h) Site Plan Review: $350.00 + $20.00/acre, plus actual cost of third-party review fee(s).

(i) In-house Plan Review: $120.00 hourly.

(j) Plan Review by Third Party: Actual cost.

(k) County Recording Fee: Actual Cost.

* All acreage will be rounded to the nearest whole acre.

(l) Platting (fees below do not include recordation fee or third-party review cost):

(1) Preliminary Plat: $400.00 + $25.00/Lot

(2) Final Plat: $325.00 + $50.00/Lot

(3) Replat/Amending/Vacating Plat: $575.00 + $35.00/acre.

(4) In-house Plat Review: $120.00 hourly.

(5) Plat Review by Third Party: Actual cost.

(6) Refiling: Expiration of a final plat caused by failure to construct a s soc i a t ed public improvements will require the applicant to begin platting process again, including payment of above noted fees.

(m) Preapplication meeting fee: Free.

(Ord. No. O-13-11, 9-19-2011; Ord. No. O-13-17, 9-12-2017; Ord. No. O-14-17, 9-12-2017; Ord. No. O-14-22, 11-22-2022; Ord. No. O-12-23, 10-3-2023; Ord. No. O-19-25, exh. A(A2.001), 10-21-2025)

ARTICLE A3.000. BUILDING INSPECTION DEPARTMENT

Sec. A3.001. General fees.

(a) General Contractor/License Registration: $100.00 annually. (Does not apply to mechanical, electrical and plumbing contractors.)

(b) Impact Fee and Park Fee: Per current impact fee and parkland dedication ordinance.

(c) Building Permit: See section A3.002.

(d) Electrical: $150.00 for Residential and $250.00 for Commercial

(e) Plumbing: $150.00 for Residential and $250.00 for Commercial

(f) Mechanical: $150.00 for Residential and $250.00 for Commercial

(g) Remodel, Move, Demolition:

(1) Building addition: $0.72/SF under the roof, plus plan review fee.

(2) Remodel/alteration: $150.00, plus plan review fee.

(h) Minor Building Repair: $150.00 For Residential and $250.00 for Commercial (No Structural or MEP included.)

(i) Demolition: $250.00 for Residential and $350.00 for Commercial

(j) Reinspection Fees (for any/all inspections):

(1) Initial Inspection: $0.00 (included in permit fee).

(2) First Reinspection: $75 for Residential and $125.00 for Commercial

(3) Second Reinspection: $75 for Residential and $125.00 for Commercial

(4) Third and Each Subsequent Reinspection: $100 for Residential and $150.00 for Commercial

(k) After Hours Inspection: $100.00 hour (minimum 2 hours including travel time). Subject to availability.

(l) Engineering and Plan Review:

(1) Third Party: Actual cost.

(2) In-house: $120.00 hourly.

(m) Energy Code Review and Inspection: Actual cost of third-party inspection.

(n) Miscellaneous Fees:

(1) Commercial Certificate of Occupancy (C/O): $250.00

(2) Permit Fee Not Specified: $150.00 for Residential and $250.00 for Commercial + number of inspections needed × $75.00.

(3) Grading: $100.00.

(4) Subdivision Mass Grading: $750.00 + $10.00/Acre

(o) Infrastructure Inspection Fee:

(1) Infrastructure Plan Review Fee: Actual cost of third-party review.

(2) Infrastructure Inspection Fee: Actual cost of third-party inspection.

(p) Concrete, Flatwork, Driveway: $150.00 Residential and $250.00 Commercial

(q) Roofing: $150.00 Residential and $250.00 Commercial

(r) Fence:

(1) Residential: $150.00

(2) Commercial: See section A3.002.

(3) Screening Wall (plus engineering review): See section A3.002.

(4) Retaining Wall (plus engineering review): See section A3.002.

(s) Moving Structure:

(1) Into City Limits (including Inspections): $500.00.

(2) Through City Limits (including Escort): $150.00 first hour, plus $100.00 each additional 30 minutes.

(3) Mileage: Current IRS rate.

(t) Accessory Structures:

(1) Shed, Free-Standing Carport, Barn, Pergola, Gazebo, Pavillion, Etc.: $150.00, plus Plan review fee, plus MEP.

(2) Detached structure (Residential): Detached garage, Carport Attached to Roofline, Awning or Patio Attached to Roofline, Accessory Dwelling Unit, Pool House, Guest House, etc.: $0.54/Squarefoot under the roof, plus plan review fee by 3rd party

(u) Pools and Spas:

(1) In-ground, Site-built Pool: $250.00, plus plan review fee.

(2) Above-ground Pool: $150.00 and trade permit (as needed). (Pools with height less than 36" does not require permit if no plumbing or electrical work is needed.)

(3) Site-built Spa: $250.00, plus plan review fee.

(v) HUD-code Manufactured Home - Move in and Setup: Flatwork + any trade permit (e.g. MEP). Will be permitted and inspected the same as a new single-family residence.

(w) Signs: Sign contractor must be registered. Requires any trade permits, plus actual cost of plan review fee by third party or, at city's option, permit fee in the amount of $150.00 permit fee or, as applicable, the following amount:

Type of Sign	*Definition and/or Ordinance Specifications*	*Fee*
New Development, New Project, Builder Directional, or New Subdivision Sign (Coming Soon)	On-premises identifying any new development (commercial, retail, office, mixed use, etc.) in the city shall not exceed six feet (6') in height and the sign face shall not exceed sixteen square feet (16 sq. ft.). Such development signs are allowed for up to one (1) year after the building permit has been issued or until the certificate of occupancy (C/O) is issued, whichever comes first. One (1) sign is permitted per project and should be set back at least twenty feet (20') from public right-of-way.	$175 for 1 year
Grand opening Sign	For grand openings; pennants, flags, streamers, searchlights, and one (1) banner not to exceed fifty square feet (50 sq. ft.) in area may be displayed one time for a maximum of thirty (30) days. All signs must be removed after the thirty-day period. Small balloons less than fourteen inches (14") in diameter (one or a cluster) are exempt from sign permit requirements and are permitted at the time of grand opening or national holidays. If another grand opening or advertising event is required for the same business then signs associated with such event including the event itself should be processed under special events permit as outlined under section 15.01.031(g) [66-39(g)].	$125 for 60 days

Type of Sign	*Definition and/or Ordinance Specifications*	*Fee*
Special Event Sign	No permit shall be required for special event banners that are associated with a special event that has obtained a special events permit from the city's planning and permitting division. The banner should contain a message directly relating to a special event provided, however, that such banners may be displayed no more than seven (7) days prior to the special event and must be removed within two (2) days after the conclusion of the special event. The size of the banner is limited to fifty square feet (50 sq. ft.) and at least one-half (½) of the banner shall contain a message relating to the special event. Such banners shall be located within the private property where such event is taking place and not within any public rights-of-way.	$0
Model Home Sign	Signs identifying model homes, model home centers, and sales office. Model home signs shall not exceed twenty square feet (24') [sic] in area and four feet (4') in height.	$175 for 6 months
Real-Estate Sign (Larger than 6 FT)	No permit shall be required for signs not exceeding six square feet (6 sq. ft.) in sign area and three feet (3') in height advertising the sale, lease or rental of real estate in residential zoning districts. For nonresidential and agricultural zoning districts, no permit shall be required for signs not exceeding thirty-six square feet (32 sq. ft.) [sic] in sign area and five feet (6') [sic] in heights advertising the sale, lease or rental of real estate. For agricultural and non-residential-zoned land, one (1) such sign shall be allowed per property, parcel or lot of record.	$75
Outdoor Displays or Miscellaneous Temporary Signs (portable, flags, pennants, banners, inflatables, etc.)	Not to exceed 60 days or become a nuisance to neighboring properties.	$100 for 60 days

Type of Sign	*Definition and/or Ordinance Specifications*	*Fee*
Flag Poles	Flags are permitted to include state, national, local, religious or institutional flag or emblem, in nonresidential zoning district classification within the city, provided the number of flagpoles does not exceed three (3) flagpoles per platted lot with a maximum height of the flagpole not to exceed twenty-five feet (25') and the maximum flag area does not exceed fifteen square feet (40 sq. ft.) [sic]. The state flag and all other assembled flags shall be arranged in accordance with the Texas constitution and flag etiquette rules. Governmental flags shall be maintained in good repair and shall be externally lit at night. Institutional or other uses allowed in residential zoning may have flags subject to the provisions of this section. Residential lots in a residential subdivision are allowed one (1) flagpole not to exceed twenty-five feet (25') in height and maximum flag area not to exceed thirty square feet (30 sq. ft.).	$150 per flagpole
Awning/Canopy Sign	An awning or canopy sign is only allowed in town center (TC) zoning districts and can be used as the primary sign in lieu of a wall sign	$150
Neon Light Sign	In nonresidential zoning districts one monument style neon sign per parcel is allowed in lieu of a regular monument sign (as defined in section 15.01.011 [66-2]). For parcels with more than one street frontage one such sign is allowed for each street frontage. Monument neon signs shall not exceed eight feet (8') (including the masonry base) in height, twelve feet (12') in width and the sign face area shall not exceed sixty square feet (60 sq. ft.) per sign face.	$150

Type of Sign	*Definition and/or Ordinance Specifications*	*Fee*
Monument Sign	Monument signs are not intended to have gaps, cutouts, or penetrations but instead should be a solid face or area without openings or cutouts. The sign face shall be designed with materials that harmonize with the architecture of the establishment it services. All monument signs shall have landscaping comprised of shrubbery and flowering plants, not exceeding three feet (3') in height near the base of the sign. Only one (1) monument sign per property along the street frontage shall be allowed. Monument signs shall be set back a minimum twelve feet (12') from any public right-of-way and shall not obstruct traffic visibility triangles. Monument signs shall be at least one hundred and twenty feet (120') apart. Monument signs shall be illuminated externally for visibility after dark.	$200
Wall Sign	Wall signs are allowed in every zoning district and shall be placed on the principal structure only, and may be internally and externally illuminated.	$200
Pole Sign	On-premise pole signs may be permitted on properties with at least 200 feet of continuous frontage along and adjacent to the I-35E corridor and shall be subject to the regulations of the Texas Highway Beautification Act-Outdoor Advertising Signs and this code. Off-premise pole signs are prohibited. Only one pole sign may be permitted for each 200 feet of roadway frontage along the I-35E corridor. Pole signs shall not exceed fifty (50) feet in height, shall not be attached to or supported by any part of a building, and shall not be configured such that the sign is located between 2 and 10 feet above average grade where located within 15 feet of an adjacent roadway. The overall surface area of each face of the sign shall not exceed three hundred (300) square feet… ETC.	$150

Type of Sign	*Definition and/or Ordinance Specifications*	*Fee*
Pylon Sign	Masonry pylon signs are allowed only on nonresidential properties with a minimum of three hundred feet (300') continuous frontage along IH-35E frontage road or any other four (4) or more lane freeways or on F.M. 664 or Ovilla Road, except the height for such signs on F.M. 664 shall not exceed thirty-five feet (35'). Masonry pylon signs are large signs with two masonry columns supporting a sign face that is surrounded by minimum two feet (2') wide masonry border and a minimum three feet (3') high decorative cap on top. Two and a half feet (2.5') high masonry planter with landscaping should surround the base of the pylon sign. For multitenant premises the sign face area shall not exceed four hundred and fifty square feet (450 sq. ft.) and for single-tenant premises the sign face area shall not exceed three hundred square feet (300 sq. ft.). Maximum height of masonry pylon sign shall not exceed fifty feet (50') above the adjacent pavement level. Masonry pylon signs shall be set back at least two hundred feet (200') from public right-of-way. Section 15.01.091(e) [66-93(e)] shows an example of a similar sign in the city.	$150
Sign Repair		$100

(x) Annual donation box permit: $50

(y) Solar permit: $175

*All permit fees double if construction or work is performed without the required permit. (Ord. No. O-13-11, 9-19-2011; Ord. No. O-13-17, 9-12-2017; Ord. No. O-14-17, 9-12-2017; Ord. No. O-12-23, 10-3-2023; Ord. No. O-19-25, exh. A(A3.001), 10-21-2025)

Sec. A3.002. Building permit fee schedule.

(a) Building permit fee for other than residential one- and two-family new construction, additions, alterations and remodels shall be as set forth in table 1-A in this section.

(b) Building permit fee for residential one- and two-family new construction is $0.72 Per Square foot under the roof area.

(c) Plan review fees:

(1) When submittal documents are required by IBC section 107 or IRC section R106, a plan review fee shall be paid at the time of submitting the submittal documents for plan review. Said plan review fee shall be 65-percent of the building permit fee as shown in table 1-A or, as applicable, table 2-A.

(2) The plan review fees specified in this section are separate fees from the permit fees and are in addition to the building permit fees.

(d) Building permit valuation: For other than residential new construction, additions, alterations, remodels, repairs and other improvements, the building official may require the applicant to provide satisfactory verification of the declared value.

Table 1-A. Building Permit Fees for Other than Residential One- and Two-Family New Construction, Additions, Alterations, Remodels, Repairs and Other Improvements

Valuation	*Fee*
$1.00 to $10,000.00	$150.00
$10,001.00 to $25,000.00	150.00 for the first $10,000.00, plus $17.00 for each additional $1,000.00, or fraction thereof, to and including $25,000.00
$25,001.00 to $50,000.00	$391.25 for the first $25,000.00, plus $13 for each additional $1,000.00, or fraction thereof, to and including $50,000.00
$50,001.00 to $100,000.00	$643.75 for the first $50,000.00, plus $9.50 for each additional $1,000.00, or fraction thereof, to and including $100,000.00
$100,001.00 to $500,000.00	$993.75 for the first $100,000.00, plus $7.00 for each additional $1,000.00, or fraction thereof, to and including $500,000.00
$500,001.00 to $1,000,000.00	$3,233.75 for the first $500,000.00, plus $5.55 for each additional $1,000.00, or fraction thereof, to and including $1,000,000.00
$1,000,001.00 and up	$5,608.75 for the first $1,000,000.00, plus $4.00 for each additional $1,000.00, or fraction thereof

(e) Other Inspections and Fees (hourly charge).

(1) Inspections outside of normal business hours: $100.00 per hour* (minimum charge - two hours). Subject to availability.

(2) Reinspection fees assessed under provisions of section 1.01.009 [sic]: $75.00 per hour.*

(3) Inspections for which no fee is specifically indicated: $50.00 per hour* (minimum charge - one-half hour).

(4) Additional plan review required by changes, additions or revisions to plans: $120.00 per hour* (minimum charge - one-half hour).

(5) For use of outside consultants for plan checking and inspections, or both: Actual costs.**

* Or the total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of the employees involved.

** Actual costs include administrative and overhead costs.
(Ord. No. O-05-19, 10-1-2019; Ord. No. O-12-23, 10-3-2023; Ord. No. O-19-25, exh. A(A3.002), 10-21-2025)

Sec. A3.003. Rental registration and inspection fees.

(a) Residential Rental Registration Fees:

(1) Registration Fee (per Rental Dwelling Unit): $150.00 (Includes one-time inspection)

(b) Residential Property Inspection Fees:

(1) Single-Family and Two-Family Rental Units: $100.00 ($50.00 each additional inspection.)

(2) Multifamily Rental Units containing 3—25 Dwelling Units: $100.00 ($50.00 each additional inspection.)

(3) Multifamily Rental Units Containing 26—100 Dwelling Units: $90.00 Base Fee + a Multi-Unit Fee of $12.50 × (total number of rental units multiplied by $0.30).

(4) Multifamily Rental Units containing 101+ Dwelling Units: $115.00 Base Fee + a Multi-Unit Fee of $12.50 × (total number of rental units multiplied by $0.30).

(5) Reinspection Fee: $75.00.
(Ord. No. O-04-16, 3-1-2016; Ord. No. O-12-23, 10-3-2023; Ord. No. O-19-25, exh. A(A3.003), 10-21-2025)

ARTICLE A4.000. FOOD SERVICE FEES

Sec. A4.001. Food service fees.

Business Type, Definitions, and Ordinance Specifications		*Fees*	
Food Service Establishment:	*Includes:*	*Initial Applications, Change of Ownership, and Renewals by Gross Annual Volume of Food Sales*	
An operation that	• Extended Bed & Breakfast	$0—$49,999.99	$258

<table>
<tr><th colspan="2">Business Type, Definitions, and Ordinance Specifications</th><th colspan="2">Fees</th></tr>
<tr><td rowspan="15">(A) stores, prepares, packages, serves, or vends food directly to the consumer, sells individual portions of food to consumers or otherwise provides food for human consumption;

(B) relinquishes possession of food to a consumer directly, or indirectly through a delivery service, such as home delivery of grocery orders or restaurant takeout orders, or delivery service provided by common carriers.

See examples in the next column.</td><td>• Restaurant</td><td>$50,000—$149,999.99</td><td>$515</td></tr>
<tr><td>• Retail Food Store</td><td>$150,000.00+</td><td>$773</td></tr>
<tr><td>• Bar</td><td colspan="2">Amendments by Gross Annual Volume of Food Sales</td></tr>
<tr><td>• Café</td><td>$0.00—$49,999.99</td><td>$125</td></tr>
<tr><td>• Caterer that provides Food Directly to Consumers or to a Conveyance Used to Transport People</td><td>$50,000—$149,999.99</td><td>$250</td></tr>
<tr><td>• Commercial Catering Operation</td><td rowspan="14">$150,000.00+</td><td rowspan="14">$375</td></tr>
<tr><td>• Market</td></tr>
<tr><td>• Vending Machine</td></tr>
<tr><td>• Location</td></tr>
<tr><td>• Self-Service Food Market</td></tr>
<tr><td>• Conveyance Used To Transport People</td></tr>
<tr><td>• Institution</td></tr>
<tr><td>• Food Bank</td></tr>
<tr><td>• Snack Bar</td></tr>
<tr><td>• Snow Cone Facility</td></tr>
<tr><td>• Hospital that Serves Food to the General Public</td></tr>
<tr><td>• Correctional Facility (Jail) that Contracts With Professional Food Management</td></tr>
<tr><td>• Corporations for Food Preparation</td></tr>
<tr><td>• Privately-Owned Correctional Facilities.</td></tr>
<tr><td>• Etc.</td></tr>
<tr><td colspan="4">Note, a Food Service Establishment does not include: an establishment that offers only prepackaged foods that are not TCS foods; a produce stand that only offers whole, uncut fresh fruits and vegetables; a food processing plant, including one that is located on the premises of a food establishment; a cottage food production operation; a limited bed and breakfast; or a private home that receives catered or home-delivered food.</td></tr>
<tr><td rowspan="2">Roadside Food Vendors, Mobile Food Unit (MFU) or Food Truck:</td><td rowspan="2">Includes: Catering Trucks, Trailers, Push Carts</td><td>Initial Applications, Renewals, and Change of Ownership</td><td>$258 per Unit</td></tr>
<tr><td>Amendments</td><td>$125 per Unit</td></tr>
<tr><td colspan="2" rowspan="2">School Food Establishment:</td><td>Initial Applications, Renewals, and Change of Ownership</td><td>$258 per Unit</td></tr>
<tr><td>Amendments</td><td>$125 per Unit</td></tr>
<tr><td colspan="2">Temporary Food Establishment, Single-Event:</td><td colspan="2">$52 per Event, Limited to 14 Consecutive Days</td></tr>
<tr><td colspan="2">Temporary Food Establishment, Multiple Events:</td><td colspan="2">$200 for 2 Years, Each Event, Limited to 14 Consecutive Days</td></tr>
</table>

(a) All cottage food products must be prepared in a primary residence kitchen using standard household appliances. Operators are required to provide labeling information to consumers before accepting payment and must ensure that all labels include:

(1) the operator's name and address or DSHS registration number,

(2) the common name of the product,

(3) allergen information, and

(4) the statement: "This food is made in a home kitchen and is not inspected by the Department of State Health Services or a local health department."

Additional requirements apply to online and mail-order sales, canned or fermented goods, and frozen produce. If selling TCS foods, DSHS registration is mandated to obtain a permit from the state, not the city. State rules must be followed in full, even if not expressly stated in this ordinance.

These fees do not include state-required health inspections. No annual, temporary, or seasonal permit will be issued without a valid and current health inspection report, certificate, and state issued permit (applicable).
(Ord. No. O-13-11, 9-19-2011; Ord. No. O-12-23, 10-3-2023; Ord. No. O-19-25, exh. A(A4.001), 10-21-2025)

Sec. A4.002. Food service inspection fees.

(a) Annual fee covering two yearly inspections: $210.00.

(b) Subsequent inspections in calendar year: $105.00.

(c) Reinspections shall not occur within 60 days unless there is a serious health risk or immediate need for corrective action.

(d) Subject to the Fire Inspection Fees listed in A14.001.
(Ord. No. O-11-23, 9-19-2023; Ord. No. O-19-25, exh. A(A4.002), 10-21-2025)

Sec. A4.003. Food service definitions.

(a) Time and Temperature Control for Safety Food (TCS Food): A food that requires time and temperature control for safety to limit pathogen growth or toxin production. The term includes a food that must be held under proper temperature controls, such as refrigeration, to prevent the growth of bacteria that may cause human illness. TCS food may include a food that contains protein and moisture and is neutral or slightly acidic, such as meat, poultry, fish, and shellfish products, pasteurized and unpasteurized milk and dairy products, raw seed sprouts, baked goods that require refrigeration, including cream or custard pies or cakes, and ice products. The term does not include a food that uses TCS food as ingredients if the final food product does not require time or temperature control for safety to limit pathogen growth or toxin production.

(b) Bed & Breakfast, Extended: A lodging facility that either

(1) offers more than seven rooms for rent, or

(2) provides food service beyond breakfast to overnight guests, or

(3) serves food to customers who are not overnight guests. This includes any bed and breakfast that operates with expanded lodging capacity or food service beyond the traditional scope.

(c) Bed & Breakfast, Limited: An establishment that has seven or fewer rooms for rent, only serves a breakfast meal to overnight guests.

(d) Catering Operation: Serves food directly to consumers or via transit, including delivery.

(e) Commercial Catering Operation: Serves food directly to consumers or via transit, including delivery.

(f) Cottage Food Production Operation or Home Kitchen: Home-based business producing non-TCS food with less than $150,000 in income. Includes a baked good that is not a time and temperature control for safety food (TCS food), candy, coated and uncoated nuts, unroasted nut butters, fruit butters, a canned jam or jelly, a fruit pie, dehydrated fruit or vegetables, including dried beans, popcorn and popcorn snacks, cereal, including granola, dry mix, vinegar, pickled fruit or vegetables, including beets and carrots, that are preserved in vinegar, brine, or a similar solution at an equilibrium pH value of 4.6 or less, mustard, roasted coffee or dry tea, a dried herb or dried herb mix, plant-based acidified canned goods, fermented vegetable products, including products that are refrigerated to preserve quality, and any other food that is not a TCS food. Not required to be permitted per Texas DSHS unless selling and/or preparing TCS foods.

(1) Does NOT include: meat, meat products, poultry, or poultry products, seafood, including seafood products, fish, fish products, shellfish, and shellfish products, ice or ice products, including shaved ice, ice cream, frozen custard, popsicles, and gelato, low-acid canned goods, products containing cannabidiol or tetrahydrocannabinol, or raw milk and raw milk products, or other TCS foods.

(g) Food Bank: Nonprofit or public entity providing food to those in need.

(h) Food Processing Plant: Facility manufacturing food for distribution—not retail-facing. Not classified as food establishment under DSHS.

(i) Mobile Food Unit (MFU) or Food Truck: A vehicle-mounted, self or otherwise propelled, self-contained food service operation designed to be readily movable (including catering trucks, trailers, push carts, and roadside vendors) and used to store, prepare, display, serve or sell food. An MFU must completely retain its mobility at all times. An MFU does not include a stand or a booth. A roadside food vendor is classified as an MFU.

(j) Produce Stand (Whole, Uncut): Stand offering only whole, uncut fresh fruits and vegetables. Does not include TCS foods. If TCS foods are prepared or sold, refer to the definition and fee for MFU.

(k) Restaurant: Operation that stores, prepares, packages, serves, or vends food to consumers.

(l) Retail Food Store: Section of an establishment offering food products for off-premises consumption, requires permit if handling TCS food.

(m) Roadside Food Vendor: A person who operates a mobile retail food store from a temporary location adjacent to a public road or highway. Food is not prepared or processed by a roadside food vendor. A roadside food vendor is classified as an MFU.

(n) School Food Establishment: Food prep site on school grounds, includes school event vendors. Permitted as food establishment under school operations.

(o) Temporary Food Establishment, Single-Event: Temporary vendor operating from one individual food both or unit, limited to a single event for no more than 14 days.

(p) Temporary Food Establishment, Multiple Events: Temporary vendor operating from one individual food both or unit, limited to no more than 14 days per event. Valid for 2 years.

(q) Vending Machine Location: The room, enclosure, space, or area where one or more vending machines are installed and operated and that includes the storage areas and areas on the premises that are used to service and maintain the vending machines. This does not include self-service food markets. Facility itself may be regulated if not exempt. Exemption may be given if selling room-temperature, pre-packaged foods only.
(Ord. No. O-19-25, exh. A(A4.003), 10-21-2025)

ARTICLE A5.000. UTILITIES

Sec. A5.001. Water rates and charges.

The monthly water rates to be charged and collected by the city from all customers within the city limits and in the city's Certificate of Convenience and Necessity (CCN) obtaining city services for water shall be hereby fixed as follows:

	FY 2024	*FY 2025*	*FY 2026*
Residential Inside			
Minimum Charge			
¾" or less	$20.83	$23.02	$25.44
1"	$52.08	$57.56	$63.61
1.5"	$104.16	$115.11	$127.21
2"	$166.65	$184.17	$203.53
3"	$312.48	$345.33	$381.63
4"	$520.75	$575.50	$636.00

	FY 2024	*FY 2025*	*FY 2026*
Volumetric Charge			
0—5,000	$2.24	$2.24	$2.24
5,001—15,000	$3.36	$3.36	$3.36
15,001+	$5.04	$5.04	$5.04
Residential Outside			
Minimum Charge			
¾" or less	$28.40	$31.38	$34.67
1"	$70.99	$78.44	$86.66
1.5"	$141.99	$156.89	$173.34
2"	$227.17	$251.01	$277.33
3"	$425.93	$470.62	$519.96
4"	$710.00	$784.50	$866.75
Volumetric Charge			
0—5,000	$3.15	$3.15	$3.15
5,001—15,000	$4.73	$4.73	$4.73
15,001+	$7.10	$7.10	$7.10
Commercial Inside			
Minimum Charge			
¾" or less	$20.83	$23.02	$25.44
1"	$52.08	$57.56	$63.61
1.5"	$104.16	$115.11	$127.21
2"	$166.65	$184.17	$203.53
3"	$312.48	$345.33	$381.63
4"	$520.75	$575.50	$636.00
Volumetric Charge			
0—5,000	$2.24	$2.24	$2.24
5,001—15,000	$3.36	$3.36	$3.36
15,001+	$5.04	$5.04	$5.04
Commercial Outside			
Minimum Charge			
¾" or less	$28.40	$31.38	$34.67
1"	$70.99	$78.44	$86.66
1.5"	$141.99	$156.89	$173.34
2"	$227.17	$251.01	$277.33
3"	$425.93	$470.62	$519.96
4"	$710.00	$784.50	$866.75
Volumetric Charge			
0—5,000	$3.15	$3.15	$3.15
5,001—15,000	$4.73	$4.73	$4.73
15,001+	$7.10	$7.10	$7.10

	FY 2024	*FY 2025*	*FY 2026*
RV Park			
Minimum Charge			
¾" or less	$20.83	$23.02	$25.44
1"	$52.08	$57.56	$63.61
1.5"	$104.16	$115.11	$127.21
2"	$166.65	$184.17	$203.53
3"	$312.48	$345.33	$381.63
4"	$520.75	$575.50	$636.00
Volumetric Charge			
0—5,000	$2.24	$2.24	$2.24
5,001—15,000	$3.36	$3.36	$3.36
15,001+	$5.04	$5.04	$5.04
City Water			
Minimum Charge			
¾" or less	$ —	$ —	$ —
1"	$ —	$ —	$ —
1.5"	$ —	$ —	$ —
2"	$ —	$ —	$ —
3"	$ —	$ —	$ —
4"	$ —	$ —	$ —
Volumetric Charge			
All	$ —	$ —	$ —
Residential Irrigation			
Minimum Charge			
¾" or less	$10.42	$11.51	$12.72
1"	$26.02	$28.74	$31.76
1.5"	$52.07	$57.52	$63.57
2"	$83.29	$92.00	$101.67
3"	$156.19	$172.53	$190.67
4"	$260.50	$287.75	$318.00
Volumetric Charge			
0—5,000	$3.67	$3.67	$3.67
5,001—15,000	$5.51	$5.51	$5.51
15,001+	$8.27	$8.27	$8.27
Commercial Irrigation			
Minimum Charge			
¾" or less	$10.42	$11.51	$12.72
1"	$26.02	$28.74	$31.76
1.5"	$52.07	$57.52	$63.57
2"	$83.29	$92.00	$101.67
3"	$156.19	$172.53	$190.67

	FY 2024	*FY 2025*	*FY 2026*
4"	$260.50	$287.75	$318.00
Volumetric Charge			
0—5,000	$3.67	$3.67	$3.67
5,001—15,000	$5.51	$5.51	$5.51
15,001+	$8.27	$8.27	$8.27
City Irrigation			
Minimum Charge			
¾" or less	$ —	$ —	$ —
1"	$ —	$ —	$ —
1.5"	$ —	$ —	$ —
2"	$ —	$ —	$ —
3"	$ —	$ —	$ —
4"	$ —	$ —	$ —
Volumetric Charge			
All	$ —	$ —	$ —

(Ord. No. O-15-21, 11-16-2021; Ord. No. O-02-23, 5-2-2023; Ord. No. O-12-23, 10-3-2023)

Sec. A5.002. Wastewater rates and charges.

The monthly wastewater rates to be charged and collected by the city from all customers within the city limits or in the city's certificate of convenience and necessity (CCN) obtaining city services for wastewater shall be hereby fixed as follows:

	FY 2024	*FY 2025*	*FY 2026*
Residential Inside			
Minimum Charge			
¾" or less	$39.06	$45.31	$52.56
1"	$97.63	$113.25	$131.37
1.5"	$195.27	$226.52	$262.77
2"	$312.43	$362.42	$420.41
3"	$585.81	$679.55	$788.28
4"	$976.50	$1,132.75	$1,314.00
Volumetric Charge			
All	$7.24	$8.40	$9.74
Commercial Inside			
Minimum Charge			
¾" or less	$39.06	$45.31	$52.56
1"	$97.63	$113.25	$131.37
1.5"	$195.27	$226.52	$262.77
2"	$312.43	$362.42	$420.41
3"	$585.81	$679.55	$788.28
4"	$976.50	$1,132.75	$1,314.00

	FY 2024	*FY 2025*	*FY 2026*
Volumetric Charge			
All	$7.24	$8.40	$9.74
Outside			
Minimum Charge			
¾" or less	$44.92	$52.11	$60.45
1"	$112.28	$130.25	$151.10
1.5"	$224.55	$260.49	$302.18
2"	$359.29	$416.80	$483.51
3"	$673.65	$781.48	$906.55
4"	$1,122.63	$1,302.32	$1,510.75
Volumetric Charge			
All	$8.32	$9.65	$11.19
RV Park			
Minimum Charge			
¾" or less	$ —	$ —	$ —
1"	$ —	$ —	$ —
1.5"	$ —	$ —	$ —
2"	$227.31	$263.68	$305.87
3"	$ —	$ —	$ —
4"	$ —	$ —	$ —
Volumetric Charge			
All	$5.27	$6.11	$7.09
2 Mtr			
Minimum Charge			
¾" or less	$39.06	$45.31	$52.56
1"	$97.63	$113.25	$131.37
1.5"	$195.27	$226.52	$262.77
2"	$312.43	$362.42	$420.41
3"	$585.81	$679.55	$788.28
4"	$976.50	$1,132.75	$1,314.00
Volumetric Charge			
All	$7.24	$8.40	$9.74
City			
Minimum Charge			
Base	$ —	$ —	$ —
Volumetric Charge			
All	$ —	$ —	$ —

(Ord. No. O-20-10, 9-7-2010; Ord. No. O-12-23, 10-3-2023)

Sec. A5.003. Irrigation rates and charges.

The monthly irrigation rates to be charged and collected by the city from all customers obtaining city services for irrigation water shall be hereby fixed as follows:

Meter Charge	
¾ inch	$6.31
1 inch	$15.76
1-½ inch	$31.53
2 inch	$50.44
3 inch	$94.58
4 inch	$157.75
Volumetric Charge per 1,000 Gallons	
0—6,000	$3.67
6,001—12,000	$4.59
12,001—18,000	$5.74
18,001 and over	$7.17

(Ord. No. O-20-10, 9-7-2020; Ord. No. O-12-23, 10-3-2023)

Sec. A5.004. Utility billing.

(a) Utility deposit:

(1) Homeowner: $100.00.

(2) Renter: $150.00.

(3) Clean up deposit, one week (7 calendar days): $30.00.

(4) Clean up deposit, two weeks (14 calendar days): $60.00.

(b) Late fee: $25.00 or 15% of total due, whichever is greater.

(c) Reconnection for nonpayment: $35.00.

(d) Meter pull: $150.00.

(e) Meter reset: $50.00.

(f) Irrigation meter removal (customer): $35.00.

(g) Irrigation meter reinstall (customer): $50.00.

(h) Irrigation meter lock-out (noncompliance): $50.00.

(i) Leak check: $35.00.

(j) Test meter: $35.00, plus cost of test.

(k) Re-read meter (after first re-read): $35.00.

(l) Temporary meter: $50.00 for processing and setting meter for up to 48 hours, plus water use.

(m) Transfer service: $35.00 for processing and field work.

* All monthly water, sewer and solid waste rates are adopted by separate city ordinance.
(Ord. No. O-13-11, 9-19-2011; Ord. No. O-14-22, 11-22-2022; Ord. No. O-12-23, 10-3-2023)

Sec. A5.005. Tap fees.

(a) As of October 3, 2023, the city generally will not conduct any water and sewer tap. General contractors desiring to perform a water and/or sewer tap must request inspection in advance. In specific cases, the director of public works may determine that a tap shall be performed by the city and in such case, the fees for these taps are as follows:

(1) Water tap fee:

⅝"—¾"	$900.00
1"	$975.00
1-¼"—1-½"	$1,100.00
2"	Actual cost, plus $500.00
Over 2	Actual cost, plus $600.00

* Installation means connection of meter where a service is existing.

(2) Sewer tap fee:

3"	$500.00
4"	$600.00
6" or larger	$700.00

* Additional costs may be added to the tap fee depending on construction required.

(b) Additional cost above tap fee:

(1) Street cuts and/or road bores: Actual cost, plus $100.00 admin.

(2) All taps exceeding 4' depth: Actual cost, plus $100.00 admin.

(Ord. No. O-13-11, 9-19-2011; Ord. No. O-12-23, 10-3-2023)

Sec. A5.006. Backflow device inspection.

Installation or replacement: $25.00.

(Ord. No. O-13-11, 9-19-2011; Ord. No. O-12-23, 10-3-2023)

Sec. A5.007. Solid waste collection.

Actual cost charged by third-party collection service, plus 10% per contract.

(Ord. No. O-13-11, 9-19-2011; Ord. No. O-12-23, 10-3-2023)

Sec. A5.008. Smart water meter fees.

The smart water meter fee shall be based upon the size and type of the smart water meter as follows:

Size	*Type*	*Price*
¾" × ⅝"	ALD	$363.00
¾" × ⅝"	AMI	$264.00
1" × 1"	ALD	$489.50

Size	*Type*	*Price*
1-½" × 1-½"	AMI	$737.00
2" × 2"	ALD	$1,072.50
3" × 3"	AMI	$2,420.00
4" × 4"	AMI	$3,520.00

(Ord. No. O-08-21, 8-3-2021; Ord. No. O-12-23, 10-3-2023; Ord. No. O-02-24, § 1, 2-27-2024)

Sec. A5.009. Water well drilling permit fee.

A city-issued permit is required prior to the drilling and installation of water wells within the territorial limits of the city or its extraterritorial jurisdiction. A permit fee of $100.00 is established to administer and inspect the installation of water wells within the territorial limits of the city or its extraterritorial jurisdiction.
(Code 1996, §§ 13.11.001—13.11.004; Ord. No. O-17-08, 6-16-2008)

Sec. A5.010. Appeals application fee.

If an owner or a person legally authorized to represent a nonresidential property owner wishes to appeal a municipal drainage system fee amount, they may do so by filing a notice of appeal with the city engineer and paying a $100.00 application fee. An appeal can be filed by completing a form that describes the basis for the claimant appealing the data, including the provision of independent engineering reports supporting a more accurate area calculation. The information submitted to the city must be complete in order to conduct an evaluation of the appeal. A response will be provided within ten days of the receipt of the completed appeal form and supporting material. Any utility billing adjustments made after adoption of this article shall be applied only to the next billing cycle following a decision made by the city.
(Code 1996, § 13.12.007; Ord. No. O-08-09, § 8, 9-21-2009)

ARTICLE A6.000. CODE ENFORCEMENT

Sec. A6.001. Code enforcement.

(a) Code violation abatement admin. fee: $250.00.

(b) Code violation abatement: Actual costs.

(c) Substandard/dangerous structure: 20% of value of property but not less than $250.00.

* Delinquency in payment of these costs and fees shall result in addition of interest at the rate of 10% and filing a lien against the property. Also, the city reserves the right to take appropriate steps to foreclose on the lien as provided by law.

(d) Peddler/solicitor: $25.00 per solicitor per occurrence.
(Ord. No. O-13-11, 9-19-2011; Ord. No. O-02-16, 1-11-2016; Ord. No. O-14-22, 11-22-2022; Ord. No. O-12-23, 10-3-2023)

ARTICLE A7.000. COIN-OPERATED MACHINES

Sec. A7.001. Coin-operated machines.

(a) Coin-operated machine operator (annually): $250.00.

(b) Machines each (annually): $15.00.

(Ord. No. O-13-11, 9-19-2011; Ord. No. O-02-16, 1-11-2016; Ord. No. O-12-23, 10-3-2023)

ARTICLE A8.000. ANIMAL CONTROL

Sec. A8.001. Animal control.

(a) Animal registration fee:

(1) Spayed or neutered animal: $10.00.

(2) Intact animal: $50.00.

(b) Dangerous dog registration fee: $200.00.

(c) Owner surrender fee:

(1) Adult animal: $50.00.

(2) Litter (under 12 weeks with mother): $10.00, plus $50.00 for mother.

(3) Litter without mother: $50.00.

(d) Impounded domestic animal:

(1) First impound within one year: $40.00.

(2) Second impound within one year: $50.00.

(3) Third impound within one year: $75.00.

(4) Fourth impound within one year: $85.00.

(5) Additional impound within one year: $100.00.

(e) Daily boarding charge:

(1) Not quarantined: $15.00 or cost, plus 20%, whichever is greater.

(2) Quarantined: $20.00 or cost, plus 20%, whichever is greater.

(f) Impounded livestock: $35.00, plus boarding of third party.

* Boarding will be handled and paid directly by the third party. Owner will still owe the city impound fee.

(g) Identification tag: $10.00.

(h) Wild or exotic animal permit: $200.00.

(i) Pickup and disposal of dead animal: $50.00.

(j) Residential breeder/foster license: $35.00.

(k) Euthanasia, shipping and testing sample: $110.00.

(l) Rabies vaccination: N/A.

(Ord. No. O-13-11, 9-19-2011; Ord. No. O-02-16, 1-11-2016; Ord. No. O-14-22, 11-22-2022; Ord. No. O-12-23, 10-3-2023)

ARTICLE A9.000. CITY SECRETARY

Sec. A9.001. Business-related fees.

(a) Licensing inspection (Ord. O-04-09): $475.00.

(b) License renewal (Ord. O-04-09) (initial and renewal): ½ TABC licensing and renewal fee.

(c) Filing fee (county): Actual cost, plus $60.00 per hour.

(Ord. No. O-13-11, 9-19-2011; Ord. No. O-02-16, 1-11-2016; Ord. No. O-12-23, 10-3-2023)

ARTICLE A10.000. MISCELLANEOUS FEES

Sec. A10.001. Credit card service charge and returned check fee.

Relevant to all departments:

(1) Convenience fee (use of credit card): No charge unless it is a pass-through to a third-party collection agency.

(2) Service charge (denied credit card transaction): $35.00.

(3) Returned check fee: $35.00.

(Ord. No. O-13-11, 9-19-2011; Ord. No. O-02-16, 1-11-2016; Ord. No. O-14-22, 11-22-2022; Ord. No. O-12-23, 10-3-2023)

Sec. A10.002. Garage sales.

Garage sale: No fee (Permit is required.)

(Ord. No. O-13-11, 9-19-2011; Ord. No. O-02-16, 1-11-2016; Ord. No. O-12-23, 10-3-2023; Ord. No. O-19-25, exh. A(A10.002), 10-21-2025)

ARTICLE A11.000. MUNICIPAL COURT

Sec. A11.001. Warrant fee.

As adopted in the Code of Criminal Procedure.

(Ord. No. O-13-11, 9-19-2011; Ord. No. O-02-16, 1-11-2016; Ord. No. O-12-23, 10-3-2023)

Sec. A11.002. Appeals; transcript preparation fee.

In the event of an appeal, the appellant shall pay a transcript preparation fee in the amount of $25.00. The transcript preparation fee does not include the fee for an actual transcript of the proceedings. The clerk shall note the payment of the fee on the docket of the court. If the case is reversed on appeal, the transcript preparation fee in the amount of $25.00 shall be refunded to the appellant. In addition to the transcript preparation fee, the fee for the actual transcript of the proceedings and statement of facts must be paid by the appellant, pursuant to V.T.C.A., Government Code §§ 30.00014 and 30.00019.
(Code 1996, § 7.01.006; Ord. No. O-31-08, 10-6-2008)

ARTICLE A12.000. PARKS AND RECREATION

Sec. A12.001. Parks and recreation.

(a) Park pavilion rental:

(1) Resident: $15.00 hour—2 hour minimum.

(2) Nonresident: $30.00 hour—2 hour minimum.

(b) Ballfield rental:

(1) Resident: $25.00 hour—2 hour minimum.

(2) Nonresident: $35.00 hour—2 hour minimum.

(c) Community Center membership fees:

(1) Monthly membership resident senior (age 55+), active military, or veteran: $15.00.

(2) Monthly Membership nonresident senior (age 55+), active military, or veteran: $30.00

(3) Monthly membership single adult—resident: $20.00.

(4) Monthly membership—single adult nonresident: $40.00.

(5) Monthly membership family—resident: $40.00.

(6) Monthly membership family—nonresident: $80.00.

(7) Annual membership resident senior (age 55+), active military, or veteran: $150.00

(8) Annual membership nonresident senior (age 55+), active military, or veteran: $300.00

(9) Annual membership single adult—resident: $200.00.

(10) Annual membership single adult—nonresident: $400.00.

(11) Annual membership family—resident: $400.00.

(12) Annual membership family—nonresident: $800.00.

(13) Youth room fee: $3.00.

For purposes of this subsection (c), the term "family" means persons who live in the same household and who are related by blood or marriage, such that they may be claimed as a spouse, domestic partner, or dependent.

(d) Community center daily use:

(1) Youth (age 5—15) or adult (age 16 and older)—resident: $5.00.

(2) Adult (16 years and older)—nonresident: $10.00.

(e) Parks and recreation facility rentals:

(1) Family center: 1932 S. Hampton Rd. rental block includes set-up time:

(A) Deposit (resident/nonresident): $150.00.

(B) Set-up fee (optional): $100.00.

(C) Rental—2 hours (resident): $150.00.

(D) Rental—2 hours (nonresident): $250.00.

(E) Hourly rental (resident): $75.00/hour.

(F) Hourly rental (nonresident): $125.00/hour.

(G) Kitchen rental (resident/nonresident): $30.00 flat fee.

(H) Audio/video usage (resident/nonresident): $30.00 flat fee.

(2) Community center banquet room (rooms A and B): 1938 S. Hampton Rd.:

(A) Deposit (resident/nonresident): $250.00.

(B) Set-up fee (optional): $100.00.

(C) Rooms A and B—4 hours (resident) (capacity 150): $600.00.

(D) Rooms A and B—4 hours (nonresident): $700.00.

(E) Each additional hour (resident): $150.00/hour.

(F) Each additional hour (nonresident): $175.00/hour.

(G) Kitchen rental (resident/nonresident): $75.00 flat fee.

(H) Audio/video usage (resident/nonresident): $30.00 flat fee.

(I) 5-ft. linen tablecloths: $10.00 each.

(J) 18 by 18 dance floor rental (resident/nonresident): $400.00.

(K) LED uplighting (resident/nonresident): $30.00

(3) Room A—Community center banquet room:

(A) Deposit (resident/nonresident): $250.00.

(B) Room A—2 hours (resident): $200.00.

(C) Room A—2 hours (nonresident): $250.00.

(D) Each additional hour (resident): $100.00/hour.

(E) Each additional hour (nonresident): $125.00/hour.

(F) Kitchen rental (resident/nonresident): $75.00 flat fee.

(G) Audio/video usage (resident/nonresident): $30.00 flat fee.

(H) 5-ft. linen tablecloths: $10.00 each.

(4) Room B—Community center banquet room:

(A) Deposit (resident/nonresident): $250.00.

(B) Room B—2 hours (resident): $100.00.

(C) Room B—2 hours (nonresident): $150.00.

(D) Each additional hour (resident): $50.00/hour.

(E) Each additional hour (nonresident): $75.00/hour.

(F) Audio/video usage (resident/nonresident): $30.00 flat fee.

(G) 5-ft. linen tablecloths: $10.00 each.

(5) Community center gymnasium (available for rental for training or practice for basketball, pickleball, or volleyball):

(A) Deposit (resident/nonresident): $250.00.

(B) Half court rental (resident): $50.00/hour.

(C) Half court rental (nonresident): $60.00/hour.

(D) Full court rental (resident): $100.00/hour.

(E) Full court rental (nonresident): $120.00/hour.

(6) Youth room rental (max capacity 25):

(A) Deposit (resident/nonresident): $50.00.

(B) Set up fee (optional): $20.00.

(C) Youth room—2 hours (resident): $50.00.

(D) Youth room—2 hours (nonresident): $60.00.

(E) Each additional hour (resident): $25.00.

(F) Each additional hour (nonresident): $30.00.

(G) Projector fee (resident/nonresident): $10.00.

(f) Recreation programs:

(1) Individual recreation classes - range from $5.00—$50.00 per class/day.

(2) Recreation programs (recreation programs will vary by week or by month) - range from $20.00—$200.00 per week/month/session.

(3) Recreation team sports—range from $100.00—$500.00 per team/season.

(g) Special Event Permits (for any organization sponsoring or participating in the event):

(1) Any vendor engaged in information distribution: $50.00 per event.

(2) Any vendor engaged in sale of consumables: $100.00 per event.

(3) Any nonprofit organization: $50.00 per event.

(4) Mobile Food Vendor Permit: $100.00 per event.

(5) Optional Fee for 1 table + a max of 4 chairs: $100.00 per event in addition to items (1) through (4)

(6) Optional Permit to sell alcoholic beverages: $200.00 per event in addition to items (1) through (4)

For purposes of this subsection (g), the term "alcoholic beverage" means any beverage containing more than one-half of one percent of alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted.

(h) The city manager shall have the authority to waive special event permit fees (under (e)(7) or (g) of this section) as deemed appropriate or necessary for the scheduled event.

(g) For purposes of subsections (a), (b), and (c) of this section, the term "resident" includes residents of the City and persons whose residence is serviced by Glenn Heights water and/or wastewater utilities.
(Ord. No. O-13-11, 9-19-2011; Ord. No. O-02-16, 1-11-2016; Ord. No. O-14-22, 11-22-2022; Ord. No. O-01-23, 5-16-2023; Ord. No. O-12-23, 10-3-2023; Ord. No. O-04-24, § 1, 1-23-2024; Ord. No. O-14-24, att.(A12.001), 6-18-2024; Ord. No. O-23-24, exh. A, 1-21-2025)

Sec. A12.002. Supplement fees established; citywide park fee and a neighborhood park fee.

The city has established a citywide park fee and a neighborhood park fee. A citywide park fee of $618.00 per dwelling unit shall be imposed on all residential development in the city. A neighborhood park fee shall be calculated and collected as provided in section 24-74.
(Code 1996, §§ 1.18.042, 1.18.043; Ord. No. O-04-08, 2-4-2008)

ARTICLE A13.000. POLICE DEPARTMENT

Sec. A13.001. Police department.

(a) Sexually oriented business (annually): $2,500.00.

(b) Dance hall (annually): $1,000.00. Late hour: $1,000.00.

(c) Peddler/solicitor: $25.00 per solicitor per occurrence.

(d) Alarm registration fee (biennial, no transfer):

(1) Residential permit: $35.00.

(2) Business: $100.00.

(e) False alarm fees (per occurrence after fifth false alarm within 12 months):

(1) Residential: $50.00.

(2) Business: $100.00.

(3) False robbery alarm notification: $50.00.

(f) Alarm company service fee (for incorrect permit number relayed): $50.00.

(g) Response to false alarm (for person excluded from receiving an alarm signal pursuant to section 4.08.011 of chapter 4 [8-114]): $150.00.

(h) Noise ordinance relief permit: $30.00.
(Ord. No. O-13-11, 9-19-2011; Ord. No. O-02-16, 1-11-2016; Ord. No. O-12-23, 10-3-2023)

ARTICLE A14.000. FIRE DEPARTMENT

Sec. A14.001. Annual inspection fees.

(a) Commercial < 5,000 sq. ft.: $25.00.

(1) Charge for additional inspections: $50.00.

(b) Commercial > 5,000 sq. ft.: $50.00.

(1) Charge for additional inspections: $50.00.

(c) High rise structure mixed use: $1,000.00.

(d) New construction of all hotels or SRO facilities with exterior corridor rooms only: $2,000.00.

(e) New construction of all hotels or SRO facilities with exterior and interior corridor rooms only: $3,000.00.

(f) New construction of all hotels or SRO facilities with interior corridor rooms and places of assembly, such as restaurants, lounge, banquet facilities and so on: $4,000.00.

(g) Public schools K-12: $25.00/hr.

(h) Licensed day-care: $75.00/hr.

(i) Foster home: $50.00.

(j) Licensed nursing home: $200.00.

(k) Fire watch/standby: $50.00/hr.

(l) Special event site inspection: $25.00.
(Ord. No. O-03-17, § 1, 3-21-2017; Ord. No. O-12-23, 10-3-2023)

Sec. A14.002. Ambulance service.

(a) Advanced life support I:

(1) Resident: $780.00.

(2) Nonresident: $855.00.

(b) Advanced life support II:

(1) Resident: $825.00.

(2) Nonresident: $900.00.

(c) Basic life support:

(1) Resident: $712.00.

(2) Nonresident: $787.00.

(d) Treatment/no transport: $175.00.

(e) Emergency "loaded" mileage/mile: $15.00.

(f) Oxygen, administration and supplies/hour: $119.00.

(g) I.V. administration, drug therapy, equipment and supplies/hour: $119.00.

(h) *Definitions:

ALS1 (advanced life support). Paramedic skills available but no advanced skills used. ALS2 (advanced life support). Paramedic skills available and advanced skills used.

Basic life support emergency services. Paramedic skills are not available. Care provided by basic level emergency medical technician.

Mileage. From the scene to final destination of delivery. Nonresident. Not a resident of the City of Glenn Heights. Resident. A resident of the City of Glenn Heights.

(i) Any resident or nonresident delivered to a location for helicopter transportation shall be charged the fees accumulated as if delivered to a medical facility. This cost is in addition to those accrued for the helicopter transport.

(j) The ambulance service charges set forth herein may be adjusted by the city manager or designee to reflect changes in the cost of supplies and/or equipment and to add new items that have been added to medical protocol.
(Ord. No. O-13-11, 9-19-2011; Ord. No. O-12-23, 10-3-2023)

Sec. A14.003. Plan review and acceptance testing fees.

(a) Plan review < 10,000 sq. ft: $150.00.

(b) Plan review > 10,000 sq. ft: $200.00.

(c) Underground fire main hydro: $50.00.

(d) Fire alarm acceptance testing: $25.00/hour.

(e) Fire protection sprinkler acceptance testing: $25.00/hour.

(f) Hydrant flow test: $50.00.

(Ord. No. O-03-17, §§ 2—4, 3-21-2017; Ord. No. O-12-23, 10-3-2023)

Sec. A14.004. EMS fees.

(a) CPR class: $50.00.

(b) First-aid class: $50.00.

(Ord. No. O-03-17, §§ 2—4, 3-21-2017; Ord. No. O-12-23, 10-3-2023)

Sec. A14.005. Report fees.

(a) Copy of EMS report: $10.00.

(b) Copy of fire report: $10.00.

(Ord. No. O-03-17, §§ 2—4, 3-21-2017; Ord. No. O-12-23, 10-3-2023)

ARTICLE A15.000. BUSINESSES AND OCCUPATIONS

Sec. A15.001. Permit application fee.

A nonrefundable application fee for a peddler/itinerant merchant permit in the amount of $50.00 shall be paid upon application for such permit; provided, however, when any person, firm, company, partnership, corporation or association acts through one or more agents or employees, such person, firm, company, partnership, corporation or association shall, in addition to such $50.00 fee, pay an application fee of $25.00 for each agent or employee so engaged.

(Code 1996, § 4.04.008; Ord. No. O-26-10, 10-18-2010)

ARTICLE A16.000. GAS AND WELL DRILLING

Sec. A16.001. Gas well fees.

For services rendered, the following schedule of fees and charges is hereby adopted:

(1) New gas well permit: $6,500.00 each;

(2) Amended permit: $540.00;

(3) Extended permit: $270.00;

(4) Supplemental permit: $180.00;

(5) Operator transfer: $720.00;

(6) Seismic site inspection: $360.00;

(7) Seismic test of city property: fee determined by city council;

(8) Annual inspection fee (per well): $1,000.00;

(9) Appeal to city council fee: $500.00;

(10) Request to city council for deviation: $500.00.

(Code 1996, § 4.09.020; Ord. No. O-18-08, 6-16-2008)

ARTICLE A17.000. MANUFACTURED HOMES

Sec. A17.001. Park license requirements; license, application and transfer fees.

The following fees shall apply to manufactured park licenses:

(1) Initial license issuance fee: $____.

(2) License renewal fee, annually: $____.

(3) Transfer fee: $____.

(Code 1996, § 14.04.007(b); Ord. No. 833-06, § 7, 12-4-2006)

ARTICLE A18.000. OFFENSES AND NUISANCES

Sec. A18.001. Permits for relief; processing permit application.

A fee of $25.00 shall be charged to each applicant for processing permit applications.

(Code 1996, § 8.02.005; Ord. No. O-859-07, 11-19-2007)

ARTICLE A19.000. SIGNS AND ADVERTISING

Sec. A19.001. Temporary signs; zoning change application.

The city shall charge a fee of $50.00 to provide signs related to a zoning change application, if the applicant so desires.

(Code 1996, § 15.01.064; Ord. No. O-18-12, 9-18-2012; Ord. No. O-06-25, § 4, 4-1-2025)

ARTICLE A20.000. STORMWATER MANAGEMENT AND CONTROL

Sec. A20.001. Administration procedure; permit review fees.

The city establishes a permit fee of $250.00, plus all actual costs associated with the professional review of the plans. If an application is withdrawn prior to review and inspection, the city may refund this fee minus reasonable administrative costs. This fee may be amended and updated as deemed necessary from time to time.

(Code 1996, § 13.10.044; Ord. No. O-09-11, 7-18-2011)

ARTICLE A21.000. STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES

Sec. A21.001. City authorization required; construction permit application fee.

Any person seeking to place facilities on, in or over the public rights-of-way shall pay a $500.00 construction permit application fee except as exempted by V.T.C.A., Local Government Code ch. 283 and V.T.C.A., Utilities Code ch. 66.
(Code 1996, § 3.19.004; Ord. No. O-860-07, 11-19-2007)

CODE COMPARATIVE TABLE

1996 CODE

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*__Note—__The adoption, amendment, repeal, omissions, effective date, explanation of numbering system and other matters pertaining to the use, construction and interpretation of this Code are contained in the adopting ordinance and preface which are to be found in the preliminary pages of this volume.

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GLENN HEIGHTS, TEXAS

(17330)

FIRST ROUGH CODE DRAFT
(Unedited Legal Review)

Prepared by:
Sandra S. Fox, Senior Code Attorney



POWERED BY



GENERAL COMMENTS

This and the following chapters comprise the "manuscript" (first rough draft) of the city's new code of ordinances, to which the following general statements apply:

- The manuscript is a rough draft in which my recommendations are indicated by strike-through (language is deleted) or underlining (language is added). No attempt has been made to correct numbering and other anomalies. Actual editing and complete renumbering occur after this first review, when the final draft is being prepared.
- If the reason for an instance of underline or strike-through is obvious or has been previously mentioned, no additional comment will be made. For all other strike-through or underlining instances, a comment will be included as a footnote. Note that I may have made routine corrections throughout the manuscript without footnote comment. Those corrections, except syntax adjustments, appear in red font using strike-through and underlining for additions and deletions.
- All footnotes used in this manuscript are for purposes of discussion only. They will be removed before the final code is printed as will underline and strike-through. They are summarized for convenience immediately following this introduction.
- The city may accept or reject any suggested language updates or new code provisions which are provided throughout.
- The manuscript is a working draft and is not an example of the final appearance of the code. The code will be printed in single columns with Times New Roman 11-point font unless the city has selected different specifications or directs otherwise. All final print details will be confirmed before the codes are completed and printed.
- All chapters and sections will be renumbered, and all internal cross references to other portions of this code will be updated to correspond with that numbering, when the manuscript is edited and renumbered in preparation of the final draft (proof).
- Unless otherwise requested, the "running head" at the top of each left page of the code will contain the shortened title "Glenn Heights Municipal Code."
- Throughout the code, history notes at the end of sections indicate the source of material included.
- Titles of people, agencies, departments, divisions, etc. will not be capitalized in the final code. Similarly, standard MCC styling and numbering will be applied, and grammar, style, and other errors will be corrected during editing.
- Throughout the code, references to sections, articles, chapters, etc. will be corrected as the code is divided and subdivided during editing to the end that the reference refers to the appropriate portion of the chapter.
- Where possible throughout the code, internal references have been eliminated to avoid difficulties that arise with future supplementation of the code. Cross references are unnecessary with indices and global search capabilities and often overlooked when code sections are amended and renumbered, so they are difficult to maintain. Similarly, unnecessary textual references to state statutes increase necessary code maintenance. Editorial and textual cross references and unnecessary statutory cites

have been deleted where possible and appropriate. Statutory cites retained in the text have been updated as necessary.

- In incorporating ordinances into this new code, "head and tails" (preamble/ "whereas" paragraphs and closing provisions—conflicts, severability, effective date), and provisions made unnecessary by codification (e.g., short titles) are all omitted. Language is edited to conform to a consistent code "style," spelling, and sentence structure errors are corrected, etc. Fine tuning of style elements will take place during the next phase of the recodification project.
- Legal review does not include review of technical specifications such as those associated with plumbing, sewer, and water installations; fire ratings; flood control provisions; etc. All mechanical or technical specifications should be reviewed by the city's building, zoning, and utility personnel, the city engineer, or such other personnel as appropriate. Legal review encompasses comparison of the city's code of ordinances with state statutes. It does not include review of state administrative rules and regulations or, with certain exceptions, review of federal law.
- The city's contract includes a base number of pages and a rate to be paid per page above that base number. This manuscript is not an approximation of finished pages.
- Monetary amounts throughout the code should be verified by the city for accuracy. See suggestions in Appendix A that the fee schedule be changed to table format and removed from the code.



EXECUTIVE SUMMARY
(Summary of Footnote Comments)

Chapter 1. General Provisions

(1) **Sec. 1.01.001. Designation and citation of code.** Section is updated for the current on-going recodification.

(2) **Art. 1.08. Recognition of incorporation.** Unnecessary text is stricken as shown.

(3) **Sec. 1.01.004. Definitions and rules of construction.** A definition of the city's fee schedule and of citation conventions to state law and rules are added. The definition of the city is altered to exclude the word "town". Any references to the city as a town throughout the code will be corrected by editing staff during the next phase of this project.

(4) **Sec. 1-#. Certain ordinances not affected by Code.** Certain ordinances are saved from repeal by adoption of the recodified code at the end of this project.

Chapter 2. Administration

(5) **Sec. 1.09. City seal and logo form and design; use requirements and restrictions.** Unnecessary print specifications are stricken as shown.

(6) **Sec. 1.02.002. Place system adopted.** Unnecessary examples are stricken as shown.

(7) **Sec. 1.02.046. Orientation for new members; keeping council members informed.** Citation is corrected and completed as shown.

(8) **Sec. 1.02.047. Public notices, disclosures, and records; investigation of officers and employees.** Citation is corrected and completed as shown.

(9) **Sec. 1.02.003. Meeting schedule; call of meetings; meeting procedure.** Sections are combined as indicated in history note and duplicative text eliminated. Also, state law citation is correct and completed as shown.

(10) **Sec. 9.04.002. Powers and duties generally.** Text duplicative of prior section is stricken as shown.

(11) **Sec. 9.12.001. Health officer.** This position is referred to as "health authority" in V.T.C.A., Health and Safety Code, § 121.028. Also, cite is corrected and completed as shown.

(12) **Sec. 1.24.001. Definitions.** A standardized introduction is substituted for consistency.

(13) **Sec. 9.11.001. Established; composition; member appointment, terms, and compensation.** Unnecessary text is stricken as shown.

(14) **Sec. 1.20.002. Appointment and removal of members.** Text regarding removal is brought together in this section as indicated in the history note. Since removal with cause is authorized in (a) is (b) needed at all? Strike?

(15) **Sec. 1.20.036. Chair to inform members of pending issues.** Citation is corrected and shown.

(16) **Sec. 1.20.033. Types of meetings; schedule; notice.** Citations are corrected and shown.

(17) **Sec. 1.20.035. Parliamentary rules; parliamentarian.** Text is adding regarding resolution of conflicting rules. Please confirm.

(18) **Sec. 1.20.035. Members addressing a board or commission as a member of the public.** Citations are corrected as shown.

(19) **Sec. 1.20.035. Rules of conduct for citizens and visitors.** Unnecessary and conflicting text is stricken as shown.

(20) **Sec. 9.11.001. Established; composition; member appointment, terms, and compensation.** Unnecessary text is stricken as shown.

(21) **Sec. 9.04.002. City manager to act as or designate purchasing agent; purchasing authority.** Duplicative ranges are adjusted. Also, have these maximum amounts been changed? In addition, the

citation is corrected as shown.

(22) **Sec. 1.11.001. Notice required.** This section does not address the six-month notice requirement for matters cognizable under the state Tort Claims Act.

(23) **Art. VII. Records Management.** This are old provisions that might be amenable to replacement with adoption of relevant state law, rules, and schedules. Please review.

(24) **Sec. 1.17.001. Definitions.** A standardized introduction is substituted for consistency.

(25) **Sec. 1.17.004. Policy.** Citation is corrected as shown.

(26) **Sec. 1.17.008. Duties of records management officer.** Citation is completed as shown.

(27) **Sec. 1.17.016. Time limits for responding to certain requests.** Citations are completed and corrected as shown.

Chapter 4. Animal Care and Control

(28) **Sec. 2.01.001. Definitions.** A standardized introduction is substituted for consistency and definition duplicative of chapter 1 is stricken as shown.

(29) **Sec. 2.04.003. State law regarding cat and dog sterilization adopted.** Unnecessary text is stricken.

(30) **Sec. 2.03.001. Rabies control law adopted by reference; local rabies control authority.** Unnecessary text is stricken as shown.

(31) **Sec. 2.03.004. Vaccination and license identification.** Stricken as duplicative of preceding section.

(32) **Art. #. Dangerous Animals.** It is unclear as to whether the provisions in this article are intended to apply to dangerous animals generally or dangerous dogs only. Please clarify.

Chapter 6. Animal Care and Control

(33) **Art. II. Massage Establishments.** Throughout this article, sections have been conformed to the provisions of V.T.C.A., Occupations Code, ch. 455, including 2025 amendments. I suggest that the city attorney review this article specifically to ensure that he/she concurs with the recommended updates.

(34) **Sec. 4.02.001. Definitions.** A standardized introduction is substituted for consistency, self-defining term is stricken, and definition of massage establishment is conformed to V.T.C.A., Occupations Code, § 455.001. (Art. 4512K cited in the stricken definition was repealed in 1999.)

(35) **Sec. 4.02.006. Information required on license application.** Requirement for proof of state licensure is added as shown.

(36) **Sec. 4.02.015. Sanitation requirements.** Stricken as preempted by V.T.C.A., Occupations Code, § 455.005.

(37) **Sec. 4.02.016. Administering massage.** Stricken as preempted by V.T.C.A., Occupations Code, § 455.005.

(38) **Art. III. Coin-Operated Amusement Devices.** Note that an occupation tax for these devices is authorized by V.T.C.A., Occupations Code, § 2153.451.

(39) **Sec. 4.03.001. Definitions.** A standardized introduction is substituted for consistency.

(40) **Sec. 4.03.007. Minors prohibited on premises licensed to sell alcoholic beverages.** Change age to 18 years old?

(41) **Sec. 4.04.001. Definitions.** A standardized introduction is substituted for consistency.

(42) **Sec. 4.05.001. Purpose and intent.** Citation is updated as shown.

(43) **Sec. 4.05.002. Definitions.** A standardized introduction is substituted for consistency. Self-defining term and term duplicative of chapter 1 provisions are stricken as shown.

(44) **Sec. 4.06.001. Definitions. A standardized introduction is substituted for consistency.** Also, definitions duplicative of chapter

1 are stricken as shown.

(45) **Sec. 4.10.002. Definitions.** Definitions duplicative of chapter 1 are stricken as shown.

(46) **Art. VIII. Vehicles for Hire.** The city should review this article carefully in light of local circumstances and the current provisions of V.T.C.A., Occupations Code, ch. 2402. Depending on the type of local for hire vehicles the city has to regulate some or all of this article may be obsolete. The city can regulate traditional taxis and, in certain circumstances, limousines, but not TNCs which may fall under the definition of vehicles for hire above. Please review and advise.

(47) **Sec. 4.11.002. Applicability of article; exclusions.** Obsolete text is stricken as shown.

(48) **Sec. 4.12.001. Definitions.** A standardized introduction is substituted for consistency.

Chapter 8. Emergency Management and Services

(49) **Sec. 1.14.009. Declaration of state of emergency by mayor.** VTCS art. 5890e was repealed in 1987. See suggested corrections.

(50) **Sec. 1.14.002. Emergency management director; designation, powers, and duties.** Citation corrected as shown.

(51) **Sec. 1.14.003. Emergency management plan.** Is this different than the basic emergency operations plan in article I? If not, has this plan been adopted?

(52) **Art. III, City Ambulance Service.** I assume this is now EMS, which indicates this article needs updating, at a minimum with regard to current titles and terminology. Also, see the provisions in the fire chapter regarding collection of fees (including EMS fees). Should those be moved into this chapter? Please review and advise.

(53) **Sec. 1.16.001. Emergency service fee.** Citation is corrected as shown.

Chapter 10. Ethics

(54) **Sec. 1.23.003. Definitions.** Definitions from throughout the chapter are combined in this section.

Chapter 12. Fire Prevention and Protection

(55) **Sec. 5.07.001. Arson reward.** Does the city wish to retain this section? Also, the details for posting and distribution are stricken in that I assume those acts have been accomplished.

(56) **Sec. 5.03.001. Fire code and other publications adopted by reference.** A reference to the fire code adoption as part of the adoption of the ICC code family in the buildings chapter is inserted.

(57) **Sec. 5.03.006. Storage of explosives and blasting agents prohibited.** Please update the table reference, if necessary, to that appearing in the 2021 code rather than the 2006 code.

(58) **Sec. 5.06.001. Definitions.** Definition of fireworks is conformed to V.T.C.A., Occupations Code, § 2154.001. A definition of 1.3G fireworks is added, and duplicative definition of "person" is stricken.

(59) **Sec. 5.06.003. Exceptions.** Art. 5.43-4 was repealed in 1999. Class C (1.4G) fireworks are now defined in V.T.C.A., Occupations Code, § 2154.001 as shown in the definitions section.

(60) **Sec. 5.06.003. Exceptions—Contd.** In subsection (2), what is the complete date (June ?, 1994)? Also, is subsection (2) obsolete?

(61) **Sec. 5.06.003. Exceptions—Contd.** Art. 5.43-4 was repealed in 1999. V.T.C.A., Occupations Code, § 2154.202(g) provides the permissible time for retail sales and 2154.202(h) allows the county to establish additional permissible time frames. Does the city wish to conform to the cited statute? Does the city wish to authorize retail sales at all times that the county authorizes such sales?

(62) **Sec. 5.06.003. Exceptions—Contd.** Citations to TAC are corrected as shown.

(63) **Sec. 5.08.001. Definitions.** A standardized introduction is substituted for consistency.

(64) **Sec. 5.08.003. Duty to install in existing units.** Do we have the actual date of adoption of this section? Also, obsolete text is stricken as shown.

Chapter 14. Health and Public Welfare

(65) **Chapter 14. Health and Public Welfare.** The nuisance provisions formerly in this chapter have been moved to the offenses and nuisances chapter and grouped with other nuisance regulations with the exception of the smoking article which is moved here from the offenses chapter.

(66) **Sec. #. Standards of care for city youth programs adopted.** I suggest that the standards be omitted from codification and replaced with this acknowledgment of their adoption.

(67) **Sec. 8.06.001. Definitions.** A standardized introduction is substituted for consistency and definition duplicative of chapter 1 stricken as shown. .

(68) **Sec. 8.06.002. Smoking prohibited in enclosed public places.** References to food establishment and workplace restrictions are added for clarity.

(69) **Sec. 8.06.002. Prohibited in certain outdoor public places.** References to food establishment and workplace restrictions are added for clarity.

(70) **Sec. 8.06.004. Posting of signs and removal of ashtrays.** Obsolete provision is stricken as shown.

(71) **Sec. 6.03.004. State rules adopted.** Definitions are replaced with an adoption by reference of the state rules. The remaining two definitions are duplicative of chapter 1.

(72) **Sec. 6.03.015. Suspension; notice and hearing.** Duplicative and conflicting sentence is stricken. Please clarify 10 vs. 20 days in this section. The time within which a hearing must be requested is 10 days or 20 days? Does the stricken sentence intend to state that the hearing must be held within 20 days? If so, 20 days of what—the suspension or the request for hearing?

(73) **Sec. 6.03.012. Procedure when infection is suspected.** Duplicative sentence is stricken as shown.

(74) **Sec. 6.04.002. Definitions.** A standardized introduction is substituted for consistency and definitions duplicative of chapter 1 are stricken as shown.

(75) **Sec. 6.04.005. Application to existing donation boxes.** Obsolete grandfather provision is stricken.

Chapter 16. Human Relations and Social Services

(76) **Art. II. Fair Housing.** Has the city been certified by the federal department of housing and urban development as a substantially equivalent fair housing agency? Also, is this article needed? Both federal and state law prohibit housing discrimination and provide mechanisms to address it. Should this article be replaced with a reference to the Texas Workforce Commission which is responsible for enforcement of the state Fair Housing Act.

Chapter 18. Law Enforcement

(77) **Sec. 9.07.012. Penalties.** The penalty section is duplicative of chapter 1 general penalties. Also, is this intended to apply to police department reserve personnel or all personnel? If so, language to that effect should be added to the section regarding disciplinary action and a penalty provision should clarify that violations may be charged and punished as code violations.

(78) **Sec. 7.01.001. Court of record established.** Incomplete and unnecessary text is stricken as shown. Also, Vernon's Ann. C.C.P. art. 45.002 was repealed effective January 1, 2025.

Chapter 20. Municipal Court

(79) **Sec. 7.01.002. Jurisdiction of court.** Subsection (a)(1) is conformed to V.T.C.A., Government Code, § 30.00005. The remainder of the citations are corrected as to citation form.

(80) **Sec. 7.01.005. Appointment of court clerk and court personnel.**

Citations are corrected as shown.

(81) **Sec. #. Consolidated municipal court building security and technology fund.** See Vernon's Ann. C.C.P. art.102.0175 effective May 29, 2025. The city may wish to adopt this new provision by ordinance rather than by recodification inclusion.

Chapter 22. Offenses and Nuisances.

(82) **Sec. 6.02.001. Definitions.** A standardized introduction is substituted for consistency and definitions duplicative of chapter 1 are stricken as shown.

(83) **Sec. 6.02.002. Prohibited nuisance conditions.** A reference to the weed and grass restriction is added for clarity.

(84) **Sec. 8.02.002. Definitions.** A standardized introduction is substituted for consistency and definitions duplicative of chapter 1 are stricken as shown.

(85) **Sec. 8.03.001. Definitions**. A standardized introduction is substituted for consistency.

(86) **Sec. 8.08.001. Definitions.** A standardized introduction is substituted for consistency and definitions from throughout the division are combined in this section and duplication eliminated.

(87) **Sec. 8.08.001. Duty of property owner to remove.** Duplicative defense is stricken as shown.

(88) **Sec. 8.09.001. Definitions.** A standardized introduction is substituted for consistency.

Chapter 24. Parks and Recreation

(89) **Sec. 1.18.105. Alcoholic beverages at scheduled events.** Definition from state statute is inserted for clarity.

(90) **Sec. 1.18.081. Definitions.** A standardized introduction is substituted for consistency.

Chapter 26. Solid Waste

(91) **Sec. 13.06.001. Definitions.** A standardized introduction is substituted for consistency.

(92) **Sec. 13.06.004. Charges, billing, and delinquencies.** Clarification of "franchise" is added as shown.

(93) **Sec. 13.06.003. Pickup schedule.** Minor text adjustment is recommended as shown.

Chapter 28. Streets, Sidewalks, etc.

(94) **Sec. 3.17.001. Definitions.** Unnecessary definitions are stricken.

(95) **Art. III. Right-of-Way Management.** This article would benefit from reorganization but I think some updates may also be in order which we should do first. Please review for current accuracy.

(96) **Sec. 3.19.002. Authority; scope.** Citation is corrected as shown.

(97) **Sec. 3.19.003. Definitions.** A standardized introduction is substituted for consistency. Also, does the city still use the title "public works director"? The title is used in various places in the code, but these definitions indicate that the title has been replaced with "municipal services director."

Chapter 30. Taxation

(98) **Sec. 11.02.003. Residence homestead exemptions for elderly and disabled.** Unnecessary dates are stricken as shown.

(99) **Sec. 11.02.006. Recovery of costs and expenses.** Citation is corrected as shown.

(100) **Sec. 11.03.001. Local sales tax adopted.** Citation is added as shown.

(101) **Sec. 11.03.002. Local sales tax retained on residential gas and electricity.** Citations are updated

(102) **Sec. 11.03.003. Taxation of telecommunications services.** Unnecessary text is stricken as shown.

(103) **Sec. 11.04.001. Coin-operated machines tax.** Tax amount is stricken as unnecessary.

(104) **Sec. 11.05.001. Definitions.** Definition duplicative of chapter 1 is stricken as shown.

Chapter 32. Traffic and Vehicles.

(105) **Sec. 12.01.004. City traffic engineer designated; authority and duties.** Text duplicative of the following sections is stricken as shown.

(106) **Sec. 12.02.001. Authority to install traffic-control devices.** Section duplicative of section below is stricken as shown.

(107) **Sec. 12.02.002. Duty and authority to city traffic engineer install and maintain traffic control devices.** Sections are combined as indicated in history note.

(108) **Sec. 12.02.003. Specifications for traffic-control devices.** Citation is corrected as shown.

(109) **Sec. 12.02.004. Obedience to official traffic-control devices.** Sections are combined in new subsection (b) and text of four sections stricken as shown.

(110) **Sec. 12.03.004. Other speed zones.** Citation is corrected as shown.

(111) **Sec. #. Unauthorized parking prohibited; presumption of vehicle ownership.** Penalty is stricken as duplicative of chapter 1 general penalty.

(112) **Sec. 12.05.001. Definitions.** A standardized introduction is substituted for consistency.

(113) **Sec. 12.05.002. Parking in residential districts.** Introductory phrases are added as shown.

(114) **Sec. 12.10.001. Definitions.** A standardized introduction is

substituted for consistency. A definition of the preferred term "manufactured home" is added and the definition of "mobile home" is replaced, both from V.T.C.A., Occupations Code, § 1201.003. Note that V.T.C.A., Occupations Code, § 1201.004 provides that the 1201.003 definitions are "are binding as a matter of law on each person and agency in this state, including a home-rule municipality or other political subdivision" and "a mobile home is not a HUD-code manufactured home and a HUD-code manufactured home is not a mobile home for any purpose under state law. Those terms may not be defined in a manner that is not identical to the definitions provided by V.T.C.A., Occupations Code, § 1201.003.

(115) **Sec. 12.10.001. Definitions—Contd.** A definition of the preferred term "manufactured home" is added and the definition of "mobile home" is replaced, both from V.T.C.A., Occupations Code, § 1201.003. Note that V.T.C.A., Occupations Code, § 1201.004 provides that the 1201.003 definitions are "binding as a matter of law on each person and agency in this state, including a home-rule municipality or other political subdivision." I recommend that we change both definitions to "the meaning provided in V.T.C.A., Occupations Code, § 1201.003."

(116) **Sec. 12.12.001. Definitions.** A standardized introduction is substituted for consistency.

(117) **Sec. 12.07.002. Definitions**. A standardized introduction is substituted for consistency.

(118) **Sec. 12.07.011. Disposition of impounded vehicles.** Sections are combined as indicated in the history note.

Chapter 34. Utilities

(119) **Chapter 34. Utilities.** The various provisions of this chapter have been rearranged for improved cohesion.

(120) **Sec. #. Definitions.** Definitions are created as shown.

(121) **Sec. 13.02.009. Connection to water and sewer system.** Should solid waste service be added to the application since all utilities are billed together?

(122) **Sec. 13.02.005. Voluntary park system development**

contribution. Unnecessary text is stricken.

(123) **Sec. 13.02.008. Billing and payment.** See subsection (e). Aren't water and wastewater always included in one bill, along with garbage collection?

(124) **Sec. 13.07.001. Natural gas rates.** This section is derived from a 1988 franchise. I assume that it is largely if not completely obsolete. Please review.

(125) **Sec. 13.00.000. Short Title.** Short titles are unnecessary after codification and should be stricken as shown.

(126) **Sec. 13.05.004. Definitions.** A standardized introduction is substituted for consistency.

(127) **Sec. 13.05.004. Definitions—Contd.** Is this definition of credit obsolete?

(128) **Sec. 13.05.006. Impact fees per dwelling unit equivalent.** Are Schedules 1 and 2 included in the city fee schedule? If not, could they be?

(129) **Sec. 13.05.007. Assessment of impact fees.** Is subsection (a)(1) of this section obsolete?

(130) **Sec. 13.05.009. Offsets and credits against impact fees.** I assume the highlighted sentence in subsection (b) is obsolete. Please confirm.

(131) **Sec. 13.05.009. Offsets and credits against impact fees—Contd.** I assume the highlighted text in subsection (c) is obsolete. Please confirm.

(132) **Sec. 13.05.031. Facilities land use assumptions and benefits area.** Is referring to Exhibit A as "on file" still acceptable?

(133) **Sec. 13.05.032. Multiyear financial plan.** Is referring to Exhibit B as "on file" still acceptable?

(134) **Sec. 13.05.033. Impact fee study**. Is referring to Exhibit C as "on file" still acceptable?

(135) **Sec. VII: Definitions.** A standardized introduction is substituted for consistency. Also, self-defining terms and terms duplicative of

chapter 1 definitions are stricken.

(136) **Sec. XIII: Severability.** Section duplicative of chapter 1 general provisions is stricken.

(137) **Sec. 13.08.001. General.** The Texas Natural Resource Conservation Commission (TNRCC) was renamed the Texas Commission on Environmental Quality (TCEQ) in 2001.

(138) **Sec. 13.12.006. Creation of drainage utility fund; drainage charges.** Fee amounts are stricken below and a reference to the fee schedule is inserted here.

Chapter 50. Buildings and Construction

(139) **Sec. 3.03.001. Fees.** References to fees in this article have been adjusted based on the inclusion of this section to eliminate duplication.

(140) **Sec. 3.04.001. Technical codes adopted by reference.** I have regrouped code adoptions and amendments and rewritten the sections to eliminate extensive duplicative provisions. I have also moved the property maintenance adoption into this chapter, but I have stricken the local amendments (at the end of this chapter) in that they amend the 2015 edition while the 2021 edition is adopted. Please review.

(141) **Sec. 3.04.002. Amendments to adopted codes.** See preceding footnote.

(142) **Sec. 3.06.002. Conflicting provisions.** Limiting language is added. Without it, this section would negate all amendments to the electric code in this chapter since they are in conflict with the adopted code provisions.

(143) **Sec. 3.06.007. Registration of electricians.** V.T.C.A., Occupations Code, § 1305.151, requires a state license for most electrical work (subject to exceptions). If the electrician holds a state license the city is prohibited from charging a fee for local licensure (V.T.C.A., Occupations Code, § 1305.201 as amended in 2017). Should this section be changed to simply require state licensure, to require state and local licensure with no local fee, or stricken entirely?

(144) **Sec. 3.11.002. Permit fees.** Duplicative section is stricken as shown.

(145) **Sec. 3.20.002. Definitions.** A standardized introduction is substituted for consistency and unnecessary and duplicative definitions are stricken as shown.

(146) **Sec. 3.20.002. Definitions—Contd.** V.T.C.A., Occupations Code, § 1201.004 prohibits this definition of manufactured home which deems mobile and manufactured home terms synonymous. See suggested correction.

(147) **Sec. 3.20.004. Registration required.** Obsolete text is stricken.

(148) **Sec. 3.13.002. International Property Maintenance Code.** See footnote at section 3.04.001 in article II.

Chapter 52. Design and Construction Standards

(149) **Sec. 15.04.007. Special requirements.** Reference to current swimming pool and spa code is corrected as shown.

(150) **Sec. 15.04.031. Driveway spacing.** Introductory text is added as shown.

(151) **Sec. 15.04.033. Building materials.** Duplicative text is stricken. See article I.

(152) **Sec. 15.04.034. Swimming pools, spas, and hot tubs.** Reference to current swimming pool and spa code is corrected as shown.

Chapter 54. Floodplain Management

(153) **Chapter 54. Floodplain Management.** I note that this model ordinance is more than a decade old. The city may wish to adopt a more recent model.

(154) **Sec. 3.12.002. Definitions.** A standardized introduction is substituted for consistency.

(155) **Sec. 3.12.002. Definitions—Cntd.** The mandatory definition is

substituted and is consistent with the manufactured home chapter definition. See footnotes in that chapter.

Chapter 56. Gas and Well Drilling

(156) **Sec. 4.09.002. Definitions.** Self-defining terms and terms duplicative of chapter 1 provisions are stricken as shown.

Chapter 58. Landscaping, Fencing, Screening, and Lighting

(157) **Sec. 15.02.001. Title.** Short titles are unnecessary after codification and should be stricken as shown. Also, definitions duplicative of chapter 1 are stricken.

(158) **Sec. 15.02.064. Incentives.** Is the correct percentage here 10% or 20%?

Chapter 60. Manufactured Homes

(159) **Sec. 14.04.002. Mobile home prohibition.** I assume this section was first enacted on December 4, 2006. Please confirm and we will substitute that date for "as of the date of this article" throughout the section (unless the section is now obsolete)?

(160) **Sec. 14.04.005. Skirting requirements.** "Placed"? Should that be "permanently placed" or "installed and ready for occupancy" or something similar? Also, obsolete provision is stricken as shown.

(161) **Sec. 14.04.006. On-site parking.** Sentence is completed as shown.

(162) **Sec. 14.04.012. Existing park management requirements.** Obsolete section is stricken as shown.

(163) **Sec. 14.04.013. Existing park owner/occupant requirements.** Is this section now obsolete also?

(164) **Sec. 3.10.001. Definitions.** Duplicative definitions section is stricken.

Chapter 62. Property Maintenance Standards

(165) **Chapter 62. Property Maintenance Standards.** I suspect that much of this chapter is outdated and some duplication of the 2021 (or 2015?) ICC Property Maintenance Code adopted by the city by reference. I have kept the chapter mostly intact but after I receive feedback and direction from the city, I suggest that we rewrite provisions as necessary and reorganize the chapter to make navigation more user friendly.

(166) **Sec. 3.13.001. Authority; purpose and intent; liberal construction.** Short titles are unnecessary after codification and should be stricken as shown. Also, since "this Code" is defined in chapter 1 as this code of ordinances in its entirety, it cannot be used elsewhere in the code to describe only a chapter or other part of the compiled code.

Chapter 64. Roadway Impact and Facilities Fees

(167) **Sec. 10.03.001. Short title.** Short titles are unnecessary after codification and should be stricken as shown.

(168) **Sec. 10.03.006. Impact fees per service unit.** Duplicative section is stricken as shown.

(169) **Sec. 10.03.023. Fees adopted by reference.** This section is stricken and definitions are substituted in the definitions section above for improved clarity.

(170) **Sec. 10.03.008. Payment and collection of impact fees.** Duplicative text is stricken as shown.

Chapter 66. Signs and Advertising

(171) **Sec. 15.01.001. Title.** Short titles are unnecessary after codification and should be stricken as shown.

(172) **Sec. 15.01.003. Conflict and compliance.** Edition is updated to conform to the building chapter code adoptions.

(173) **Sec. 15.01.031. Exempt signs for which no permit is required.**

Please provide the correct measurement: 36 or 32 square feet? Five feet or six feet?

(174) **Sec. 15.01.063. Detached permanent signs.** Regarding subsection (f), please provide the correct measurement—15 or 40 square feet?

(175) **Sec. 15.01.064. Temporary signs.** Regarding subsection (d), please provide the correct measurement—20 or 24 square feet? Regarding subsection (e)(1)(A—D), please provide the correct measurement—four or five feet?

Chapter 68. Soil Erosion and Sediment Control

No comments.

Chapter 70. Stormwater Management and Control

(176) **Sec. 13.10.001. Definitions.** Minor corrections have been made throughout this section and definitions duplicative of chapter 1 have been stricken as shown.

(177) **Sec. 13.10.042. Definitions.** A standardized introduction is substituted for consistency and definitions duplicative of chapter 1 are stricken as shown.

Chapter 72. Subdivisions

(178) **Sec. 10.01.009. Final plat requirements.** Forms are stricken and replaced with a general reference.

(179) **Sec. 10.01.009. Final plat requirements—Contd.** The last sentence in subsection O is incomplete. Please provide the missing text.

(180) **Sec. 10.01.041. Definitions.** Definitions duplicative of chapter 1 is stricken as shown.

Chapter 74. Zoning

(181) **Chapter 74, Zoning.** Throughout this chapter citations to state law or rules have been reformatted as necessary for consistency. Also,

references to a or the zoning ordinance, have been changed to "this chapter" etc.

(182) **Sec. 1. Title.** Short titles are unnecessary after codification. Section is stricken as shown.

(183) **Sec. 2. Enacting clause.** Unnecessary text is stricken as shown.

(184) **Sec. 1. Definitions.** A standardized introduction is substituted for consistency.

(185) **Sec. 1. Definitions—Contd.** Corrections are made to preserve correct date for pre-existing garages.

(186) **Sec. 1. Definitions—Contd.** Correction are made to preserve correct date for pre-existing auto repair establishments.

(187) **Sec. 1. Definitions—Contd.** V.T.C.A., Occupations Code, ch. 1601 was repealed in 2021. See suggested correction.

(188) **Sec. 1. Definitions—Contd.** V.T.C.A., Occupations Code, ch. 1601 was repealed in 2021. See suggested correction.

(189) **Sec. 1. Definitions—Contd.** Definitions duplicative of chapter 1 should be stricken as shown.

(190) **Sec. 1. Definitions—Contd.** Citation is corrected as shown.

(191) **Div. 2. Planning and Zoning Commission.** Should the portion of this division establishing the commission be moved to chapter 2 and grouped with other boards, commissions etc. (retaining procedural provisions related to zoning in this chapter)?

(192) **Div. 3. Zoning Board of Adjustments.** Should the portion of this division establishing the board be moved to chapter 2 and grouped with other boards, commissions etc. (retaining procedural provisions related to zoning in this chapter)?

(193) **Sec. 2. Zoning board of adjustment.** Citation is corrected as shown.

(194) **Sec. 2. Zoning board of adjustment—Contd.** Citation is corrected as shown.

(195) **Sec. 1. Zoning amendments.** Citation is corrected as shown.

(196) **Art. VII. Building Permits etc.** Should this article be moved to the building chapter?

(197) **Sec. 1. Building permits required.** A reference to section 3.04.003 (conditions for issuance of building permits) is added as shown.

(198) **Sec. 3. Certificate of occupancy.** Citation is corrected as shown.

(199) **Sec. 3. Provisional districts.** Pool and spa code is changed to refer to the adopted code as shown.

Sec. 3. Swimming pools. Changed to refer to the adopted pool and spa code as indicated.

(200) **Sec. 4. Usable open space**. Since less than one bedroom is zero, there would be nothing to regulate in that class. Should "Rooms 1 or less" be changed to something like "For the first bedroom" (600) and then "for each additional bedroom" (300).

APPENDICES

(201) **Appendix A. Fee Schedule.** I suggest that the fee schedule not be included in the code but instead be posted on the city's website. The chapter should also be reduced to table format.

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Part I

HOME RULE CHARTER

Editor's note: Printed herein is the Home Rule Charter of the city effective September 16, 1969, the date the city was officially incorporated. Amendments to the Charter (except the August 1987 amendment) are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original Charter. In the publication of this Charter, obvious misspellings and syntax and other grammatical errors have been corrected without notation. For stylistic purposes, a uniform system of capitalization, numbering, headings, catchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

PREAMBLE

This Charter is dedicated to the citizens of the City of Glenn Heights, Texas, for the purpose of ensuring such powers, rights, and duties as are herein provided and to encourage the citizens' participation in the democratic government for proper and efficient progress of our city. To this end we ordain this home rule charter as prescribed by law and with the guidance of God.

ARTICLE 1. INCORPORATION, FORM OF GOVERNMENT AND POWERS

§ 1.01. Incorporation.

The citizens of the City of Glenn Heights in Dallas and Ellis Counties, Texas within the corporate limits as now established, or hereafter established in the manner prescribed by this Charter, shall be and shall continue to be a municipal body politic and corporate in perpetuity under the name of the "City of Glenn Heights."

§ 1.02. Form of Government.

The municipal government provided by this Charter shall be known as the "Council-Manager" government. Pursuant to its provisions and subject only to the limitations imposed by the State constitution, by the statutory laws of Texas, and by this Charter, all powers of the City shall be vested in an elective Council, hereinafter referred to as the "Council," which shall enact local legislation, adopt budgets, determine policies, appoint the City Attorney, Judge of the Municipal Court, and the City Manager, who shall execute the laws and administer the government of the City.

§ 1.03. General Powers of the City.

The City of Glenn Heights shall have all powers granted to municipalities by the Constitution and laws of the State of Texas, together with all of the implied powers necessary to carry into execution such granted powers. The city may:

(a) Use a corporate seal;

(b) Sue and be sued;

(c) Contract and be contracted with;

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(d) Cooperate with the government of the state of Texas or any agency or any political subdivision thereof or with the federal government or any agency thereof, to accomplish any lawful purpose for the advancement of the interest, welfare, health, morals, comfort, safety, and convenience of the city and its citizens;

(e) Acquire property within or without its corporate limits for any municipal purpose in fee simple, or in any lesser interest or estate, by purchase, gift, devise, lease or condemnation, and subject to the provisions of this charter;

(f) Sell, lease, mortgage, hold, manage, improve and control such property as may now of [or] hereafter be owned by it provided however, the city shall not sell, convey, mortgage, or otherwise alienate any public utility without prior approval of the voters of the city;

(g) Exercise the power of eminent domain where necessary or desirable to carry out any of the powers conferred upon it by this charter, or by the constitution and laws of the state of Texas;

(h) Pass ordinances and enact such regulations as may be expedient for the maintenance of the city and the welfare, health, morals, comfort, safety and convenience of its citizens.

The powers hereby conferred upon the City shall include, but are not restricted to, the powers conferred expressly and permissively by Chapter 147, Page 307, of the Acts of the 33rd Legislature, Regular Session, enacted in 1923 pursuant to the Home Rule Amendment of the Constitution of Texas, known as the Enabling Act and including Articles 1175, 1176, 1177, 1180, of the Revised Civil Statutes of Texas, 1925 [V.T.C.A., Local Government Code, chs. 51—54], as now or hereafter amended, all of which are hereby adopted. In addition to the powers enumerated herein, and subject only to the limitations imposed by the State Constitution, the State laws, and this Charter, the City shall have, without the necessity of express enumeration in this Charter, each and every power which, by virtue of Article 11, Section 5 of the Constitution of Texas [Tex. Const. art. 11, § 5], the people of the City are empowered by election to grant to or confer upon the city by expressly and specifically granting and enumerating the same herein. All such powers, whether expressed or implied, shall be exercised and enforced in the manner prescribed in this Charter; or when not prescribed herein, in such manner as shall be provided by the ordinance of the Council.

§ 1.04. Streets and Public Property.

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

§ 1.05. Street Development and Improvement.

The City shall have the power to develop and improve, or cause to be developed and improved, any and all public streets, sidewalks, alleys, highways, and other public ways within the corporate limits of the City by laying out, opening, narrowing, widening, straightening, extending, lighting and establishing building lines along the same by purchasing, condemning, and taking property therefor by filling,

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grading, raising, lowering, paving, repaving, and repairing, in a permanent manner, the same and by constructing, reconstructing, altering, repairing, and realigning curbs, gutters, drains, sidewalks, culverts, and other appurtenances and incidentals in connection with such development and improvement authorized hereinabove, or any combination or parts thereof. The cost of such development and improvement may be paid partly or entirely by assessments levied as a lien against the property abutting thereon and against the owners thereof, and such assessments may be levied in any amounts and under any procedure not prohibited by State Law provided, that no assessment shall be made against such land or owners in excess of the enhancement in value of such property occasioned by such improvement.

As an alternate and cumulative method of developing, improving, and paving any and all public streets, sidewalks, alleys, highways, and other public ways within its corporate limits, the City shall have the power and authority to proceed in accordance with Chapter 106, Page 489, Acts 1927, Fortieth Legislature, First Called Session, as now or hereafter amended, the same being Article 1105b of the Revised Civil Statutes of Texas, 1925 [V.T.C.A., Transportation Code, ch. 313].

§ 1.06. Boundaries.

The boundaries and limits of the City of Glenn Heights, until changed in the manner herein provided, shall be the same as have heretofore been established and exist on the date of the adoption of this Charter, which boundaries are more fully set out and described by metes and bounds in a book called, Official Record Describing the Metes and Bounds of the City of Glenn Heights, which is now and shall hereafter be in the office of the City Secretary of the City of Glenn Heights.

§ 1.07. Annexation and Disannexation.

The City shall have all powers possible for a city to have under the Constitution and laws of the State of Texas to fix the boundaries of the City, exchange area with other municipalities, extend the boundaries of the City and annex area adjacent to the City. The Council shall have the power by ordinance to fix the boundary limits of the City of Glenn Heights, Texas, and to provide for the alteration and extension of said boundary limits, and the annexation of additional territory lying adjacent to it whether said territory be inhabited or uninhabited. Should the territory be inhabited, the Council may also, upon a petition signed by a majority of the registered voters in such territory, consider such petition for annexation. Whenever, in the opinion of the Council, there exists within the corporate limits of the City any territory, either inhabited or uninhabited, not suitable or necessary for City purposes, or upon a petition signed by a majority of the qualified voters residing in said inhabited territory, the Council may, upon a public hearing and by ordinance duly passed, discontinue said territory as part of the City of Glenn Heights. The City shall comply with all applicable procedural rules and notice requirements set forth in Chapters 42 and 43 of the Texas Local Government Code [V.T.C.A., Local Government Code, chs. 42 and 43], as now and hereafter amended, as well as any other applicable laws of the State of Texas.
(Amended at election of May 4, 2002)

ARTICLE 2 CITY COUNCIL[1]

Editor's note–Former section 2.08 pertaining to the city secretary, was renumbered as section 5.11 by Ord. O-846-07 At an election held May 12, 2007, Prop. 4, to more accurately reflect the organization structure of the city. Former section 2.16 pertaining to "interim government" was deleted in its entirety by Ord. O-846-07 at an election held May 12, 2007, Prop. 7.

§ 2.01. Number, Selection, Term of Office and Compensation.

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The governing and lawmaking body of the City of Glenn Heights shall consist of a Mayor and six (6) Councilmembers, and said body shall be known as the "City Council of the City of Glenn Heights." The members of the City Council of the City of Glenn Heights shall be the only elective officers of the City and shall run for office by place and be elected from the City at-large in the manner provided in Article 3, for a term of three (3) years, or until their successors are duly elected and qualified. Beginning in 2013, the General Election in the City of Glenn Heights for the Mayor and Councilmembers shall be held on the uniform election date occurring in November. The terms of office of those Councilmembers whose terms of office would have expired with a regular election in May shall each have their term of office of extended by six (6) months, until the following November. All seven elected positions shall be subject to term limits. No person shall be a member of the City Council for more than three (3) consecutive three-year terms, and any person who does serve as a member of the City Council for three (3) consecutive terms shall not be eligible for election to a position on the City Council until a period of three (3) years has expired from the last date of that person's service as a member of the City Council. Said Mayor and Councilmembers shall draw no compensation as such for their duties, but shall be reimbursed for any lawful expenditures made in behalf of the City or expenses incurred in the performance of their duties when approved by the Council.
(Amended at election of May 4, 2002; Amended by Ordinance O-09-12 at an election held on May 12, 2012, Prop. 1)

§ **2.02. Prohibiting Holding or Running for Other Office.**

No person elected to the City Council shall, during the term for which he/she was elected, be appointed to any office or position in the service of the City. If a member of the Council shall become a candidate for nomination or election to any publicly elected office, other than a position on the City Council, or if any employee or officer other than a member of a City board or commission becomes a candidate for a position on the City Council, he/she shall forfeit his/her place or position with the City effective immediately upon the filing as a candidate for the nomination or election to such public office.
(Amended by Ordinance 728-02 at an election held on May 4, 2002; Amended by Ordinance O-09-12/Res. R-19-12 at an election held on May 12, 2012, Prop. 2)

§ **2.03. Qualifications.**

Each of the six (6) Councilmembers and Mayor shall be a citizen of the United States of America and a registered qualified voter of the State of Texas and shall be at least 18 years of age; and shall live within the Corporate Limits of the City of Glenn Heights shall have resided for at least one (1) year preceding the election at which they are candidates within the corporate limits of the City of Glenn Heights, and shall not be in arrears in the payment of any taxes or other liability due the City nor be disqualified by reason of any provision of any other section of this Charter. Each member of the City Council shall have taken the oath of office to qualify to serve in his or her official capacity on the City Council.

A member of the Council ceasing to possess any of the qualifications specified in this section or any other section of this Charter, or convicted of a felony while in office, shall immediately forfeit his office. No member of the Council shall hold any other public office within the city except that of Notary Public or member of the National Guard or naval or military reserve or a retired member of the Armed Forces.
(Amended by Res. R-27-18 at an election held on November 6, 2018, prop. F)

§ **2.04. Council to Be the Judge of the Qualification of its Own Members.**

The City Council shall be the judge of the qualifications of its own members, and for such purpose shall

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have power to subpoena witnesses, require the production of records, conduct an investigation, hold a hearing, and determine by majority vote whether a member is guilty of an infraction for which a member may be censured or removed from office for cause. Cause shall include:

(a) knowingly and intentionally violating the provisions of this Charter;

(b) official misconduct, which shall be defined as intentional unlawful behavior relating to official duties, including corrupt failure, refusal, or neglect of a duty imposed by law;

(c) incompetency, which shall be defined as gross ignorance of official duties; gross carelessness in the discharge of official duties; or inability or unfitness to promptly and properly discharge official duties because of a serious mental or physical defect that did not exist at the time of the officer's election;

(d) intoxication while performing the duties of office by consuming alcoholic beverages or other chemical substances that cause intoxication;

(e) unexcused absence from three consecutive regular meetings or five unexcused absences from regular and special meetings within any six month period.

The Council may adopt an ordinance or resolution further specifying the procedure for investigation, notice, hearing, censure, and removal of a council member, and for excuse of absences, as provided herein.

In censuring a Councilmember, the Council shall have the authority to issue a public reprimand or to suspend the member from office for a specific period of time. In the event the Council removes a Councilmember, that member's seat shall become vacant and may be filled as provided in this Charter. (Amended by Ordinance O-846-07 at an election held May 12, 2007, prop. 2)

§ **2.05. Vacancies.**

In the event a vacancy occurs in the office of Mayor or Council members from any cause whatsoever, a special election shall be held after the vacancy occurs on the earliest date permitted by state law for the purpose of filling such position for the remainder of the unexpired term.

§ **2.06. Powers of the Council.**

All powers and authority which are explicitly conferred on or possessed by the City shall be vested in and exercised by the City Council, provided however, that the Council shall have no power to exercise those powers which are expressly conferred upon other City officers by this Charter.

All members of the Council present, including the Mayor, shall vote upon every resolution or ordinance, except where there is a conflict of interest, the reason for which shall be stated concisely in the records.

§ **2.07. Mayor–Mayor Pro Tem.**

The Mayor of the City shall preside over the meetings of the City Council and perform such other duties consistent with the office as may be imposed upon him/her by this Charter and the ordinances and resolutions passed in pursuance hereof. He/she may participate in the discussion of all matters coming before the Council and shall be required to vote, but shall have no veto power. He/she shall sign conveyances made or entered into by the City and all bonds issued under the provisions of this Charter.

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He/she shall be recognized as the official head of the City by the court for the purpose of serving civil process, by the Governor for the purpose of enforcing military law, and on all ceremonial purposes. In time of danger or emergency, the Mayor may with the consent of the Council take command of the police and govern the City by proclamation and maintain order and enforce all laws.

The Mayor Pro Tem shall be elected from among the six (6) Councilmembers shall be selected each year at the first regular meeting following the general city election, and shall in the absence or disability of the Mayor perform all the Mayor's duties.
(Amended by Ordinance O-846-07 at an election held May 12, 2007, prop. 3)

§ 2.08. City Attorney.

The City Council shall appoint or remove a City Attorney who shall be duly licensed and admitted to the practice of law by the State of Texas. The City Attorney shall be legal advisor of and attorney for all officers of the City and shall represent the City in all litigation and legal proceedings.

§ 2.09. Meeting of the Council.

The City Council shall hold two (2) regular meetings in each month, except December, at a time to be fixed by it for such regular meetings. The City Council may hold as many additional meetings during the month as may be necessary for the transaction of the business of the City and its citizens.
(Amended by Ordinance O-846-07 at an election held May 12, 2007, prop. 5)

§ 2.10. Rules of Procedure.

The City Council shall determine its own rules of procedure and order of business and may compel the attendance of its members. Five (5) members of the City Council shall constitute a quorum to do business however, the affirmative vote of at least four (4) of those attending any meeting at which there is a quorum present shall be necessary to adopt any ordinance or resolution. All meetings of the City Council shall be open to the public, as provided by state law, and minutes of all proceedings shall be kept, to which any citizen may have access at all reasonable times and which shall constitute one of the archives of the City. The vote upon the passage of all ordinances and resolutions shall be taken by ayes and nays made in open meeting by a canvass of the Council, and the vote of each Councilmember shall be entered upon the minutes, and every ordinance or resolution, upon its final passage, shall be recorded in a book kept for that purpose and shall be authenticated by the signature of the presiding officer and the City Secretary.

§ 2.11. Procedure to Enact Legislation.

The City Council shall legislate by ordinance and the enacting clause of every ordinance shall be: "Be it ordained by the City Council of the City of Glenn Heights." No ordinance may be adopted by the City Council unless the ordinance is considered at two separate meetings of the Council, provided, however, that if two-thirds of the number of Councilmembers in attendance at a meeting at which an ordinance is considered for the first time determine and vote that circumstances involving public urgency or other important public purpose required that the ordinance be adopted after consideration at only one meeting, the ordinance may be adopted following such two-thirds vote.

Every ordinance enacted by the Council shall be signed by the Mayor or Mayor Pro Tem and shall be filed with and recorded by the City Secretary. The descriptive caption of all ordinances enacted by the Council shall be read in open meeting of the Council at one (1) regular or special Council meeting. All

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ordinances, unless otherwise provided by law or by the terms of such ordinance, shall take effect in accordance with Article 2, Section 2.13.
(Amended by Ordinance O-846-07 at an election held May 12, 2007, prop. 6)

§ **2.12. Publication of Ordinances.**

Except as otherwise provided by law, or by this Charter, the City Secretary shall give notice of the enactment of every ordinance imposing any penalty, fine or forfeiture for any violation of any of its provisions and of every other ordinance required by law, or this Charter, to the public, by causing the said ordinance, or its caption and penalty, to be published at least one time after final passage thereof in the official newspaper of the City. The affidavit of such publication by the publisher of such newspaper, taken before any officer authorized to administer oaths, and filed with the City Secretary shall be conclusive proof of the legal publication and promulgation of such ordinance in all courts. Such ordinance shall take effect upon publication as required by law.

§ **2.13. Adoption and Ratification of Existing City Ordinances and Prior City Actions.**

All ordinances of the City of Glenn Heights adopted prior to the adoption of this Charter and not inconsistent with the provisions of this Charter shall remain in full force and effect until altered, amended or repealed by the City Council.

All official actions taken by the City of Glenn Heights, its City Councils or other City officials, and all previous elections, contracts, bonds, warrants and other evidence of indebtedness and any annexations, prior to the adoption of this Home Rule Charter, are hereby adopted, validated, confirmed and ratified.

§ **2.14. Code of Ordinances.**

The City Council shall have power to cause the ordinances of the City of Glenn Heights to be printed in code form and shall have the same arranged and digested as often as the Council may deem advisable however, failure to print the ordinances as herein provided shall not affect the validity of same.

ARTICLE 3 ELECTIONS

§ 3.01. General Elections.

The regular City Election shall be held on the first Saturday in November, or at such other time as is prescribed by state law, at which time officers shall be elected to fill those offices which become vacant that year. The City Council shall fix the hours and place for holding such elections. All candidates for the City Council shall file for one place and shall be elected to that place by obtaining greater than 50% of the votes cast. Places 1, 3, and 5 shall be up for election and filled in the same year. The Mayor's office and places 2, 4 and 6 shall be up for election and filled in the same year.
(Amended at election of May 4, 2002; Amended by Ordinance 728-02 at an election held on May 4, 2002; Amended by Res. R-27-18 at an election held on November 6, 2018, prop. A)

§ **3.02. Regulation of Elections.**

The Council shall make all regulations considered to be necessary or desirable which are not inconsistent with this Charter or the laws of the State of Texas, for the conduct of municipal elections, or for the prevention of fraud, and shall make provisions for recount of the ballots in case of doubt or fraud. The

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Council will appoint election officials who will conduct the municipal elections consistent with this Charter, regulations made by the Council and the laws of the State of Texas. The Council shall provide for the compensation of all election officials in City Elections and for all other expenses of holding such elections.

§ **3.03. Filing for Office.**

Any qualified person who desires to become a candidate for election to the office of Mayor or City Council Member shall file with the City Secretary, not less than forty-five (45) days prior to the election, an application on the form provided by the City Secretary, which form shall be in accordance with State law.
(Amended by Ordinance 728-02 at an election held on May 4, 2002)

§ **3.04. Official Ballot.**

The official ballot shall be drawn up by the City Secretary and approved by the City Attorney and will contain the names of all candidates for office, except those who may have been withdrawn, deceased or become ineligible. The ballot shall have the designation of the particular office (Mayor or Councilmember) and under the appropriate designation shall appear the applicable place numbers. Names will be placed under each place without party designation and position will be determined by drawing conducted by the City Secretary.

§ 3.05. Conducting and Canvassing Elections.

The returns of every municipal election shall be delivered forthwith by the election judges to the Mayor. The Council shall canvass the returns, investigate the qualifications of the candidates and declare the official results of the election in the manner and within the time provided by law and deliver the votes to the City Secretary. Returns of every municipal election shall be recorded in the minutes of the Council. The candidate for Mayor who receives the majority of ballot votes, by qualified voters at the election, shall be declared elected. The candidates for election to the places of Councilmembers, who receive the majority of ballot votes, for each place cast by qualified voters voting at the election shall be declared elected. The results of said election shall be posted in the City Hall as soon as they are declared official.

The City Council shall be the judge of the election and qualifications of its own members, but the decision of the Council in any case shall be subject to review by the Courts.

§ **3.06. Election Runoff.**

In the event any candidate for any of said officers fails to receive greater than fifty percent (50%) of all votes cast for all the candidates for such office at such election, the Council shall on the first day following completion of the official counting of the ballots cast at said first election, issue a call for a second election to be held in the City within thirty (30) days, at which said second election the two candidates receiving the highest number of votes for any such office in the first election at which no one was elected at the first election by receiving greater than fifty percent (50%) of all votes cast for all candidates for such election, shall again be voted for. In the event of a tie between two candidates for any office at said second election, they shall cast lots to determine who shall be elected to such office.
(Amended at election of May 4, 2002)

§ **3.07. Special Elections.**

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

ARTICLE 4. INITIATIVE, REFERENDUM AND RECALL

§ 4.01. Power of Initiative.

The citizens of the City of Glenn Heights reserve the power of direct legislation by initiative, and in the exercise of power, may propose any ordinance not in conflict with this Charter, the State Constitution, or the state laws, except an ordinance appropriating money or authorizing the levy of taxes, or an ordinance repealing an ordinance appropriating money, levying taxes, or an ordinance involving zoning or annexation. Any initiated ordinance may be submitted to the Council by a petition signed by registered qualified voters of the City of Glenn Heights equal in number to at least twenty- five (25%) percent of the number of registered voters in the city.
(Amended by Ordinance O-846-07 at an election held May 12, 2007, prop. 8)

§ 4.02. Power of Referendum.

The citizens reserve the power to approve or reject at the polls any legislation enacted by a Council which is subject to the initiative process under this Charter, except an ordinance which is enacted for the immediate preservation of the public peace, health or safety which contains a statement of its urgency. Prior to the effective date of any ordinance which is subject to referendum, a petition signed by registered qualified voters of the City, equal in number to at least twenty-five (25%) percent of the registered voters in the city, may be filed with the City Secretary requesting that such ordinance be either repealed or submitted to a vote of the people. When such a petition has been certified as sufficient by the City Secretary, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless it is approved by the voters as herein provided.
(Amended by Ordinance O-846-07 at an election held May 12, 2007, prop. 8)

§ 4.03. Form of Petition.

Initiative petition papers shall contain the full text of the proposed legislation in the form of an ordinance, including a descriptive caption. The signatures to the initiative or referendum need not be all appended to one paper, but each signer shall sign his/her name in ink or indelible pencil, shall add his/ her signature and his/her place of residence by street and number and his/her voter registration number. One of the signers of each separate paper petition shall make an affidavit that he/she, and he/she only, personally circulated such petition and that signature appended thereto was made in his/her presence and is the genuine signature of the person whose name it purports to be, and further that no signature shall have been placed thereon forty-five (45) days prior to the filing of such petition.

§ 4.04. Filing, Examination and Certification of Petition.

Within ten (10) business days after an initiative or referendum petition is filed, the City Secretary shall determine whether the same is signed by the requisite number of registered voters. The City Secretary shall declare void any petition paper which does not have an affidavit attached thereto as required by Section 4.03 of this Article. In examining the petitions, the City Secretary shall write the letters “D.V.” in red ink opposite the names of signers found not registered to vote. After completing examination of the

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petition, the City Secretary shall certify the results thereof to the Council at its next regular meeting, stating the number of persons found on the petition who are registered to vote and the number of persons found on the petition who are not registered to vote. If the certificate of the City Secretary shall show an initiative or referendum petition to be insufficient the City Secretary shall notify the person filing the petition, and it may be amended within ten (10) business days from the date of such notice by filing a supplementary petition upon additional papers signed and filed as provided for in the original petition. Within ten (10) business days after such amendment is filed, the City Secretary shall examine the amended petition and certify as to its sufficiency. If the amended petition is found to be insufficient, the City Secretary shall return the petition to the person filing same, without prejudice to the filing of a new petition for the same purpose: provided however, that upon finding the amended petition to be insufficient, no new petition covering the same subject matter shall be filed until six (6) months shall have elapsed from the date of filing of the original petition.

§ **4.05. Council Consideration and Submission to Voters.**

When the Council receives an authorized initiative petition certified by the City Secretary to be sufficient, the Council shall either:

(a) Pass the initiated ordinance without amendment within thirty (30) days after the date of the certification to the Council;

(b) Submit said initiated ordinance without amendment to a vote of the registered voters of the City at a regular or special election to be held within ninety (90) days after the date of the certification to the Council; or

(c) At such election, submit the initiated ordinance without amendment and an alternative ordinance proposed by the Council to a vote of the qualified voters of the City. The ballot shall state the captions of the initiated ordinance and the alternative ordinance, clearly designating them “Ordinance No. 1” and “Ordinance No. 2,” respectively, and shall set forth below the captions on separate lines the words “For Ordinance No. 1,” “For Ordinance No. 2,” and “Against Both Ordinances.” Each voter shall vote “For” only one ordinance, or “Against Both Ordinances,” and a vote for one ordinance shall be counted as a vote against the other ordinance.

When the Council receives an authorized referendum petition certified by the City Secretary to be sufficient, the Council shall reconsider the referred ordinance, and if upon such reconsideration such ordinance is not repealed, it shall be submitted to the voters at a regular or special election to be held not more than ninety (90) days after the date of the certification to the Council. Special elections on initiated or referred ordinances shall not be held more frequently than once each six (6) months, and no ordinance on the same subject as an initiated ordinance which has been defeated at any election may be initiated by the voters within two (2) years from the date of such election.
(Amended by Ordinance O-09-12/Res. R-19-12 at an election held on May 12, 2012, prop. 3)

§ **4.06. Ballot Form and Results of Election.**

The ballot used in voting upon an initiated or referred ordinance shall state the caption of the ordinance and below the caption shall set forth on separate lines the words: “For the Ordinance” and “Against the Ordinance.”

An initiated ordinance and an alternative ordinance proposed by the Council which are submitted at the same election shall be appropriately identified as the initiated or referred ordinance and as the ordinance

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proposed by the Council.

Any number of ordinances may be voted upon at the same election in accordance with the provisions of this Article. An ordinance submitted and receiving an affirmative majority of the votes cast, shall thereupon be effective as an ordinance of the City. An ordinance so adopted may be repealed or amended at any time after the expiration of two (2) years by a four-fifths (4/5) vote of the Council. A referred ordinance which is not approved by a majority of the votes cast shall be deemed thereupon repealed.

§ **4.07. Power of Recall.**

The citizens of the City reserve the power to recall any member of the Council for acts of misfeasance, malfeasance, incompetence, or official misconduct and may exercise such power by filing with the City Secretary a petition, signed by registered qualified voters of the City equal in number to at least thirty percent (30%) of the number of votes cast at the last regular municipal election of the City, or by 150 registered qualified voters, whichever is greater, demanding the removal of a member of the City Council. The petition shall be signed and verified in the manner required, by the form prescribed below. Such petition shall contain a statement of the specific acts of misfeasance, malfeasance, incompetence, and/or official misconduct for which the removal is sought, and one of the signers of each petition paper shall make an affidavit as prescribed below. “Malfeasance” is a wrongful act that a person has no legal right to do. “Misfeasance” is the improper doing of an act that a person might lawfully do. “Incompetence” means gross ignorance of official duties, gross carelessness in the discharge of official duties, or inability or unfitness to promptly and properly discharge official duties because of a serious mental or physical defect that did not exist at the time of the Council Member’s election. “Official misconduct” means intentional unlawful behavior relating to official duties of a Councilmember, including the intentional or corrupt failure, refusal, or neglect of a Council Member to perform a duty imposed upon the Councilmember by law. The following form of petition and acknowledgement is herein prescribed:

> “By our signatures affixed hereto, we hereby affirm that we seek the recall of _____ who holds the elected office of _____, for the following specific grounds of misfeasance, malfeasance, incompetence, and/or official misconduct as prescribed in Article 4, Section 4.07 of the Charter of the City of Glenn Heights:
>
> “And we further affirm that the information given below is true and correct:
>
> Voter Registration Number
>
> STATE OF TEXAS
>
> Printed Name Address Signature Date Signed
>
> COUNTIES OF DALLAS AND ELLIS
>
> “BEFORE ME, the undersigned authority, personally appeared , who, after being duly sworn by me stated, upon his/her oath, that he/she circulated the above Petition; that he/she was personally present when each of the above signatures were affixed thereto; and that each person whose signature is affixed thereto, affirmed to him/her that the information provided by them was true and correct.
>
> SWORN TO AND SUBSCRIBED BEFORE ME this the __ day of ___, 20__ . Notary Public, State of Texas

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My Commission Expires:
(Amended by Ordinance 728-02 at an election held on May 4, 2002; Amended by Ordinance O-846-07 at an election held May 12, 2007, prop. 8)

§ **4.08. Recall Election.**

Within fifteen (15) days after the date of the filing of the papers constituting the recall petition, the person performing the duties of City Secretary shall verify the signatures on the petition and then present such petition to the Council.

The officer whose removal is sought may, after such recall petition has been presented to the Council, request in writing to the Council at the next regular meeting a public hearing to be held to permit him/ her to present facts pertinent to the charges specified in the recall petition. In this event, the Council shall order such public hearing to be held, not less than five (5) days nor more than fifteen (15) days after receiving such request for a public hearing.

If the officer whose removal is sought does not resign, then it shall become the duty of the Council to order an election and fix a date for holding such recall election. The date of such election shall be held at the earliest date as permitted by state law.

§ **4.09. Recall Ballot.**

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

(a) With respect to each person whose removal is sought the question shall be submitted Shall (Name) be removed from the office of City Council.

(b) Immediately below each such question there shall be printed the two following propositions, one above the other, in the order indicated: “For the recall of (Name)” “Against the recall of (Name)”

§ **4.10. Results of a Recall Election.**

If a majority of the votes cast at a recall election shall be against removal of the individual named on the ballot, he/she shall continue in office. If a majority of the votes cast at such election be for the removal of the individual named on the ballot, the Council shall immediately declare his/her office vacant and such vacancy shall be filled in accordance with the provisions of the Charter for the filling of vacancies. An individual thus removed shall not be a candidate to succeed himself in an election called to fill the vacancy thereby created.

§ **4.11. Limitations on Recall.**

No recall petition shall be filed against any officer of the City within six (6) months after his/her election, or within one (1) year after an election for such officer’s recall.
(Amended by Ordinance O-846-07 at an election held May 12, 2007, prop. 9)

§ **4.12. Failure of the Council to Call an Election.**

In case all the requirements of this Charter shall have been met and the Council shall fail or refuse to receive the recall petition or order such recall election, or discharge any other duties imposed upon said

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Council by the provisions of the Charter with reference to such recall, then the County Judge of Dallas County, Texas, shall discharge any such duties herein provided to be discharged by the person performing the duties of the City Secretary or by the Council, or in the event the County Judge shall fail to discharge such duty, an action for Writ of Mandamus to compel the discharge of such duty may be brought in any district court of Dallas or Ellis Counties, Texas.
(Amended by Ordinance O-846-07 at an election held May 12, 2007, prop. 10)

§ **4.13. Fraud in the Petition Process.**

In the event that, with regard to any petition for initiative, referendum, or recall filed with the City Secretary, the City Council is presented with credible evidence that signatures on such petition were secured or added by means of fraud or other false inducement, the Council may, by majority vote, order the investigation of such evidence by the police department or other law enforcement agency and may delay ordering an election until such investigation is completed provided, however, that it shall be grounds for removal from office for any member of the council to vote for such an investigation solely for the purpose of delay. In the event such investigation reveals the substantial likelihood of fraud or other false inducement, the Council may decline to order an election and may refer such matter to the appropriate state or county official for prosecution. In the event such investigation reveals no substantial likelihood of fraud or other false inducement, the Council shall order an election for the next available uniform election date.
(Amended by Ordinance O-846-07 at an election held May 12, 2007, prop. 11)

ARTICLE 5 ADMINISTRATIVE ORGANIZATION

§ 5.01. The City Manager.

The Council shall appoint a City Manager for an indefinite term, who shall be the chief administrative officer of the City. He/she shall be chosen by the Council solely on the basis of his/her executive and administrative training, experience, ability and character, and without regard to political [conside]ration. The City Manager shall reside within a reasonable response time as determined by the City Council. No member of the Council shall, during the term for which elected, be chosen as City Manager. The City Manager shall receive such compensation as may fixed by the Council.

§ **5.02. Powers and Duties of the City Manager.**

The City Manager shall be responsible to the Council for the proper administration of all the affairs of the City. The powers herein conferred upon the City Manager shall include, but shall not be limited to the following:

(a) Appoint and, when necessary for the welfare of the City, remove any officer or employee of the City, except as otherwise provided by this Charter and except as he/she may authorize the head of a department to appoint and remove subordinates in such department.

(b) Serve as Budget Officer for the City, prepare and submit to the Council an annual budget, and be responsible for its administration after adoption.

(c) Prepare and submit to the Council as of the end of the fiscal year a complete report on the finances and administrative activities of the preceding year.

(d) Keep the Council advised of the financial condition and future needs of the City and make such

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recommendations as may seem to him/her desirable.

(e) Perform such other duties as may be prescribed by this Charter or required of him/her by the Council, not inconsistent with this Charter.

(f) Attend all meetings of the Council, and he/she shall be notified of all meetings of the Council. (Amended by Ordinance O-09-12 at an election held on May 12, 2012, prop. 4)

§ 5.03. Removal of City Manager.

The council may remove the City Manager, upon the affirmative vote of a majority of the entire Council. If removed after serving six (6) months, he/she may demand written charges and the right to he/she [be] heard thereon at a public meeting of the Council prior to the date on which his/her final removal shall take effect; but pending such hearing the Council may suspend him/her from office. The action of the Council in suspending or removing the City Manager shall be final, it being the intention of the Charter to vest all authority and fix all responsibility for such suspension or removal in the Council.

§ 5.04. Investigation by the City Council.

The City Council shall have power to inquire into the conduct of any office, department, agency, officer or employee of the City and to make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths and compel the production of books, papers and other evidence. Failure to obey such subpoena or produce books, papers or other evidence, as ordered under the provisions of this section shall constitute a misdemeanor and shall be punishable by fine not to exceed One Thousand ($1,000.00) Dollars.

§ 5.05. Council Not to Interfere in City Manager's Appointments, or Removal.

Neither the Council nor any of its members shall direct or request the appointment of any person to or his/her removal from office by the City Manager or by any of his/her subordinates. However, the Council may consult and advise the City Manager, make inquiry regarding the appointments or removals and may express their opinion in regard thereto. In regard to administrative and executive duties under the City Manager, the Council and its members shall deal solely through the City Manager and neither the Council nor any member thereof shall give orders to any subordinate of the City Manager, either privately or publicly. Willful violation of the foregoing provisions of the Charter by any member of the Council shall constitute official misconduct and shall authorize the Council by a vote of a majority of its membership to expel such offending member from the Council if found guilty after a public hearing and thereby create a vacancy in the place held by such member.

§ 5.06. Absence of the City Manager.

The City Manager, by letter filed with the City Secretary, may designate a qualified administrative officer of the City to perform his/her duties during his/her temporary absence or disability. In the event of failure of the City Manager to make such designation, the Council may by resolution appoint an officer of the City to perform the duties of the City Manager until he/she shall return or his/her disability shall cease.

§ 5.07. Administrative Departments.

There shall be such administrative departments as are established by this Charter and such other administrative departments as may be deemed necessary by the Council and as are established by

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ordinance, all of which shall be under the control and direction of the City Manager. The Council may abolish or combine one or more departments created by it and may assign or transfer duties of any departments of the City from one department to another by ordinance.

§ 5.08. Directors of Departments.

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

§ 5.09. Fire Department.

The City shall take all necessary measures to protect the City and the property of its citizens from destruction by fire or conflagration; and shall have the authority to establish and maintain a fire department within the City at such time as state statutes may require, and to cooperate with any person, other governmental body, association or corporation in the operation of the fire department, under such terms as the City Council may prescribe. Authority is also granted to support and assist in the maintenance of a volunteer fire department.

§ 5.10. Police Department.

The City of Glenn Heights shall establish a Police Department and Reserve Force to protect and serve the citizens within the City and to cooperate with any person, governmental body, association or corporation in the operation of the Police Department, under such terms as the City Council may prescribe. Duties will be, but not limited to: maintaining public order, enforcement of regulations, traffic control, police patrol, investigations, crime prevention, accident investigation, and training.
(Amended at election of May 4, 2002)

§ 5.11. City Secretary.

The City Manager shall appoint and remove the City Secretary and such Assistant City Secretaries as the City Council shall deem advisable. The duties of the City Secretary, or an Assistant City Secretary shall be as required by law and as established by the Job Description as adopted with the City's Pay Classification Plan.
(Amended by Ordinance O-846-07 at an election held May 12, 2007, prop. 4)

ARTICLE 6. MUNICIPAL COURT

§ 6.01. Municipal Court.

There shall be a court known as the Municipal Court of the City of Glenn Heights, with such jurisdiction, powers, and duties as are given and prescribed by the laws of the State of Texas.

§ 6.02. Judge of the Municipal Court.

The Municipal Court shall be presided over by a Magistrate who shall be known as the City Judge. The City Judge shall be appointed by the Council for a two-year term, subject to removal by the City Council, with or without cause. The City Judge shall receive such compensation as may be set by the Council. The

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City Council by ordinance may provide for the appointment of one (1) or more Alternate City Judges for a two-year term, subject to removal by the City Council, with or without cause, and to serve if the City Judge is temporarily unable to act or is unavailable. In the event the City Judge is unable to act for any reason or in the event of a vacancy, the Alternate City Judge shall act in the place of the City Judge until such vacancy shall be filled.
(Amended at election of May 4, 2002; Amended by Res. R-27-18 at an election held on November 6, 2018, prop. B)

§ 6.03. Clerk of the Municipal Court.

There shall be a clerk of the Municipal Court who shall be appointed by, and who shall serve at the pleasure of the City Manager. The Clerk shall have power to administer oaths and affidavits, make certificates, affix the seal of the court thereto, and otherwise perform any and all acts necessary in issuing process of such Court, and conducting the business thereof.

There shall be such deputy clerks of the Municipal Court as may be authorized and appointed by the City Manager, who shall have authority to act for and on behalf of the Clerk of the Municipal Court.

§ 6.04. Procedure in the Municipal Court.

All complaints, prosecutions, the service process, commitment of those convicted of offenses, the collection and payment of fines, the attendance and service of witnesses and juries, punishment for contempt[,] bail and the taking of bonds shall be governed by the provisions of Title 2 of the Code of Criminal Procedure [Vernon's Ann. C.C.P. tit. 2] of the State of Texas applicable to Municipal Courts.

ARTICLE 7. FINANCE

§ 7.01. Fiscal Year.

The fiscal year of the City of Glenn Heights shall begin on October 1st of each calendar year and will end on September 30th of the following calendar year. The fiscal year will also be established as the accounting and budget year. All funds collected by the City during any fiscal year including both current and delinquent revenue shall belong to such fiscal year and, except funds derived to pay interest and create a sinking fund on the bonded indebtedness of the City, may be applied to the payment of the expenses incurred during such fiscal year. Any revenues uncollected at the end of any fiscal year, and any unencumbered funds actually on hand, shall become resources of the next fiscal year.

§ 7.02. Preparation and Submission of Budget.

The City Manager, prior to August 1st of each year, shall prepare and submit the budget, covering the next fiscal year, to the Council, which shall contain the following information. In preparing the budget, each employee, officer, board and department shall assist the City Manager by furnishing all necessary information.

(a) The City Manager’s budget message shall outline the proposed financial policies for the next year with explanations of any change from previous years in expenditures and any major changes of policy and complete statement regarding the financial conditions of the City.

(b) An estimate of all revenue from taxes and other sources, including the present tax structure rates

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and property evaluation for the ensuing year.

(c) A carefully itemized list of proposed expenses by office department, agency, employee and project for the budget year as compared to actual expenses of the last fiscal year, and the present year-to-date.

(d) A description of all outstanding bond indebtedness, showing amount, purchaser, date of issue, rate of interest, and maturity date, as well as any other indebtedness which the City had incurred and which has not been paid.

(e) A statement proposing any capital expenditures deemed necessary for undertaking during the next budget year and recommended provisions for financing.

§ 7.03. Budget a Public Record.

The budget and all supporting schedules shall [be] filed with the City Secretary when submitted to the Council and shall be open to public inspection by anyone interested.

§ 7.04. Public Hearing on Budget.

At the Council meeting at which time the budget is submitted, the Council shall name the date and place of a public hearing and shall cause to be published in the official newspaper of the City the time and place, which will be not less than seven (7) days nor more than fifteen (15) days after the date of the notice. At this hearing, interested citizens may express their opinions concerning items of expenditure, giving their reasons for wishing to increase or decrease any items of expense.

§ 7.05. Proceeding on Adoption of Budget.

After public hearing the Council shall analyze the budget, making any additions or deletions which they feel appropriate, and shall, prior to the beginning of the next fiscal year, adopt the budget by a favorable majority vote of all members of the Council.

§ 7.06. Budget, Appropriation and Amount to Be Raised by Taxation.

On final adoption, the budget shall be in effect for the budget year. Final adoption of the budget by the Council shall constitute the official appropriation as proposed expenditures for the current year and shall constitute the basis of the official levy of the property tax as the amount of tax to be assessed and collected for the corresponding tax year. Estimated expenditures will in no case exceed proposed revenue plus cash on hand. Unused appropriations may be transferred to any line item budgeted for the same general purpose.

§ 7.07. Unallocated Reserve Fund.

The City Manager may recommend for action by the Council, an unallocated reserve fund to be used for unexpected items of expense which were not contained as original items of expenditures.

§ 7.08. Administration of Budget.

No obligation shall be incurred against the City except for appropriations duly made in the budget. Furthermore, no payment shall be made nor obligations incurred against the City until the City Manager

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or his/her designee first verifies that there is or will be sufficient funds or monies available to cover the claim or meet the obligation when it becomes due and payable. There shall be no transfer of funds or monies from one fund to another fund to cover a claim or meet an obligation when it becomes due and payable without prior Council approval.
(Amended by Ordinance O-09-12 at an election held on May 12, 2012, prop. 5)

§ 7.09. Financial Reports.

The City Manager shall submit to the Council each month a report of the financial condition of the City by budget item, budget estimate compared to expenditures for the preceding month and for the fiscal year-to-date. The financial records of the City will be maintained on an modified accrual basis to support this type of financial management. The City Manager shall make available to the City Council monthly a cash disbursements journal of the City of all funds and accounts.

§ 7.10. Amending the Budget.

When conditions arise which could not reasonably have been foreseen in the normal process of planning the budget, the Council may amend or change the budget for any municipal or public purpose; however, the total expenditures from all City funds for the fiscal year may not be increased except by a vote of five (5) members of the City Council following a posted public hearing at which members of the public may provide input on such proposed amendment. In the event that a proposed budget amendment is in order to meet a grave public necessity, the City Council may, by a vote of five (5) of its members, waive the requirement for the public hearing. Amendments shall be by ordinance and shall become an attachment to the original budget.
(Amended by Ordinance O-09-12 at an election held on May 12, 2012, prop. 6)

§ 7.11. Certification: Copies Made Available.

A copy of the budget, as finally adopted, shall be filed with the City Secretary. The final budget shall be printed, or otherwise reproduced and sufficient copies shall be made available for the use of all offices agencies and for the use of interested persons and civic organizations.

§ 7.12. Defect Shall Not Invalidate the Tax Levy.

Errors or defects in the form or preparation of the budget or the failure to perform any procedural requirements shall not nullify the tax levy or the tax rate.

§ 7.13. Independent Audit.

At the close of each fiscal year, and at such other times as it may be deemed necessary, the Council shall direct that an independent audit be made of all accounts of the City by a Certified Public Accountant. The Certified Public Accountant shall have no personal interest, directly or indirectly, in the financial affairs of the City or any of its officers. Upon completion of the audit, the results thereof shall be placed on file in the City Secretary's office for public record.

§ 7.14. Purchase Procedure.

All sales of City property, purchases made, and contracts executed by the City shall be made in accordance with the requirements of the Constitution and laws of the State of Texas, including all laws related to the purchasing and contracting authority of municipalities, bids for public works contracts, high

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technology procurements, and professional services procurements.
(Amended at election of May 4, 2002)
Editor's note—Ord. No. 688-00, 9-05-2000, codified in section 1.19.001 of the city's Code of Ordinances, provides in pertinent part that "V.T.C.A., Local Government Code, ch. 252, shall supersede the provisions of the charter of the city where there is conflict between that statute chapter and the Charter as it relates to the notice of contracts, advertisement of the notice, requirements for the taking of sealed bids based on specifications for public improvements or purchases, the manner of publicly opening bids or reading them aloud, or the manner of letting contracts."

ARTICLE 8. BONDS, WARRANTS, AND OTHER EVIDENCE OF INDEBTEDNESS

§ 8.01. Powers to Issue.

In keeping with the Constitution of the State of Texas and not contrary thereto, the City of Glenn Heights shall have the power to borrow money on the credit of the City for any public purpose not now or hereafter prohibited by the Constitution and laws of the State of Texas, and shall have the right to issue all tax bonds, revenue bonds, funding and City refunding bonds, time warrants and other evidence of indebtedness as now authorized or as may hereafter be authorized to be issued by cities and ices towns by the laws of the State of Texas.

No bonds, warrants or certificates of indebtedness shall be made and the City shall not become obligated for same, to be used for the operation of the regular administrative and operating budgets of the City of Glenn Heights.

§ 8.02. Manner of Issuance.

Bonds and warrants of the City of Glenn Heights shall be issued in the manner provided by the general laws of the State of Texas.

§ 8.03. Sale of Bonds.

No bonds issued by the City of Glenn Heights shall be invalid because they are sold for less than par value and accrued interest. The Council shall have the right to reject any or all bids. In the event the City shall have received authorization for the issue of bonds but shall not have issued said bonds within ten (10) years from the date of voter authorization, such authorization shall become null and void.

§ 8.04. Interest and Sinking Funds.

It shall be the duty of the Council to levy an annual tax sufficient to pay the interest on and approve the necessary sinking fund required by law on all outstanding general obligation bonds of the City. The interest and sinking fund shall be deposited in a separate account and in shall not be diverted to or used for any other purpose than to pay the interest and principal on all such bonds issued by the City of Glenn Heights. The sinking fund maintained for the redemption of any debt may be invested in any interest bearing bonds of the United States Government, and/or secured bonds of the State of Texas as may be provided by the laws of this State. City monies may also be deposited in any state or nationally chartered bank in interest bearing accounts.

§ 8.05. Revenue.

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The City shall have power to borrow money for the purpose of construction, purchasing, improving, extending, or repairing of public utilities, recreational facilities or any other function not now or hereafter prohibited by the general laws of the State, and issue revenue bonds to evidence the obligation created thereby. Such bonds shall be a charge upon and payable solely from the properties, or interest therein acquired and the income therefrom, and shall never be a debt of the City.

Revenue bonds issued by the City may, within discretion of the City Council, be submitted for approval by a majority of qualified voters, voting at an election held for such purpose. The Council shall have authority to provide for the terms and force of any purchase agreement, contract, mortgage, bond or document desired or necessary for the issuance of revenue bonds, and the acquisition and operation of any property or interest.

§ 8.06. Execution and Registration of Bonds.

All bonds, warrants and certificates of indebtedness shall be signed by the Mayor, countersigned by the City Secretary, and sealed with the seal of the City in the manner provided by general law, and shall be payable at such times and place or places as may be fixed, not more than forty (40) years from their date. It shall be the duty of the Mayor, when such bonds are issued, to forward the same to the Attorney General of the State of Texas for approval and for registration by the Comptroller of Public Accounts.

§ 8.07. Bond Register.

The Director of Finance or other officer of the City designated by the City Council shall keep, or cause to be kept, for and on behalf of the City a complete bond registry and books, showing all bonds, warrants and certificates of indebtedness issued, the date and amount thereof, the rate of interest, maturity, etc., of all bonds or other indebtedness surrendered and other transactions of the Council having reference to the refunding of the indebtedness of said City.

ARTICLE 9. TAXATION

§ 9.01. Powers of Taxation.

The Council shall have power to levy, for general purposes, an ad valorem tax on real, personal, and mixed property within the territory of the City of Glenn Heights, not exempt from taxation by the Constitution and laws of the State of Texas, based upon its true value as provided by law to the extent of the constitutional limit permitted by the State of Texas to cities of over 5,000 population.

The Council may levy taxes on all property, privileges and franchises of every kind and description within the city limits or having its situs therein on January first, of each year, and from any other local source, and provide for rendition thereof, the place, time, and manner of payment thereof; with penalties, as the Council may deem best, not in violation

§ 9.02. Assessment of Property for Tax Purposes.

Every person, partnership, association or corporation holding, owning, or controlling property within the limits of the City shall on January 1st of each year be assessed as prescribed by State law.
(Amended by Res. R-27-18 at an election held on November 6, 2018, prop. C)

§ 9.03. Exempt Property.

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The City hereby exempts such personal property from taxation as may be provided for by the State Constitution and laws of the State of Texas and may grant any exemption allowed by the Texas State Property Tax Code [V.T.C.A., Property Code, tit. 1].

§ 9.04. Payment of Taxes.

The taxes herein and hereby authorized to be levied shall become due and payable October 1st of the year assessed, and same shall be payable in cash at the office of the Collector of Taxes or such other officer as the City may, by ordinance, prescribe.

§ 9.05. Delinquent Taxes.

Taxes shall be deemed and become delinquent if not paid prior to February 1st the year following assessment, and such delinquent taxes shall be subject to six (6%) percent penalty.

In addition to the penalty therein prescribed, such delinquent taxes shall bear interest at the rate of one (1%) percent per month for each month of delinquency up to a maximum penalty interest rate of twelve (12%) percent per annum from the original delinquent date. In addition to the penalty interest herein prescribed, such delinquent taxpayer shall be subject to the payment of all costs and expenses incurred in the advertisement of such delinquent property and the collection of such taxes through any method provided by this Charter and/or the laws of the State of Texas. Such penalties and interest shall be an obligation of the taxpayer and shall be secured by the same lien and collected in the same manner as other taxes.

§ 9.06. Tax Lien and Liability.

A special lien is hereby created on all real personal, and mixed property, located in the City of Glenn Heights, in favor of the City of Glenn Heights for all taxes, ad valorem, occupational or otherwise.

Said lien shall exist from January 1st in each year until the taxes are paid. Such lien shall be prior to all other claims, and no gift, sale, assignment or transfer of any kind, or judicial writ of any kind, can ever defeat such lien, but the Assessor and Collector of Taxes can pursue such property, and whenever found out may, by judicial writ, seize and sell enough thereof to satisfy such taxes.

All persons or corporations owning real, personal, or mixed property on the first day of January of each year shall be liable for all municipal taxes levied thereon for such year.

§ 9.07. Appeal of Appraised Value.

The City Council or the property owner shall have the right as prescribed by Law to contest the appraised values on all parcels before the Appraisal Review Board.

§ 9.08. Tax Remission, Discount and Compromise, Correction of Error.

Except as herein provided, neither the Council or any other official of the City shall extend the time for payment of taxes nor remit, discount or compromise any tax due the City, nor waive the penalty and interest that may be due thereon to any person, firms or corporations owing taxes to the City for such year or years, unless a clerical error or omission by a city employee is made. However, this provision shall not prevent the compromise of any tax suit, or the correction of any errors in assessment or preparation of tax rolls or preparation of a tax statement. Such compromise shall first have the approval of the Council.

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ARTICLE 10 PLANNING

§ 10.01. The Planning and Zoning Commission.

There shall be established a Planning and Zoning Commission which shall consist of seven (7) citizens from the City of Glenn Heights. The members of said Commission shall be appointed by the City Council for a term of three (3) years. The initial appointment of the Planning and Zoning Commission members by the Council shall designate which members shall serve three (3) years, which members shall serve two (2) years and which members shall serve one (1) year, and on each succeeding year thereafter, the Council shall select replacements for the Planning and Zoning Commission members whose terms have expired. The Commission shall elect a Chairman and Vice Chairman from among its members. The Commission shall meet not less than once each month. Vacancies and unexpired terms shall be appointed by the Council for the remainder of the term. A majority of the members shall constitute a quorum, and the affirmative vote of four (4) members shall be necessary for the passage of any recommendation to the City Council. Members of the Commission may be removed by the Council after public hearing.

The Commission shall keep minutes of its proceedings which shall be of public record. The Commission shall serve without compensation.

Commission members and officers holding such office on the effective date of the Charter shall continue in office until the expiration of their term of membership or office and shall thereafter be appointed as provided in this Section.

§ 10.02. Planning and Zoning Commission Powers and Duties.

The Planning and Zoning Commission shall recommend to the City Council approval or disapproval of proposed changes in the Zoning Ordinance, Master Plan, Master Thoroughfare Plan and shall review and recommend approval or disapproval of all subdivision plats.

The Commission shall be responsible to and act as an advisory body to the Council and shall have and perform such additional duties as may be prescribed by ordinance.

§ 10.03. The Master Plan.

A Master Plan for the physical development of the City of Glenn Heights shall be adopted by the City Council and it shall contain recommendations for growth, development and beautification of the City.

The City Council shall have the authority to amend the Master Plan in whole or in part after one public hearing on the proposed action.

§ 10.04. Legal Effect of the Master Plan.

Upon the adoption of a Master Plan by the City Council, no subdivision street, park or any public way, ground or space, public building or structure, or public utility whether publicly or privately owned, which is in conflict with the Master Plan shall be constructed or authorized by the City until and unless the location and extent thereof shall have been submitted to and approved by the City Council. The widening, narrowing, relocating, vacating or change in the use of any street, alley or public way, or ground or the sale of any public building or real property, shall be submitted for approval by the City Council.

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ARTICLE 11 FRANCHISES AND PUBLIC UTILITIES

§ 11.01. Powers of the City.

In addition to the City's power to buy, own, construct, maintain and operate utilities within or without the City Limits, and to manufacture and distribute electricity, gas or anything else that may be needed or used by the public, the City shall have further power as may now or hereafter be granted under the Constitution and laws of the State of Texas.

§ 11.02. Inalienability of Control of Public Property.

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

§ 11.03. Ordinance Granting Franchises.

All ordinances granting, amending, renewing, or extending franchises for public utilities shall be read at two separate regular meetings of the Council and shall not be finally passed until thirty (30) days after the first reading and no such ordinance shall take effect until thirty (30) days after its final passage; and pending such time, the full text of such ordinance shall be published once each week for four (4) consecutive weeks in the official newspaper of the City of Glenn Heights and the expense of such publication shall be borne by the proponent of the franchise. The granting of franchises by the City Council shall be governed by the following regulations:

(a) No exclusive franchise or privilege shall ever be granted;

(b) No determinate or fixed term franchise shall ever be granted for longer term than twenty (20) years;

(c) Within five (5) years prior to the date of expiration of any fixed term franchise, the City Council may grant a new franchise to commence upon the expiration date of the franchise in question, or grant a new franchise if the existing franchise is released;

(d) All holders of franchises for public services from the City, their successors or assigns, as compensation for the right or privilege of such franchise enjoyed, shall pay to the City a percentage of the gross receipts of the business activities by the franchise holder rendered in the City. Such sum shall be exclusive of, and in addition to, all special assessments and taxes of whatever nature, including ad valorem taxes upon the value of the franchise and other property of the franchise holder. The sum due hereunder shall be due and payable in accordance with the specific ordinance.

For purposes of this section of the Charter, an agreement for the collection, transportation, disposal, recycling, or other management of solid waste shall not be considered to be a franchise or privilege. (Amended by Ordinance O-846-07 at an election held May 12, 2007, prop. 12)

§ 11.04. Transfer of Franchise.

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No franchise shall be transferable except to persons, firms, or corporations taking all or substantially all of the holder's business in the City of Glenn Heights and except with the approval of the Council expressed by ordinance. All liabilities to the City of Glenn Heights shall be paid in full at the time of the transfer.

§ 11.05. Franchise Value Not to be Allowed.

No value of any franchise granted by the City under this Charter shall be considered in fixing reasonable rates and charges for utility service within the City or determining the just compensation to be paid by the City for property which the City may acquire by condemnation or otherwise.

§ 11.06. Regulation of Rates.

The Council shall have full power after notices and hearing to regulate by ordinance the rates, charges and fares of every franchise holder operating in the City, to the fullest extent authorized by law, provided that no such ordinance shall be passed as an emergency measure. Every franchise holder who shall request an increase in rate, charges, or fares, shall have, at the hearing of the Council called to consider such request, the burden of establishing by clear, competent and convincing evidence, the value of its investment property allocable to service in the City, and the amount and character of its expenses and revenues connected with the rendering of such service.
(Amended at election of May 4, 2002)

§ 11.07. Consent of Property Owners.

The consent of abutting and adjacent property owners shall not be required for the construction, extension, maintenance or operation of any public utility; but nothing in this Charter or in any franchise granted thereunder shall ever be construed to deprive any such property owners of any right of action for damage or injury to his/her property as now or hereafter provided by law.

§ 11.08. Extensions.

All extensions of public utilities within the City Limits shall become a part of the aggregate property of the public utility, shall be operated as such, and shall be subject to all the obligations and reserved rights contained in this Charter and in any original grant hereinbefore made. The right to use and maintain any extensions shall terminate with the original grant. In case of an extension of public utility operated under a franchise hereafter granted, such right shall be terminable at the same time and under the same conditions as the original grant.

§ 11.09. Temporary Permits.

Permits unconditionally revocable at the will of the governing body for minor or temporary privileges in the streets, public ways, and public places of the City may be granted and revoked by ordinances from time to time, and such permits shall not be deemed franchises as the term is used in this Charter.

§ 11.10. Other Conditions.

All franchises heretofore granted are recognized as contracts between the City of Glenn Heights and the grantee, and contractual rights as contained in any such franchises shall not be impaired by the provisions of this Charter, except that the power of the City of Glenn Heights to exercise the right of eminent domain in the acquisition of any utility property is in all things reserved, and except the general powers of the City heretofore existing and herein provided for to regulate the rates and services of a utility, which shall

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include the right to require adequate and reasonable extension of plant and service and the maintenance of the plant fixtures at the standard necessary to render the highest reasonable quality of utility service to the public shall be reserved. Every franchise hereafter granted shall be held subject to all the terms and conditions contained in the various sections of this Article whether or not such terms are specifically mentioned in the franchises. Nothing in this Charter shall operate to limit in any way, as specifically stated, the discretion of the Council or the electors of the City in imposing terms and conditions as may be reasonable in connection with any franchise grant, including the right to require such compensation or rental as may be permitted by the laws of the State of Texas.

§ 11.11. Franchise Records.

Within six months after this Charter takes effect, every owner of a franchise shall file with the City, as may be prescribed by ordinance, certified copies of all franchises owned or claimed, or under which such utility is operated in the City of Glenn Heights. The City shall compile and maintain a public record of franchises.

§ 11.12. Accounts of Municipally Owned Utilities.

Accounts shall be kept for each public utility owned or operated by the City, in such manner as to show the true and complete financial results of such City ownership and operation, including all assets, appropriately divided into different classes, all liability subdivided by classes, depreciation reserve, other reserves, and surplus; also revenues, operating expenses including depreciation, interest payments, rental, and other disposition of annual income. The accounts shall show the actual capital cost to the City of each public utility owned, also the cost of all extensions, additions, and improvements and the source of the funds expended for such capital purposes. They shall show as nearly as possible the cost of any service furnished or rendered by any such utility to any other City or governmental department. The Council shall annually cause to be made by a certified public accountant, and shall publish, a report showing the financial condition of said public utility and the financial results of such City ownership and operation, giving the information specified in this section and such additional data Council shall deem expedient.

ARTICLE 12. BOARDS AND COMMISSIONS

§ 12.01. Boards and Commissions.

The City Council shall have authority to establish by ordinance such boards and commissions as it may deem necessary for the conduct of City business and management of municipal affairs including appointments of city hall officers to such boards and commissions except as otherwise provided in the Charter. The authority, functions and responsibilities of such the boards and commissions shall be such as is spelled out in the ordinance establishing them. All existing boards and commissions heretofore established shall be continued in accordance with the ordinance or other acts under which they have been created, or until the City Council shall by ordinance abolish, modify or alter the ordinances or acts under which they exist. Notwithstanding any other provision of this Charter, the elected City Council shall have paramount authority over all matters affecting the budgets, appropriation of funds, expenditures, purchases and sale of properties and procedures for accounting therefor, consistent with the express provisions of this Charter and applicable provisions of the State constitution and laws of this State.

ARTICLE 13. GENERAL PROVISIONS

§ 13.01. Public Records of the City.

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Every ordinance or resolution, upon its becoming effective, shall be recorded in a book kept for that purpose and shall be authenticated by the signature of the Mayor or Mayor [Pro tem] and attested by the City Secretary as herein provided, which book and a duplicate copy thereof shall be kept in a fireproof City depository. All public records of every office, department, or agency of the City shall be open to, inspection by any citizen at all reasonable times, provided that police records and vital statistics records, and any other records closed to the public by law, shall not be considered public records for the purposes of this Section.

§ 13.02. Personal Interest in City Contracts.

No officer or employee of the City of Glenn Heights shall have a financial interest, direct or indirect, in any contract with the City, or be financially interested directly, or indirectly in the sale to the City of any land, materials, supplies, or services, except on behalf of the City as an officer or employee. Any knowing and willful violation of this Section shall constitute malfeasance in office and any officer or employee guilty thereof shall be removed from his/her office or position. Any violation of this Section with the knowledge, expressed or implied, of the person or corporation contracting with the governing body of the City shall render the contract involved void.

§ 13.03. Nepotism.

No person related within the second degree by affinity, or the third degree consanguinity to the Mayor, any member of the City Council, or the City Manager shall be appointed to any paid office, position, clerkship, or other service of the City. This prohibition shall not apply, however, to any person who shall have been employed by the City prior to and at the time of the election of the Councilmembers, or appointment of the City Manager, so related to him/her.

§ 13.04. Officers Not to be interested in Franchises: Forfeiture.

No officer or employee of the City of Glenn Heights shall accept, directly or indirectly, any gift, favor, privilege or employment from any public utility corporation enjoying a grant of any franchise privilege or easement from said City, during the term of office of such officer or during the employment of such employee of the City, except as may be authorized by law or ordinance. Any employee or officer of the City who shall violate the provisions of this Section shall be guilty of a misdemeanor and shall be punished by such fine as may be prescribed by ordinance for this offense, and may be forthwith, removed from office.

§ 13.05. Mechanic, Material or Labor Claim.

All subcontractors, materialmen, mechanics and laborers upon any public works of the City of Glenn Heights are hereby required to notify the City of all claims they may have against the contractor on account of such work, subject to proof of payments by the said contractor, and where such notice has been given, the City shall retain an amount from any funds due the contractors, sufficient to satisfy such claims; provided that such notice must be given at any time after such indebtedness becomes due and before the City's final settlement with the contractor and provided further, that no contractor or subcontractor shall issue any checks on or on account of, any public works of said City.

§ 13.06. Notice of Claim.

The City of Glenn Heights shall not be held responsible on account of any claim for damages to any person unless the person making such complaint or claiming such damages shall, within ninety (90) days

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after the time at which it is claimed such damages were inflicted upon such person, file with the City Secretary, a true statement under oath, as to the nature and character of such damages or injuries, the extent of the same, and the place where same happened, the circumstances under which same happened, the conditions causing same, with a detailed statement of each item of damages and the amount thereof, and if it be for personal injuries, giving a list of the witnesses, if any known to affiants, who witnessed such accident.

§ 13.07. Assignment, Execution and Garnishment.

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

§ 13.08. Bond of Contractors.

The governing body of the City of Glenn Heights shall require sufficient payment and performance bonds of all contractors, with a good corporate surety thereon, acceptable to the governing body of the City of Glenn Heights.

§ 13.09. Condemnation of Dangerous Structures.

Whenever, in the opinion of the governing body of the City of Glenn Heights, or appropriate city official, any building, fence, shed, awning, eave, excavation, structure, object or thing of any kind or part thereof may fall or collapse and injure persons or property, the City may order the owner or agent of the same or occupant of the premises to take such corrective measures as the governing body may direct, and may punish by fine all persons failing to do so. Upon his failure to comply, the governing body shall have the additional power to remove the same on account of the owner of the property and assess the expenses thereof, including condemnation proceedings, as a special tax against the land or improvements, and the same may be collected as other special taxes provided for in this Charter, or by suit in any court of competent jurisdiction.

§ 13.10. Building Permits.

The City of Glenn Heights shall have the power to prohibit the erection or construction of any building or structure of any kind within the City of Glenn Heights without a permit first having been issued by the City for the construction or erection of such building or structure, and may authorize a fee to be charged for such permit, and in pursuance of said authority may authorize the inspection by the City of all buildings or structures during the progress of their construction and may require that all buildings shall be constructed in conformity with the building code which exists in said City or shall hereafter be passed.

§ 13.11. Pool, Ponds, and Lakes.

The City of Glenn Heights shall have the power to control or prohibit construction of pools, ponds, or lakes, receiving water from a recognizable stream, creek, branch, or natural drainage. The City may control location, construction, height of structure, depth and size of body of water to be impounded. No pool, pond, or lake, receiving water from a recognizable stream, creek, branch, or natural drainage, shall

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be constructed without first obtaining a permit issued by the City.

§ 13.12. Bonds of City Officials, Employee, or Department Director.

In addition to any bonding provisions herein provided, the Council shall require not less than $25,000 for the Tax Collector, and may require any city official, department director or city employee before entering upon his/her duties, to execute a good and sufficient bond with a surety company doing business in the State of Texas, and approved by the Council, as surety thereon, said bond to be in such amount as Council may demand payable to the City of Glenn Heights, and conditioned for the faithful performance of the duties of his office [the] premium of such bond to be paid by the City.

§ 13.13. Amendment of the Charter.

This Charter may be amended no more than once every two (2) years as provided by the laws of the State of Texas.

§ 13.14. Severability Clause.

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

§ 13.15. Construction of the Charter.

In the wording of the Charter, the use of the singular number shall include the plural, and the plural shall include the singular. Words used in the masculine gender shall include the feminine also unless by reasonable construction, it appears that such was not the intention of this Charter.

§ 13.16. Construction of Power.

This Charter shall not be construed as a mere grant of enumerated powers but shall be construed as a general grant of power and as a limitation of power on the government of the City of Glenn Heights in the same manner on as the Constitution of Texas is construed as a limitation on the powers by of the Legislature. Except where expressly prohibited by this Charter, each and every power under Article 11, Section 5 of the Constitution of Texas [Tex. Const. art. 11, § 5], which it would be competent for the citizens of the City of Glenn Heights to grant expressly to the City, shall be construed to be granted to the City by the Charter.

§ 13.17. Churches and School Property Not Exempt From Special Taxes and Assessments.

No property of any kind, church, school, or otherwise, in the City shall be exempt from any of the special taxes and assessments authorized by it this Charter for local improvements unless the exemption is required by a state law.
(Ordinance O-06-17 adopted 7/18/17)

§ 13.18. Damages.

No member of the City Council shall be individually liable or accountable in damages as a result of any actions taken by the member in performance of official duties.

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§ 13.19. Rearrangement and Renumbering.

The Council shall have the power, by ordinance, to renumber and rearrange all Articles, Sections, and paragraphs of the Charter or any amendments thereto, as it shall deem appropriate, and upon the passage of any such ordinance, a copy thereof certified by the City Secretary, shall be forwarded to the Secretary of State for filing.

§ 13.20. Effective Date of Charter.

This Charter, if adopted, shall become effective from and after the votes cast at the election at which it is submitted to the voters shall have been counted and the result of said election declared and an order or ordinance shall have been entered upon the records of the City Council declaring it adopted. All amendments to this Charter shall become effective from and after the votes cast at the election at which such amendments are submitted to the voters shall have been counted and the result of said election declared and an order or ordinance shall have been entered upon the records of the City Council declaring such amendments to be adopted.
(Amended at election of May 4, 2002)

§ 13.21. Non-Substantive Errors.

In the event that a typographical, grammatical, gender-specific or other non-substantive error in the Charter are identified, that the Council may, by a majority vote, correct the same, provided that no such correction may alter the substantive meaning of any provision of the Charter.
(Amended by Ordinance O-846-07 at an election held May 12, 2007, prop. 14; Amended by Res. Res. R-27-18 at an election held on November 6, 2018, prop. D)

§ 13.22. Disaster Response.

The City Manager shall ensure that a current disaster response plan is maintained by the City that is consistent with state and federal law regarding disaster response. The City Council shall, by ordinance, define an order of succession of authority, also consistent with state and federal law, to address chain of command in the event of disaster and/or the multiple deaths, injuries, or unavailability of City officials.
(Amended by Ordinance O-846-07 at an election held May 12, 2007, prop. 13; Ordinance O-06-17 adopted 7/18/17)

§ 13.23. Code of Ethics.

Within eighteen (18) months of adoption of this section, the City Council shall, by Ordinance, adopt a Code of Ethics to govern the conduct of all City officials, including all members of all City councils, boards, committees, or commissions, while such persons hold such position or office. The Code of Ethics will not apply to or govern employees or independent contractors of the City. At a minimum, the Code of Ethics shall incorporate the conflict of interest standards that appear in chapter 171 of the Texas Local Government Code and all state law as presently exists or may hereafter be amended or adopted. The City Council may adopt more stringent standards than those that appear in state law, but the Code of Ethics shall at a minimum include the following components: (a) definition of a prohibited improper economic interest and personal gain; (b) definition of recusal and improper participation when a potential conflict of interest is present; (c) avoidance of appearance of conflict of interest; and

(d) administration and enforcement of the Code of Ethics coupled with strong and meaningful remedies for infraction. Prior to adoption of the Code of Ethics, the City Council may establish and appoint

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qualified voters to serve as members of an Ethics Advisory Commission, which Commission shall be charged with preparing and presenting to the City Council for its consideration a proposed Code of Ethics.

(Added by Res. R-27-18 at an election held on November 6, 2018, prop. E)

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Part II

GENERAL CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS

Sec. 1.01.001. Designation and citation of code.[1]

This Code is a codification of the general ordinances of the city which have been enacted and published in accordance with the authority granted in V.T.C.A., Local Government Code, ch. 53. The ordinances embraced in this Code shall constitute and be designated the "Code of Ordinances, City of Glenn Heights, Texas," and may be so cited. This Code may also be cited as the "Glenn Heights Municipal Code." ~~There is hereby adopted the Code of Ordinances of the city as compiled, edited and published by Franklin Legal Publishing, Inc.~~
(Code 1996, §§ 1.01.001, 1.01.002)

~~Art. 1.08. At a meeting of the city council held on the 16th day of September, 1969, the city council accepted the provisions of title 28, chapters 1–10, Revised Civil Statutes of the state and subsequent amendments thereto. The city also assumed the corporate name of "The City of Glenn Heights." (Code 1996, Art. 1.08)~~[2]

Sec. 1.01.003. Catchlines of articles and sections.

The catchlines of the several articles and sections of this code are intended as mere catchwords to indicate the contents of the article or section and shall not be deemed or taken to be titles of such articles and sections, nor as any part of the articles and sections, nor, unless expressly so provided, shall they be so deemed when any of such articles and sections, including the catchlines, are amended or reenacted.
(Code 1996, § 1.01.003)

Sec. 1.01.004. Definitions and rules of construction.[3]

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

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[1] **Sec. 1.01.001. Designation and citation of code.** Section is updated for the current on-going recodification.

[2] **Art. 1.08. Recognition of incorporation.** Unnecessary text is stricken as shown.

[3] **Sec. 1.01.004. Definitions and rules of construction.** A definition of the city's fee schedule and of citation conventions to state law and rules are added. The definition of the city is altered to exclude the word "town". Any references to the city as a town throughout the code will be corrected by editing staff during the next phase of this project.

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indicated.

City ~~and town. Each~~ means the City of Glenn Heights, Texas.

City manager, city secretary, chief of police or other city officers. The words "city manager," "city secretary," "chief of police" or other city officers or departments shall be construed to mean the city manager, city secretary, chief of police or such other municipal officers or departments, respectively, of the City of Glenn Heights, Texas.

Computation of time. The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday or holiday observed by the city, the deadline or required date of action shall be the next day that is not a Saturday, Sunday or holiday observed by the city. References to days are calendar days unless otherwise stated.

Conjunctions. Unless the context clearly indicates the contrary, conjunctions shall be interpreted as follows: The word "and" indicates that all connected items, conditions, provisions or events apply. The word "or" indicates that one or more of the connected items, conditions, provisions, or events apply.

Council. Whenever the words "council" or "this council" or "the council" are used, they shall mean the city council of the City of Glenn Heights, Texas.

County. The term "county" or "this county" shall mean the Counties of Dallas and Ellis, Texas. May. Is permissive.

Fee schedule means the comprehensive schedule of city fees as approved from time to time by the city commission, a copy of which is on file in the office of the city secretary and available on the city website.

Mandatory and discretionary terms. The words "shall," "must," and "will" are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words "may" and "should" are permissive in nature.

Month. The word "month" shall mean a calendar month. Must and shall. Are each 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 herein they shall mean standard time or daylight saving time as may be in current use in the city.

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 and bodies politic and corporate as well as to individuals.

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Property. Means and includes real and personal property.

Real property. Means and includes lands, tenements and hereditaments.

References to statutes, regulations and documents. Whenever reference is made to a resolution, ordinance, statute, regulation, manual, or document, it shall be construed as a reference to the most recent edition of such that has been finalized and published with the due provision for notice and comment, unless otherwise specifically stated.

Sidewalk. That portion of a street between the curbline and the adjacent property line intended for the use of pedestrians.

Signature or subscription. Shall include a mark when a person cannot write.

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

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.

Tex. Adm. Code. The abbreviation "Tex. Adm. Code" means the latest edition or supplement of the Texas Administrative Code.

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

Vernon's Ann. CCP. The abbreviation "Vernon's Ann. CCP" means the latest edition or supplement to Vernon's Annotated Code of Criminal Procedure.

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

~~V.T.C.C.P., V.T.C.A. 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. Shall mean a calendar year.
(Code 1996, § 1.01.004)

Sec. 1.04.001. Ordinances.

(a) *Style.* The style of all ordinances shall be “Be it ordained by the City Council of the City of Glenn Heights.”

(b) *Introduction and action.* All ordinances shall be in writing and shall be introduced by some member of the city council at an open meeting of the city council when it shall be read and acted upon. It shall not be necessary to read the ordinance in its entirety, but the caption shall be read and a brief summary and explanation of the purpose of the ordinance provided prior to voting on the ordinance.

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(c) *Disposition.* All ordinances upon passage shall be approved by the mayor and attested by the city secretary, and shall be recorded by the city secretary, in chronological order, in a book of ordinances provided for such purpose, together with proof of publication, if required.
(Code 1996, §§ 1.01.001—1.04.003)

Sec. 1.01.006. Repeal of ordinances.

The repeal of an ordinance or any portion thereof shall not repeal the repealing clause of an ordinance or revive any ordinance which has been previously repealed.
(Code 1996, § 1.01.006)

Sec. 1.01.007. Amendments or additions to code.

All ordinances of a general and permanent nature, and amendments to such ordinances, hereafter enacted or presented to the city council for enactment, shall be drafted, so far as possible, as specific amendments of, or additions to, the Code of Ordinances. Amendments to this code shall be made by reference to the chapter and section of the code which is to be amended, and additions shall bear an appropriate designation of chapter, article and section; provided, however, the failure so to do shall in no way affect the validity or enforceability of such ordinances.
(Code 1996, § 1.01.007)

Sec. 1.01.008. Supplementation of code.

(a) By contract or by city personnel, supplements to this code shall be prepared and printed whenever authorized or directed by the city council. A supplement to the code shall include all substantive permanent and general parts of ordinances passed by the city council or adopted by initiative and referendum 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 which 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;

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(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 articles or sections 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. (Code 1996, § 1.01.008)

Sec. 1-#. Certain ordinances not affected by Code.[4]

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

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

(2) Any appropriation ordinance, including those providing for or related to an annual budget or prescribing salaries for city officers and employees.

(3) Any ordinance describing the boundaries of the city, annexing territory to the city or discontinuing territory as a part of the city.

(4) Any ordinance granting a franchise.

(5) Any ordinance adopting or affecting the license code or requiring or related to any privilege or occupational license or tax, including alcoholic beverages.

(6) The levy, imposition or assessment of any licenses or taxes.

(7) Any ordinance ordering an election.

(8) Any ordinance making appointments to positions, offices or boards.

(9) Any ordinance providing for local improvements or levying assessments for public improvements.

(10) Ordinances authorizing deeds, leases, contracts or other such instruments.

(11) Ordinances under which vested rights may have accrued as to persons in whom such rights may have vested.

(12) Any ordinance dedicating, accepting, naming, establishing, locating, relocating, opening, paving, widening or vacating any street or other public way in the city or relating to municipal street maintenance agreements with the state or establishing or prescribing grades for streets in the city.

(13) Any ordinance which, by its own terms, is effective for a stated or limited term.

(14) Any ordinance dedicating or accepting any subdivision plat.

(15) Any ordinance adopted for purposes which have been consummated.

(16) Any ordinance which is temporary, although general in effect.

(17) Any ordinance which is special, although permanent in effect.

(18) Any ordinance providing for and regulating flood management unless otherwise specifically

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[4] **Sec. 1-#. Certain ordinances not affected by Code.** Certain ordinances are saved from repeal by adoption of the recodified code at the end of this project.

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provided herein.

(b) All such ordinances are recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

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

(a) When 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 such code or 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 provisions of this code or any such ordinance shall be punished by a fine not exceeding $500.00 except that:

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

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

(b) Each day any violation of this code or of any ordinance shall continue shall constitute a separate offense. 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.
(Code 1996, § 1.01.00)

Sec. 1.01.005. Severability of parts of code.

It is hereby declared to be the intention of the city council that the sections, paragraphs, sentences, clauses and phrases of this code are severable and, if any phrase, clause, sentence, paragraph or section of this code shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this code, since the same would have been enacted by the city council without the incorporation in the code of any such unconstitutional phrase, clause, sentence, paragraph or section.
(Code 1996, § 1.01.005)

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Chapter 2

ADMINISTRATION

ARTICLE I. IN GENERAL

Sec. 1.03. Fiscal year.

The fiscal year of the city is hereby designated as beginning October 1 of each year and ending September 30 of the following year.
(Code 1996, Art. 1.03)

Sec. 1.09. City seal and logo form and design; use requirements and restrictions.[5]

(a) The city has adopted and is the sole owner of the official seal or logo of the city depicted below:

[GRAPHIC - City Seal]

(b) The seal or logo consists of two concentric circles, the outer circle being a field of blue bounded along its outer edge by white rope braid with blue shading and on its inner edge by a solid white line.

(c) Upon the field of blue the following words appear: at the top of the circle, “CITY OF” in white, all caps, Times New Roman font and on the lower portion of the circle, in white, all caps, Times New Roman font the words ‘GLENN HEIGHTS”, with a white, five-pointed star appearing before the word “GLENN” and another appearing after the word ‘HEIGHTS”.

(d) The center circle is a field of white bounded by the shared blue line. Centered within the white field are the stylized letters “G” and “H”. The stylized “G” is solid blue with the center of the letter forming a white, five-pointed star. The top portion of the stylized “H” is white, outlined in blue and the lower portion of the stylized “H” is burgundy with no outlining. There is a small white space between the top and bottom portions of the stylized “H”. ~~The original and default pantone colors for the City seal or logo are as follows: CMYK Blue: 82-75-48-47, Red: 37-88-80-44, White: 0-0-0-0. RGB Blue: 46-49-68, Red: 108-39-38, White: 255-255-255~~

(e) For all official use, the seal or logo shall employ the official and default pantone colors or shall be in black and white; however, the recognition of the original and default pantone colors shall not be deemed to prevent the city’s official use of other colors or color combinations for the city seal or logo.

(f) An official digital copy of the city seal or logo shall be on file with the city secretary’s office. The city secretary will affix the city seal or logo or a facsimile or reproduction, black-and-white or original color, thereof to all certificates and documents as may be required by law, by this article or by ordinance of the city.

(g) All other uses of the city seal or logo are restricted to official city business and such other appropriate uses that further the operations of the city as may be authorized in writing by the city manager or the city manager’s designee as otherwise specifically permitted in this article. Except as provided in

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[5] **Sec. 1.09. City seal and logo form and design; use requirements and restrictions.** Unnecessary print specifications are stricken as shown.

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this article, no person shall make, use, employ, print, publish or make use of the official seal or logo of the city or any facsimile or reproduction thereof or make or use any seal or logo which is an imitation of or may be mistaken for the city seal or logo.

(h) City officers, city employees, members of the city council, and members of city boards and commissions may use stationery, printed materials, and other articles bearing the city seal or logo or a facsimile or reproduction of the city seal or logo while acting within the scope of their office or employment.

(i) No person, including any elected or appointed officer of the city, may use the city seal or logo or facsimile thereof in any correspondence or other printed materials distributed in favor of or against any ballot measure or in favor of or against any candidate for public office.

(j) Outside entities or agencies may request use, for a limited time, of the city seal or logo for events co-hosted or supported by the city. All such requests must be submitted in writing to the city manager or the city manager's designee, who has the sole discretion to approve or deny such requests in writing, and to promulgate the manner, timing, and format of such requests and uses. When considering such requests, the city manager or designee will consider the ultimate benefit to the city of such use, the effects of association by the city with the event or occurrence, the city's traditional sponsorship activities, and other criteria which shall be fairly and neutrally applied to all requestors. The decision of the city manager or designee regarding the use of the city seal or logo may be appealed to the city council by submitting a written protest to the city secretary's office within 14 days of the city manager or designee's written decision.

(k) From time to time, an elected or appointed official of the city may wish to incorporate the city seal or logo into a pin, insignia, or other article for use in ceremonial occasions or for other civic purposes, but not for sale or commercial purposes. Unless previously approved by a majority of the city council, each such proposed design must be submitted to the city manager for approval. Production of such items, after approval, shall, unless otherwise authorized by a majority of the city council, be at the sole expense of the creator of the design. The decision of the city manager may be appealed within 14 days to the city council.
(Code 1996, Art. 1.09; Ord. no. O-152-3, 1-23-2024)

Sec. 1.06 . Membership in council of governments authorized.

The city shall be a member of the North Central Texas Council of Governments for the purpose of joint planning and coordination of governmental services and policies, and the city secretary is authorized to pay the annual dues required for membership in the council of governments.
(Code 1996, Art. 1.06)

Sec. 1.07. Membership in state municipal league authorized.

The city shall be a member of the Texas Municipal League for the purpose of better representation, information, advice, and other such services which may be provided. The city secretary is hereby authorized to pay the annual dues required for membership in said league.
(Code 1996, Art. 1.07)

Sec. 1.05 Municipal elections.
All elections pertaining to municipal affairs shall be governed by and conducted in accordance with the V.T.C.A., Election Code, § 1.001 et seq.

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(Code 1996, Art. 1.05)

ARTICLE II. CITY COUNCIL

DIVISION 1. GENERALLY

Sec. 1.02.001. Governing body; election of members generally.

The city council shall be the governing body of the city. The city council shall consist of a mayor and six councilmembers, all of whom shall run for office by place and be elected from the city at-large in the manner provided in article 3 of the home rule charter, for a term of three years, or until their successors are duly elected and qualified. Places 1, 3, and 5 shall be up for election and filled in the same year and the mayor's office and places 2, 4, and 6 shall be up for election and filled in the same year.
(Code 1996, § 1.02.001; Ord. No. O-21-20, 11/10/20)

Sec. 1.02.002. Place system adopted.[6]

(a) The city has adopted the place system for the election of the council members. Each office of council member shall be assigned a place number, so that each such office shall bear its own separate designation~~, such as, council member, Place No. 1; council member, Place No. 2; council member, Place No. 3; council member, Place No. 4; council member, Place No. 5; council member, Place No. 6~~.

(b) As the terms of incumbent council members expire, each candidate for the office of council member shall file his application for a specific place on the city council. In such election the ballot shall show each office of council member as a separate office by place number, with the name of each candidate printed thereon under the specific office for which he is a candidate.
(Code 1996, § 1.02.002; Ord. No. 140, 1-17-1983)

Sec. 1.02.004. Selection of mayor; mayor to act as presiding officer.

The mayor shall be the presiding officer of the city council. At the first meeting of each new city council, or as soon thereafter as practicable, the city council shall elect one council member to serve as mayor pro tempore for a term of one year and to perform the duties of the mayor in the event of the mayor's failure, inability, or refusal to act.
(Code 1996, § 1.02.004)

Sec. 1.02.042. Selection of mayor pro tem; duties.

At the first meeting after the city council general elections are final and all members are sworn in, or at the first meeting in November in a year in which there is no election, the city council shall elect a mayor pro tem from among its members. The mayor pro tem shall act in the absence or illness of the mayor or failure or refusal of the mayor to act.
(Code 1996, § 1.02.041; Ord. No. O-27-12, 2/19/13)

Sec. 1.02.005. Quorum.

The mayor shall, with four of the council members, constitute a quorum for the transaction of business. In

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[6] **Sec. 1.02.002. Place system adopted.** Unnecessary examples are stricken as shown.

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the mayor's absence, any five council members shall constitute a quorum. The quorum has the power to appoint any council member as a presiding officer at any meeting at which the mayor and mayor pro tem are absent. The quorum, with the affirmative vote of at least four members, shall have the power to enact such resolutions and ordinances not inconsistent with the laws and constitution of this state, as shall be deemed proper for the government of the city.
(Code 1996, § 1.02.005)

Sec. 1.02.006. Vacancies.

In the event a vacancy occurs in the office of mayor or council members from any cause whatsoever, a special election shall be held after the vacancy occurs on the earliest date permitted by state law for the purpose of filling such position for the remainder of the unexpired term.
(Code 1996, § 1.02.006)

Sec. 1.02.046. Orientation for new members; keeping council members informed.[7]

(a) The city manager is responsible for seeing that all newly elected councilmembers are provided with an orientation regarding municipal facilities, staff procedures and other information of interest to municipal officials.

(b) The mayor is responsible for informing all councilmembers of any and all issues related to the city, provided that doing so is accomplished in compliance with the open meetings requirements of V.T.C.A., Government Code, §§ 551.001 et seq. ~~Texas Open Meetings Act~~.
(Code 1996, § 1.02.06; Ord. No. O-27-12, 2/19/13)

Sec. 1.02.008. Absences of councilmembers from regular and special meetings.

(a) *Attendance; excused absences.* Members of the city council shall be required to attend regular and called meetings of the city council. A special meeting shall be synonymous with a called meeting or a workshop of the city council. A member of the city council may be excused from attending a regular or special meeting of the city council by presenting his or her reasons for the absence either at a meeting preceding the meeting at which the absence will occur or at the next regular meeting following the meeting at which the absence occurred, provided that a majority of the council in attendance at the meeting at which the reasons are presented vote to excuse the absence. An absence not excused pursuant to this section shall be considered an unexcused absence.

(b) *Multiple unexcused absences; notice and hearing.* A member of the city council who accumulates unexcused absences from three consecutive regular meetings or five unexcused absences from regular and special meetings within any six-month period shall be presumed to have resigned from office, and the following action shall be taken:

(1) At the next regular meeting following either the third regular meeting for which a member of the city council accumulated an unexcused absence or the fifth regular or special meeting in a six-month period for which a member of the city council accumulated an unexcused absence, a hearing shall be scheduled on the agenda to allow that member to present evidence to rebut the presumption of his or her having resigned from office.

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[7] **Sec. 1.02.046. Orientation for new members; keeping council members informed.** Citation is corrected and completed as shown.

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(2) The city secretary shall send notice by certified mail to the council member who is presumed to have resigned, no less than five days prior to the meeting at which the hearing is scheduled, informing him or her of the hearing and that he or she shall have the opportunity to present evidence to rebut the presumption of his or her having resigned from office.

(3) The hearing may be continued or postponed no more than one time until the next regular city council meeting.

(4) Following the hearing, the council shall determine, by majority vote of those council members attending and voting, whether the evidence presented at the hearing has satisfactorily rebutted the presumption of resignation.

(5) Should the council vote that the presumption is rebutted, it may also specify which absences, if any, remain unexcused.

(6) Should the council vote that the presumption has not been rebutted, the office occupied by such resigned council member shall be vacant and may be filled in the manner provided by the charter.

(Code 1996, § 1.02.008; Ord. No. 830-06, 11/6/06)

Sec. 1.02.007. Suspension of councilmember for felony indictment or charge.

(a) *Suspension.* When any member of the city council shall be indicted, arrested for, or otherwise officially charged with a felony offense under state or federal law by a law enforcement agency of the state or federal government, the council may, by vote of two-thirds of the remaining members, suspend such member until such time as the felony indictment or charge is resolved by conviction, acquittal, dismissal, or other final action of a court of competent jurisdiction or law enforcement agency. The office of such member shall not be vacant during the pendency of the felony matter, but the member shall not be allowed to officially occupy the same, to vote on, or to otherwise participate in any matter of city business. If the city council votes to suspend a member under this section:

(1) It may vote in the same manner to request that the affected member of the city council voluntarily resign from his or her office; and

(2) The city secretary shall notify the affected council member by certified mail, return receipt requested, of such action and the effect thereof and, if the city council also voted to request that the member resign, the city secretary shall include such request and specify that a written response thereto be provided to the city within ten days of receipt of the certified mail notice to the council member.

(b) *Dismissal, acquittal, and similar resolutions.* In the event the felony indictment or charge is dismissed, the member is acquitted, or the matter is otherwise finally resolved in any manner except by conviction, plea of guilty or plea of nolo contendere, the member shall be fully reinstated to his or her office on the council.

(c) *Plea of guilty or nolo contendere or conviction.* In the event the member pleads guilty or nolo contendere, or is convicted of the felony charge, such member shall immediately forfeit his or her office as provided in section 2.03 of the city charter, and such office shall be vacant.

(Code 1996, § 1.02.007; Ord. No. 826-06, 9/18/06)

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Sec. 1.02.046. Authority of council to initiate investigations.

The council shall have the authority to initiate investigations into any city business, and councilmembers may make inquiries into items and issues before council in accordance with law and the charter.
(Code 1996, § 1.02.046; Ord. No. O-27-12, 2/19/13)

Sec. 1.02.047. Public notices, disclosures, and records; investigation of officers and employees.[8]

(a) *Conference calls; polling of members.* Members of the council and mayor should avoid conference call meetings not posted in accordance with V.T.C.A., Government Code, §§ 551.001 et seq. ~~Texas Open Meetings Act~~ and shall not poll its members regarding matters of public concern.

(b) *Providing public records; fees.* Upon a written request of a citizen, public records shall be copied and distributed according to the state law. Fees will be charged in accordance with the fee schedule promulgated by the general services commission. A form will be provided at the city office.

(c) *Internal investigations.* Council is required to investigate allegations of ethical wrongdoing by employees or officers only when such an allegation is not the responsibility of the city manager or is an allegation involving the city manager.
(Code 1996, §§ 1.02.06, 1.02.047; Ord. No. O-27-12, 2/19/13)

Sec. 1.02.009. Reimbursement of council member expenditures and expenses.

(a) *Generally.* The mayor and members of the city council shall be entitled to be reimbursed, from funds available and budgeted as the councilmember travel and training fund, for expenditures as allowed in this section which are made on behalf of the city and incurred in the performance of their duties. Compliance with the procedure provided in this section shall be considered approval by the city council for purposes of section 2.01 of the city charter.

(b) *Types of reimbursable expenditures.* Reimbursable expenditures, when made on behalf of the city and incurred in the performance of official duties, and supported by proper documentation shall include:

(1) Items within the traditional scope of supplies, equipment, and consumables utilized and furnished by the city for use or consumption by city officers or employees, including office supplies;

(2) Refreshments for official city functions or meetings;

(3) Gasoline for vehicles transporting multiple city representatives;

(4) Registration at training seminars or other city-related functions for multiple persons;

(5) Meals attended by multiple city representatives or guests;

(6) Repairs of city-owned vehicles or equipment;

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[8] **Sec. 1.02.047. Public notices, disclosures, and records; investigation of officers and employees.** Citation is corrected and completed as shown.

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(7) Mileage incurred for performance of official duties, at the current federal reimbursement rate, for the most direct route to/from the place of residence or employment, measured as accurately as possible (e.g. using an odometer);

(8) Costs of taxi, bus, or light rail incurred in the performance of official duties, on the most direct route to/from places of residence or employment;

(9) Parking costs incurred to attend city functions;

(10) Tuition or registration for city-related seminars, training, and conferences such as TML or Council of Government sessions;

(11) Meals if travel to or from a meeting takes more than one hour and occurs over a normal meal period and a meal has not been provided for a city function;

(12) Breakfast reimbursement if the individual is away from home or work overnight or departs for a city function or meeting before 6:00 a.m.;

(13) Dinner reimbursement if the individual is away from home or work overnight or is traveling to or from a city function other than regular or special council meetings (including workshops) until after 7: 00 p.m.;

(14) Lunch if the individual is over 35 miles from the city on city business that extends over the normal meal period not to exceed the maximum rate allowed as a per diem rate under current Internal Revenue Service regulations and provided that receipts are submitted for all reimbursements exceeding the per diem;

(15) Lodging, if the individuals is required to travel more than two hours one way to attend a city-related meeting or function if the individual is required to leave home before 6:00 a.m. in order to arrive on time for the meeting or if the individual is required to be on the road after 8:00 p.m. in order to arrive home from a meeting, provide that reimbursement is limited to the maximum rate allowed as a per diem rate under current Internal Revenue guidelines;

(16) Access to a city-paid cellular telephone and city-issued laptop computer but only for the mayor and city council members; and

(17) Other expenditures not listed in this subsection that are preapproved in writing by the city manager or a majority of the city council.

(c) *Expenses that are not reimbursable.* Expenditures that will not be reimbursed by the city include, but are not limited to, the following:

(1) Alcoholic beverages;

(2) Personal entertainment costs such as movie tickets, sports event admission, and night club shows;

(3) Expenses of a spouse or other family member of the mayor or councilmember; and

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(4) Expenses related to an event sponsored by one or a group of individual councilmembers, including the mayor, but less than the full council.

(d) *Reimbursement form; receipts required.* Expense reimbursement forms are available from the finance director and shall be completed and signed by the mayor or councilmember seeking reimbursement. Receipts for all costs incurred except mileage, bus/light rail fare, and meter parking shall be submitted with the completed form and shall be submitted to the finance director within 30 days of the expenditure for which reimbursement is sought.

(e) *Approval; time for payment.* Reimbursement, if approved, shall occur no more than 30 days after the completed forms and receipts are received by the finance director.

(f) *Denial of reimbursement; review by city manager or city council.* Any request for reimbursement that is denied by the finance director or which is not included above may be submitted to the city manager or the city council for review. A decision by the majority of the city council that an expenditure may not be reimbursed shall be final.

(g) *Exemption for annual state of the city address.* Expenditures associated with the mayor's annual state of the city address shall be paid or reimbursed from city funds and shall be exempt from the requirements of this section.
(Code 1996, § 1.02.009; Or. No. O-25-10, 9/20/10; Ord. No. O-17-22, 10/18/2022)

DIVISION 2. MEETINGS

Sec. 1.02.041. Duties of mayor.

The mayor shall preside over the meetings of the city council, shall preserve order and decorum, speak upon all questions, and may vote but shall have no veto power.
(Code 1996, § 1.02.041; Ord. No. O-27-12, 2/19/13)

Sec. 1.02.048. Sergeant-at-arms; code of conduct for public attendees.

(a) The police chief shall act as sergeant-at-arms. In the absence of the police chief the presiding officer of a majority of the council shall appoint a person to act as sergeant-at-arms for that meeting. The city manager shall furnish whatever assistance is needed to enforce the rules of the city council.

(b) A copy of the code of conduct relative to citizens and other visitors shall be available to the public at all open meetings of the city council and shall provide the requisite notice and requirements of the code of conduct.
(Code 1996, § 1.02.048; Ord. No. O-27-12, 2/19/13)

Sec. 1.02.003. Meeting schedule; call of meetings; procedure.[9]

(a) The city council shall hold two regular meetings each month, except for the month of December,

[9] **Sec. 1.02.003. Meeting schedule; call of meetings; meeting procedure.** Sections are combined as indicated in history note and duplicative text eliminated. Also, state law citation is correct and completed as shown.

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and may hold as many special meetings as may be necessary to conduct city business. ~~Regular meetings. The city council shall hold at least two regular meetings in each month at a time to be designated by ordinance or resolution as provided for in the section 2.10 of the city charter.~~

(b) Special meetings may be called by the mayor upon written notice. Special meetings can also be requested through the mayor by the city manager. Notice of special meetings shall be given by the city secretary personally to each member of the council including the mayor and the city manager, by notice left at such person's residence or voice mail message when possible. The time, place, and purpose of such meetings shall be stated in each instance in accordance with law.

(c) The regular meetings of the city council shall be held on the first and third Tuesdays of each month at 7:00 p.m. in the city hall, unless otherwise authorized by the city council. Each such regular meeting shall adjourn no later than 10:00 p.m. unless a motion is approved by a two-thirds vote of the councilmembers in attendance to extend the time for adjournment to a later time. Such motion shall be made before 10:00 p.m. or as soon thereafter as practicable. If no such motion has been made by 10:00 p.m., the city secretary shall inform the council when that hour arrives and a motion to either adjourn or to extend the meeting to a time certain shall be in order. If extended, the time for adjournment may be further extended by the same procedure before, at, or as soon as practicable after such time certain.

(d) On the motion of the mayor, or on the application of at least three councilmembers, a special meeting may be called by notice to each member of the city council, the city secretary, and the city attorney with notice provided to the official email address of those officials.

(e) Notice of all meetings shall be posted in accordance with the requirements of V.T.C.A., Government Code, §§ 551.001 et seq. regarding open meetings ~~Texas Open Meetings Law~~.

(f) The procedure at all meetings of the city council shall be in accordance with the provisions of the latest edition of Robert's Rules of Order.
(Code 1996, §§ 1.02.003, 1.02.043; Ord. No. O-27-12, 2/19/13; Ord. No. O-16-21, 2/1/2022)

Sec. 1.02.045. Council to determine rule of procedure; compel attendance of members.

The city council shall determine its own rules of procedure and may compel the attendance of its members.
(Code 1996, § 1.02.045; Ord. No. O-27-12, 2/19/13 ; Ord. No. O-08-22, 7/19/2022)

Sec. 1.02.044. Meeting agenda.

(a) The mayor, in conjunction with the city manager, shall establish the agenda for each council meeting.

(b) Any councilmember desiring a particular item to be placed on the council agenda shall contact the city manager or city secretary on or before 1:00 p.m. on Wednesday of the week preceding regular council meetings, who shall forward the request to the mayor and the mayor shall place the item on the next agenda. The councilmember requesting the agenda item shall be responsible for the agenda briefing or presentation of the item at the meeting. Any staff assistance should be requested through the city manager's office. Completed agenda items must reach the city secretary's office at city hall by 1:00 p.m., Wednesday, of the week preceding regular council meetings.

(c) Any resident of the city or any member of the city staff may request, in writing, that an item be

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placed on the council agenda by submitting a request to the city manager. In such cases, the mayor and city council shall be notified of the request and the mayor and city manager shall determine whether to place the item on the agenda.

(d) Once an item is placed on an agenda which has been posted, it may only be removed prior to the 72-hour deadline for posting of the agenda and with permission of the person who requested the item, or by action of the council at the meeting for which the item is posted.

(e) Upon objection by any councilmember, any matter on the agenda shall be considered out of its regular order only upon a two-thirds vote of the members present.
(Code 1996, §§ 1.02.044, 1.02.045(3); Ord. No. O-27-12, 2/19/13)

Sec. 1.02.045(5). Parliamentary rules.

(a) Robert's Rules of Order shall be followed to the fullest extent possible for the purpose of conducting orderly meetings. The city attorney and city secretary shall be familiar with Robert's Rules of Order and shall serve as parliamentarian.

(b) In the event a parliamentarian is not present at a meeting or cannot be reached by telephone, electronic mail or other reasonable means, or in the event that attempting to contact a parliamentarian will result in unnecessary delay, the mayor shall decide all questions of order unless a majority of council votes to decide such a question in an alternative, reasonable manner.

(c) Robert's Rules of Order shall not be used for the purpose of delay, intimidation, thwarting the will of the council, or to make ineffective a lawful vote of the council.
(Code 1996, § 1.02.045(5); Ord. No. O-27-12, 2/19/13 ; Ord. No. O-08-22, 7/19/2022)

Sec. 1.02.045. Procedural constraints and rules of decorum for mayor and city council members.

(a) Each councilmember shall, while the council is in session, occupy his or her assigned seat. Members away from their seats shall not be allowed to speak or vote on any matter before the council by telephone, electronic mail or other means of communication without council approval.

(b) During city council meetings, the mayor and city council members shall assist in preserving order and decorum and shall neither by conversation or otherwise delay or interrupt the proceedings nor refuse to obey the orders of the presiding officer or the rules of the city council.

(c) Each councilmember may speak at any time with respect and courtesy to other members, visitors, and the mayor. The mayor shall ensure that all councilmembers desiring to speak may do so, including him/her. If the mayor is in debate with another councilmember, the mayor shall restrain his or her prerogative so as not to limit a response from the other member.

(d) A city council member desiring to speak shall address the chair by hand or voice signal, and upon recognition by the presiding officer, shall confine discussion to the question under debate, avoid discussion of personalities and indecorous language, and shall refrain from personal attacks and verbal abuse. The presiding officer shall recognize each member desiring to speak, in the order of request, unless a member's comments have become disruptive, confrontational, or disorderly.

(e) A city council member desiring to question a member or members of city staff shall address questions to the city manager, who shall be entitled either to answer the inquiries or to designate some

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member of city staff for that purpose. The mayor and city council member shall not berate nor admonish staff members in open session.

(f) A city council member, once recognized, shall not be interrupted while speaking unless called to order by the presiding officer, a point of order is raised by another member, or unless the speaker chooses to yield to questions from another member. If a city council member is called to order while speaking, that member shall cease speaking immediately until the question of order is determined. If ruled to be in order, the member shall be permitted to proceed. If ruled to be not in order, the member shall remain silent or make additional remarks only for the purpose of complying with rules of the city council.

(g) If a member in debate transgresses the rules, the mayor shall, or any member may, call him/ her to order. Should the mayor fail to do so, a majority vote of the remainder of the council shall require him/her to enforce the procedures.

(h) Members of the city council shall wear appropriate business attire at meetings of the city council and shall avoid wearing clothing and accessories that would detract from the professional image of the city. To the end, the following restrictions shall apply:

(1) The city council has a business casual dress code and within that dress code, councilmembers are expected to project a professional image to citizens and city partners. Clothing that is appropriate for the beach, yard work, exercise sessions, and sports contests may not be appropriate business casual attire.

(2) Clothing should be pressed and never wrinkled. Torn, dirty, or frayed clothing is unacceptable. All seams must be finished.

(3) Any clothing that has words, terms or pictures that may be offensive to others is unacceptable. Clothing that displays the city logo is encouraged.

(4) Reasonable accommodations for clothing necessitated by medical conditions and for religious or ethnic clothing will be made consistent with the business necessity to present a professional appearance to the public.

(Code 1996, § 1.02.045(1); Ord. No. O-27-12, 2/19/13 ; Ord. No. O-08-22, 7/19/2022)

Sec. 1.02.045(4). Voting.

The ayes and nays may be demanded on any question, by any member, and in all cases of calling the ayes and nays, every member may vote unless abstention is required by law.
(Code 1996, § 1.02.045(4); Ord. No. O-27-12, 2/19/13 ; Ord. No. O-08-22, 7/19/2022)

Sec. 1.02.045. Citizens and other visitor participation in meetings.

(a) Citizens and other visitors are welcome to attend all public meetings of the city council and will be admitted to the city council chamber or other room in which the city council is meeting in open session up to the fire safety capacity of the room.

(b) Any person desiring to address the council during a regular, special or workshop meeting shall fill out a visitor's card, provided by the city, prior to the meeting. The card shall contain, at a minimum, the person's name, address, and the topic on which he or she wishes to speak. Visitors shall give their completed sheets to the city secretary prior to the convening of the meeting. Cards shall not be accepted

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after the meeting has convened unless invited or approved by the mayor or a majority of the council. Visitors shall observe the rules of decorum and courtesy and shall speak only upon recognition of the mayor.

(c) Public comment shall be allowed regarding subjects on the agenda or not on the agenda. No formal action shall be taken on any issue not listed on the agenda. The mayor or a majority of the city council may set a uniform speaking time limit per speaker. The speakers will be called in the order in which their visitor's cards are received.

(d) No one except councilmembers and officers and employees of the city in the discharge of their official duties shall be permitted to participate in the deliberations of the council concerning agenda items. Members of the public may not participate in deliberations of the council regarding items on the agenda or during a council workshop meeting unless invited to do so.

(e) Members of the public may not address or be present during any executive session unless such presence is allowed by law and the person is invited to be present by the mayor or majority of the council.

(f) Public hearings may be held as determined by the mayor or as required by the laws of the state. Citizens shall be given the opportunity to speak for or against an item after being recognized by the mayor in accordance with the procedures outlined above.

(g) Everyone attending the meeting will refrain from private conversations while the city council is in session.

(h) Citizens and other visitors attending city council meetings shall observe the same rules of propriety; decorum and good conduct applicable to members of the city council. Any person making personal, impertinent, profane or slanderous remarks or who becomes boisterous while addressing the city council or while attending the city council meeting shall be removed from the room if the sergeant-at-arms is so directed by the presiding officer, and the person shall be barred from further audience before the city council during that session of the city council. If the presiding officer fails to act, any member of the city council may move to require enforcement of the rules, and the affirmative vote of a majority of the city council shall require the presiding officer to act.

(i) Unauthorized remarks from the audience, stamping of feet, whistles, yells, and similar demonstrations shall not be permitted by the presiding officer who may direct the sergeant- at-arms to remove offenders from the room. Aggravated cases shall be prosecuted on appropriate complaint signed by the presiding officer. If the presiding officer fails to act, any member of the city council may move to require enforcement of the rules, and the affirmative vote of the majority of the city council shall require the presiding officer to act.

(j) No cards, banners, or signs shall be permitted in the city council chamber or in any other room in which the city council is meeting. Exhibits, displays, and visual aids used in connection with presentations to the city council, however, are permitted.

(k) Citizens and other visitors attending city council meetings shall not bring food or drink into the city council chamber or into any room in which the city council is meeting.
(Code 1996, § 1.02.045(2)(K); Ord. No. O-27-12, 2/19/13 ; Ord. No. O-08-22, 7/19/2022)

ARTICLE III. OFFICERS AND EMPLOYEES

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DIVISION 1. GENERALLY

Sec. 9.02.001. City manager authority regarding personnel management.

The city manager is authorized to hire, fire, promote, demote, or transfer employees of the city, except as otherwise provided by the city charter and except as he may authorize. The head of a department to appoint and remove subordinates in such department.
(Code 1996, § 9.02.001)

Sec. 9.02.002. City council authority to make inquiries regarding city offices and personnel.

(a) In accordance with section 5.04 of the city charter, the city council shall have the power to inquire into the conduct of any office, department, agency, officer, or employee of the city and to make investigation as to municipal affairs. For that purpose, the council may subpoena witnesses, administer oaths, and compel the production of books, papers, and other evidence.

(b) Any person who shall fail to obey such subpoena or who shall fail to produce such books, papers or other evidence shall be guilty of a misdemeanor.
(Code 1996, § 9.02.002)

Sec. 9.03.001. Organizational chart.

The city council has established an organizational chart as maintained on file in the office of the city secretary for the officers, officials and employees of the city. The various positions for officers and employees of the city, as shown on the organizational chart, have been approved by the city council.
(Code 1996, § 9.03.001)

Sec. 9.09. Personnel policy manual adopted.

That certain manual adopted and approved by the city council and entitled “City of Glenn Heights, Personnel Policies Manual” dated June 2010, as amended, shall be the official policy of the city with regard to personnel administration. A copy of the manual is on file in the office of the city secretary who shall maintain the manual and keep it up to date.
(Code 1996, art. 9.09; Ord. No. O-06-10, 6/7/10)

Sec. 9.10. State municipal retirement system ordinances saved from repeal.

The ordinances of the city regarding participation in the Texas Municipal Retirement System (TMRS) have not been included in this Code but are hereby specifically saved from repeal and shall be maintained on file in the office of the city secretary.
(Code 1996, art. 9.10)

Sec. 9.14.001. City retiree health benefits.

(a) *Availability*. The city offers health and dental insurance to retirees subject to the terms and conditions described in this section.

(b) *Administration of benefits; costs of coverage.* A retiree receiving medical and dental insurance benefits is subject to all rules and procedures of the city’s insurance carrier, as such carrier may change from time to time. The retiree shall also be responsible for any out-of-pocket payments, co-pay fees and

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required employee contribution to costs of coverage for the retiree and the retiree's dependents, if any. A retiree shall communicate directly with the carrier or health care provider regarding question of coverage and benefits.

(c) *Coverage restricted to those existing at retirement.* A retiree is eligible to continue to receive city insurance, at retiree's cost, only those types of insurance coverage that are offered at the time of retirement. If at any time following the retirement of a city employee the city provides additional types of health insurance coverage that is different from the health insurance benefits offered at the employee's retirement, the retiree shall not be eligible for the additional benefits.
(Code 1996, §§ 9.14.001, 9.14.004; Ord. No. 764-03, 11/3/03)

DIVISION 2. CITY MANAGER

Sec. 9.04.001. Conditions of employment.

(a) *Surety bond required.* The city manager shall furnish such surety bond as may be required by the city council, by ordinances, with the premiums to be paid by the city.

(b) *Contract of employment required.* The city manager shall enter into a written contract of employment which has been approved by a majority of the city council, and which shall be signed by each member, the mayor and attested by the city secretary.

(c) *Term of employment; suspension and removal.* The city manager shall not be appointed for a definite term and may be removed at the will and pleasure of the city council by a vote of the majority of the entire city council. The action by the city council in suspending or removing the city manager shall be final.

(d) *Absence from office or disability.* In case of absence or disability of the city manager, the city council may designate some qualified person to perform the duties of the office during such absence or disability.

(e) *Compensation.* The city manager shall receive compensation as fixed by the city council from time to time.
(Code 1996, § 9.04.001)

Sec. #. Exclusive authority of city manager for administrative service; exception.

Except for the purpose of inquiry, the mayor and city council and its members shall deal with the administrative service solely through the city manager, and neither the mayor, city council, or any member thereof shall give orders to any of the subordinates of the city manager, either publicly or privately, except during a state of emergency as formally declared by the mayor in accordance with state law
(Code 1996, § 9.04.001)

Sec. 9.04.002. Powers and duties generally.[10]

[10] **Sec. 9.04.002. Powers and duties generally.** Text duplicative of prior section is stricken as shown.

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(a) *Responsibility for administration of city affairs.* The city manager shall be the administrative head of the municipal government and shall be responsible to the mayor and city council for the administration of the affairs of the city.

(b) *Department head appointment and discharge.* The city manager shall have the authority to appoint and to discharge heads of all departments except the city attorney and city judge.

(c) *Personal management.* The city manager shall have the authority to hire and discharge all other employees authorized by the council to be hired, at such compensation as may be set or authorized by the city council provided, however, that the city manager may authorize the head of a department to hire and discharge subordinates in his department. All such employees shall perform their duties subject to the direction of the city manager or that of the superior to whom the city manager may assign such employee. ~~It is unlawful for the mayor, the city council, or any of its members to attempt to dictate the appointment, hiring, or firing, of any person to the positions in subsections (1) and (2) of this section subject to the power of the council to confirm appointments as herein provided.~~

(d) *Recommendations for legislation.* The city manager shall recommend to the city council for adoption such measures as he may deem necessary or expedient.

(e) *Attendance at council meetings.* The city manager shall attend all meetings of the city council with the right to take part in the discussion but having no vote.

(f) *Act as budget officer.* The city manager shall act as budget officer and shall prepare, or cause to be prepared, the annual budget to be submitted to the city council for adoption in accordance with state statute. He shall be responsible for its administration after adoption by the city council.

(g) *Quarterly report to city council.* On a quarterly basis, the city manager shall make a full report to the city council showing the operations and expenditures for each department and shall keep the city council fully advised at all times as to the financial condition and needs of the city.

(h) *Recommending employee compensation.* The city manager shall recommend to the city council the salaries, and adoption of a schedule governing compensation for all employees of the city. It shall be the duty of the city council to pass ordinances and resolutions from time to time fixing these rates of compensation. The mayor or individual city councilmembers shall not attempt to dictate such recommendations but act thereon in approving and disapproving.

(i) *Revising job descriptions and position classifications.* The city manager is expressly delegated the authority to make revisions, amendments, and other changes to any and all job descriptions contained in the city's position classification plan that, in the city's manager's professional judgment, are in the best interests of the city. The city manager is not, however, authorized to make changes to the city's payroll classification schedule without council approval.

(j) *Other duties.* The city manager shall perform such other duties as may be provided in this division or prescribed by the city council from time to time.
(Code 1996, § 9.04.002; Ord. No. 776-04, 6-7-2004; Ord No. O-09-22, 8/16/2022)

DIVISION 3. OTHER OFFICERS

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Sec. 9.12.001. Health officer.[11]

(a) *Office established; appointment by city manager; compensation.* The city has established the office of city health officer. The city health officer shall be appointed by the city manager. The city health officer shall receive such compensation as may be fixed by the city council.

(b) *Qualifications.* The city health officer shall be a duly licensed medical doctor authorized to practice medicine in the state and be well trained in the science of preventative medicine. The city health officer shall qualify by taking the oath of office prescribed by the state constitution, a copy of which shall be filed by the city secretary with the state board of health.

(c) *State board of health rules and regulations applicable.* The city health officer shall act under and be governed by the rules and regulations prescribed by the state board of health

(d) *Authority to establish additional local rules and regulations.* The city health officer shall have the power to establish such rules and regulations as he may think needful for the health and welfare of the citizens of this city, and shall investigate all conditions within the city limits from which communicable diseases may arise, and with the utmost care and diligence shall study such diseases and disorders; and shall institute and direct such measures as may be necessary to eradicate and destroy such conditions wherever found in the city.

(e) *Duties generally.* The city health officer shall perform such duties as are required by V.T.C.A., Health and Safety Code , § 121.024(c) ~~article 4430, Vernon's Texas Civil Statutes,~~ and other duties as prescribed by state law or the city council.

(f) *Police to assist with enforcement.* When it may be necessary to use any force to secure the observation and execution of any rules, regulations, or order issued by the health officer, under authority of this article, it shall be the duty of the police chief to detail the necessary men and execute the same upon the requisition made by the health officer and approved by the city manager.
(Code 1996, §§ 9.12.001—9.12.008)

DIVISION 4. INDEMNIFICATION AND DEFENSE

Sec. 1.24.001. Definitions.[12]

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

Employee includes any current or former full-time, part-time, permanent, or temporary employee of the city but does not include independent contractors or the employees of contractors.

Officer includes any person currently or formerly elected or appointed to be a member of any official body of the city, including the city council and boards, commissions, and committees authorized and created under the city's Charter or this Code.

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[11] **Sec. 9.12.001. Health officer.** This position is referred to as "health authority" in V.T.C.A., Health and Safety Code, § 121.028. Also, cite is corrected and completed as shown.

[12] **Sec. 1.24.001. Definitions.** A standardized introduction is substituted for consistency.

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(Code 1996, § 1.24.001; Ord. No. O-05-22, 5/3/2022)

Sec. 1.24.002. Indemnification and defense of city officers and employees.

(a) The city shall provide indemnification and defense of the officers and employees of the city against any loss, cost, or expense, including court costs and attorney's fees, to the extent allowed by law, arising out of any claim, suit, judgment, or settlement thereof, resulting from any alleged act or omission of such officer or employee during the discharge of his duties and within the course and scope of his office or employment with the city, or in any other case where the city is directed or authorized by law to do so.

(b) Such indemnification and defense will not be provided for any act ultimately determined by final judgment to have arisen out of the intentional or knowing violation of any penal statute or ordinance or to have arisen out of any conduct determined by final judgment to be an act of fraud or to have been taken with the intent to deceive or defraud, or for any personal or private business of such officer or employee or for the gross negligence or official misconduct, or willful or wrongful act or omission, of such officer or employee.

(c) In accordance with this section, the city shall pay actual damages awarded against an employee or officer of the city if the damages result from an act or omission of the employee or officer in the course and scope of his employment for the city and payment is not otherwise prohibited by this article or by law. The city shall also pay the court costs and attorney's fees awarded against such officer or employee in such cause of action.

(d) The city may not pay damages awarded against an employee or officer that arise from a cause of action for official misconduct or involve a willful or wrongful act or omission or an act or omission constituting gross negligence or to the extent otherwise disallowed by this section. The city may not pay damages awarded against an employee or officer to the extent that the damages are recoverable under an insurance contract owned by the city, including coverage through a municipal risk pool.

(e) The city shall provide legal counsel to represent any employee or officer entitled to protection under this section. The counsel provided shall be the city attorney, unless there is a potential conflict of interest between the city and the officer or employee, in which case the city shall employ other legal counsel to defend the officer or employee.
(Code 1996, § 1.24.002; Ord. No. O-05-22, 5/3/2022)

Sec. 1.24.003. Requirements for indemnification.

To be entitled to indemnification by the city under the provisions of this section, the officer or employee shall notify the city manager in writing as soon as practicable after receipt of written notice of any claim or suit, or, in the case of a claim or suit against the city manager, he shall notify the city council in writing as soon as practicable after receipt of written notice of the claim or suit. Such officer or employee shall:

(1) Cooperate in the investigation, defense, negotiation, or settlement of any claim or suit.

(2) Attend any hearing or trial held in connection with such claim or suit and assist in securing and giving evidence and obtaining the attendance of witnesses.

(3) Not give any oral or written statement or enter into any stipulation or agreement concerning a claim or suit except upon the advice of the city attorney or other defense counsel provided in

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accordance with the provisions of this section or when questioned by a police officer at the scene of an accident.

(4) Not make any voluntary payment or assume any obligation or incur any expense with respect to any claim or suit without the consent of the city manager or, in the case of the city manager, the consent of the city council.

(Code 1996, § 1.24.003; Ord. No. O-05-22, 5/3/2022)

Sec. 1.24.004. Investigation, negotiation, or settlement.

The city may investigate, negotiate or settle any claim or suit against an officer or employee that results from an act for which such officer or employee is entitled to indemnification under the provisions of this section.

(Code 1996, § 1.24.004; Ord. No. O-05-22, 5/3/2022)

Sec. 1.24.005. Notification of carrier.

In the event of any claim or suit against any officer or employee, the insurance carrier for the city, including any municipal risk pool, shall be immediately notified and furnished a copy of any such claim or suit, along with the appropriate documents giving a history of the claim or suit, and a request for provision of coverage and defense.

(Code 1996, § 1.24.005; Ord. No. O-05-22, 5/3/2022)

ARTICLE IV. BOARDS, COMMISSIONS, COMMITTEES AND SIMILAR BODIES

DIVISION 1. GENERALLY

Sec. 9.11.001. Established; composition; member appointment, terms, and compensation.[13]

Sec. 1.20.001. Application process for members of boards, commissions and committees.

(a) All applicants must complete an application for city board, commission and committee appointment. The application must be completed and submitted to the city manager by the appropriate deadline.

(b) The city council shall review the applications for board, commission and committee appointments, and may conduct applicant interviews.

(c) Any appointed member of a board, commission or committee may submit an application for appointment to a different board, commission or committee without forfeiting membership as a member of the initial board, commission or committee. However, acceptance of a position as a member of a new board, commission or committee shall result in automatic resignation of any previously held board, commission or committee membership.

(Code 1996, § 1.20.001; Ord. No. O-857-07, 10/1/07)

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[13] **Sec. 9.11.001. Established; composition; member appointment, terms, and compensation.** Unnecessary text is stricken as shown.

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Sec. 1.20.002. Appointment and removal of members.[14]

(a) Boards and commission members are appointed by the city council and may be removed at any time, with or without cause, by a simple majority vote of the full council either upon its own motion or upon the formal recommendation from the board or commission.

(b) Any member of a board, commission or committee may be removed by the city council on the grounds of incompetence, corruption, misconduct, malfeasance in office, ineffectiveness or causing embarrassment to the city after being provided with written notice and an opportunity for a requested hearing. The request for a hearing must be filed within ten days of receipt of the written notice or the hearing shall be considered to be waived.
(Code 1996, §§ 1.20.002, 1.20.035(1)(A); Ord. No. O-857-07, 10/1/07; Ord. No. O-28-10, 12/6/10)

Sec. 1.20.031. Election and duties of the board or commission chair.

(a) The chair of the appointed board or commission shall be elected from among the body appointed by the city council, and said election shall be held at the first meeting after the annual appointment of the members of any board or commission or upon the appointment of the vacancy of the chair position, after the new appointees are sworn in, or as soon thereafter as is practicable.

(b) The chair shall preside over the meetings of said board or commission, shall preserve order and decorum, may speak on all questions and may vote, but shall have no veto power. It shall be the responsibility of the chair at each meeting to ensure that the board or commission deliberates and takes action only upon the matters that are posted on the agenda for that meeting.
(Code 1996, § 1.20.031; Ord. No. O-28-10, 12/6/10)

Sec. 1.20.032. Election and duties of board or commission vice-chair.

At the first meeting after the annual appointment of members of any board or commission and all newly appointed members are sworn in, or as soon thereafter as is practicable, the board or commission shall elect a vice-chair from among its members. The vice-chair shall act in the absence, illness, or failure or refusal of the chair to act.
(Code 1996, § 1.20.032; Ord. No. O-28-10, 12/6/10)

Sec. 1.20.036. Orientation for new members by city manager.

The city manager is responsible for seeing that all newly appointed board or commission members are provided with an orientation on municipal facilities, staff procedures and other information of interest to municipal officials. Additionally, board and commission members shall be fully informed of all public expectations and responsibilities of the position they have been appointed to and subsequently accepted.
(Code 1996, § 1.20.036(a); Ord. No. O-28-10, 12/6/10)

Sec. 1.20.036. Chair to inform members of pending issues.[15]

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[14] **Sec. 1.20.002. Appointment and removal of members.** Text regarding removal is brought together in this section as indicated in the history note. Since removal with cause is authorized in (a) is (b) needed at all? Strike?

[15] **Sec. 1.20.036. Chair to inform members of pending issues.** Citation is corrected and shown.

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The chair is responsible for informing all board or commission members of any and all issues related to that board or commission's city business, provided that doing so is accomplished in compliance with the requirements of V.T.C.A., Government Code, §§ 551.001 et seq.
(Code 1996, § 1.20.036; Ord. No. O-28-10, 12/6/10)

Sec. 1.20.035. Authority to promulgate rules and compel attendance of members.

The board or commission may determine its own rules of procedure and may compel the attendance of its members.
(Code 1996, § 1.20.035; Ord. No. O-28-10, 12/6/10)

Sec. 1.20.038. Sergeant at arms; preservation of order and decorum.

If present, the police chief or his or her designee shall act as sergeant-at-arms. In the absence of the police chief or a designee, the chair or a majority of the board or commission, may rely on the city manager or his or her designee to furnish whatever assistance is needed or may require the police chief or designee to report to the meeting to enforce the rules of decorum of the city.
(Code 1996, § 1.20.038(a); Ord. No. O-28-10, 12/6/10)

Sec. 1.20.033. Types of meetings; schedule; notice.[16]

(a) *Regular meetings.* Regular meetings shall be held as often as business necessitates or as prescribed by the city charter. Executive sessions and public hearings shall be held as needed and as authorized and notice of such meetings shall be given in accordance with law. Regular meetings of the zoning board of adjustment, parks and recreation board, and any other duly appointed board or commission shall be held as prescribed by this article.

(b) *Special meetings*. Special meetings may be requested through the city manager or his or her designee. Notice of special meetings shall be given by the city secretary personally to each member of the board or commission, respectively, by notice left at such person's residence, voice mail or email message when possible. The time, place, and purpose of such meetings shall be stated in each instance in accordance with the requirements of V.T.C.A., Government Code, §§ 551.001 et seq. ~~Texas Open Meetings Act and any other applicable law~~.

(c) *Workshop meetings.* Workshop meetings may be requested through the city manager or his or her designee. The purpose of a workshop meeting shall be to discuss in detail, or explore in depth, matters of particular interest to the city or the specific board or commission. The public and staff may not participate in the discussions at a workshop meeting unless invited to do so by the board or commission. No formal action shall be taken at a workshop meeting. The time, place, and purpose of such meetings shall be stated in each instance in accordance with the requirements of V.T.C.A., Government Code, §§ 551.001 et seq. ~~Texas Open Meetings Act and any other applicable law~~.
(Code 1996, § 1.20.033; Ord. No. O-28-10, 12/6/10)

Sec. 1.20.034. Agenda.

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[16] **Sec. 1.20.033. Types of meetings; schedule; notice.** Citations are corrected and shown.

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(a) The city manager or his or her designee shall establish the agenda for each board or commission meeting. The chair shall be apprised of the agenda prior to posting.

(b) Any board or commission member desiring that a particular item be placed on the respective agenda shall contact the city manager or his or her designee or city secretary on or before 1:00 p.m. on Monday of the week preceding the scheduled meeting. The board or commission member requesting the agenda item shall be responsible for the agenda briefing or presentation of the item at the meeting. Any staff assistance should be requested through the city manager or his or her designee. Completed agenda items must reach the city manager or his or her designee's office by Monday at 1:00 p.m. of the week preceding the scheduled meeting in order to ensure proper review time. The final documents shall be submitted to the city secretary's office at city hall by 1:00 p.m., Wednesday, of the week preceding the scheduled meeting.

(c) Any resident of the city or any member of the city staff may request, in writing, that an item be placed on a board or commission agenda, with the exception of the zoning board of adjustment, by submitting a request to the city manager or his or her designee. The city manager or his or her designee shall determine whether to place the item on the agenda.

(d) Once an item is placed on an agenda which has been posted in compliance with the 72-hour deadline, it may not be removed from the posted agenda but may be pulled at the meeting by the person who requested the item, or by action of the board or commission at the meeting for which the item is posted.

(e) The current agenda format shall remain in force and effect. Upon objection by any board or commission member, any matter on the agenda shall be considered out of its regular order only upon a two-thirds vote of the members present.
(Code 1996, §§ 1.20.034, 1.20.035(3); Ord. No. O-28-10, 12/6/10)

Sec. 1.20.035. Attendance; absences; attendance records and reports.

(a) Members of boards and commissions, including the chair, shall make a good faith effort to attend all regular, workshop and special meetings, and shall, to the extent possible, provide advance notice of at least 12 hours preceding the meeting of an expected absence and request an absence be excused by notifying the city manager or his or her designee of the anticipated absence and the reason therefor.

(b) Attendance may be excused for good cause by a majority of the board or commission. "Good cause" shall be defined as a personal illness, family emergency or a work-related conflict. Documented proof of cause may be required from any member for any absence.

(c) An absence that is not considered to be for cause may include one of individual choice to miss the meeting in lieu of another activity.

(d) Unless provided otherwise in the charter or by enabling ordinance, three consecutive unexcused absences of regular, workshop or special meetings, or four nonconsecutive unexcused absences during a 12-month period shall cause the office held by such member or chair to become vacant.

(e) At such time a member exceeds the maximum permissible number of absences from duly called meetings, whether for good cause or otherwise, the city council shall be advised and the matter placed on an agenda for consideration.

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(f) If a member or chair of a board or commission is found by a majority of the board or commission, or by a majority of the city council, to have been intentionally absent for the purpose of affecting or preventing a vote on a particular matter, such intentional absence shall be addressed by the city council at a council meeting and shall be grounds for reprimand, censure, or removal of that member or chair.

(g) The city secretary shall maintain accurate and up-to-date attendance records of all board and commission members. On a quarterly basis the city council shall be provided with the attendance records.

(h) If the city council deems it necessary, written notification from the council shall be forwarded to those members who have been absent for three or more meetings within a six-month period. Members receiving such written notification will be required to make a personal response to the city council to attempt to arrive at an acceptable resolution. If a resolution is not reached, the matter shall be placed on an agenda. At the meeting, the member shall provide information sufficient for a satisfactory resolution or the city council shall remove the member from the appointed position and consider a satisfactory replacement.
(Code 1996, § 1.20.035(7); Ord. No. O-28-10, 12/6/10)

Sec. 1.20.035. Conflicts of interest.

(a) V.T.C.A., Local Government Code, ch. 171, shall govern each board and commission with regard to conflicts of interest. Members and chairs of boards and commissions should seek legal advice before participating in any matter about which he or she may have a conflict of interest and should avoid any appearance of impropriety at all times.

(b) Members and chairs of boards and commissions should not meet with applicants or other persons who have or may have business before the board or commission outside of a public meeting without first informing the city manager or his or her designee and being provided with legal advice on the propriety of such a meeting.
(Code 1996, § 1.20.035(8); Ord. No. O-28-10, 12/6/10)

Sec. 1.20.035. Voting.

The ayes and nays may be demanded from each individual member on any question, by any member, and in all cases of calling the ayes and nays, every member shall vote unless abstention is required by law.
(Code 1996, § 1.20.035(4); Ord. No. O-28-10, 12/6/10)

Sec. 1.20.035. Legal advice and assistance.

(a) If the chair or a majority of a board or commission desires to receive the advice or assistance of the city attorney, the same may be requested through the city manager or his or her designee. Such advice or assistance from the city attorney, if approved by the city manager, may be by attendance at a meeting, either in person or by telephone, video conferencing, or electronic mail, or by written memo, letter, or other document.

(b) A board or commission should follow such legal advice or direction and, before a majority of a board or commission votes to act in a manner contrary to such advice should ascertain whether doing so may subject the city or individual members to liability.
(Code 1996, § 1.20.035(6); Ord. No. O-28-10, 12/6/10)

DIVISION 2. MEMBER PARTICIPATION, RULES OF ORDER, AND DECORUM

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Sec. 1.20.035. Parliamentary rules; parliamentarian.[17]

(a) In addition to the rules of procedure provided in this article, Robert's Rules of Order shall be followed to the fullest extent possible for the purpose of conducting orderly meetings. In the event of conflict, the provisions of this article shall be controlling.

(b) The city attorney and city secretary or his or her designee shall be familiar with Robert's Rules of Order and shall serve as parliamentarian. In the event a parliamentarian is not present at a meeting or cannot be reached by telephone, electronic mail or other reasonable means, or in the event that attempting to contact a parliamentarian will result in unnecessary delay, the chair shall decide all questions of order unless a majority of board or commission votes to decide such a question in an alternative, reasonable manner.

(c) Robert's Rules of Order shall not be used for the purpose of delay, intimidation, thwarting the will of the board or commission, or to make ineffective a lawful vote.
(Code 1996, § 1.20.035(5); Ord. No. O-28-10, 12/6/10)

Sec. 1.20.035. Conduct of members.

(a) *Generally.* Members and chairs of boards and commissions should conduct themselves at all times in a manner that reflects positively on the city. During meetings, the chair and board or commission members shall assist in preserving order and decorum and shall neither by conversation nor otherwise delay or interrupt the proceedings nor refuse to obey the orders of the chair or the rules of the city.

(b) *Members to utilize assigned seating.* Each board or commission member shall, while the respective meeting is in session, occupy his or her assigned seat, and if away, shall not be allowed to speak or vote on any matter before the board or commission by telephone, electronic mail or other means of communication.

(c) *Demeaning and disrespectful conduct prohibited.* Neither the chair nor any member of a board or commission shall speak in a demeaning or disrespectful manner about or to any applicant, witness, staff member, or member of the public in attendance at the meeting.

(d) *Members entitled to speak; procedure; constraints.* After recognition by the chair, each board or commission member may speak at any time with respect and courtesy to other members, visitors, and the chair, subject to the following:

(1) The chair shall ensure that all members desiring to speak may do so, including him/her. If the chair is in debate with another board or commission member, the chair shall restrain his or her prerogative so as not to limit a response from the other member.

(2) A board or commission member desiring to speak shall address the chair by hand or voice signal, and upon recognition by the chair, shall confine discussion to the question under debate, avoid discussion of personalities and indecorous language, and shall refrain from personal attacks and verbal abuse.

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[17] **Sec. 1.20.035. Parliamentary rules; parliamentarian.** Text is adding regarding resolution of conflicting rules. Please confirm.

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(3) The chair shall recognize each member desiring to speak, in the order of request, unless a member's comments have become disruptive, confrontational, or disorderly.

(4) A board or commission member desiring to question a member or members of city staff shall address questions to the city manager or his or her designee, who shall be entitled either to answer the inquiries or to designate another member of city staff for that purpose. The board or commission member shall not berate nor admonish staff members in open session.

(5) A board or commission member, once recognized, shall not be interrupted while speaking unless called to order by the chair or a point of order is raised by another member, or unless the speaker chooses to yield to questions from another member. If a board or commission member is called to order while speaking, that member shall cease speaking immediately until the question of order is determined. If ruled to be in order, the member shall be permitted to proceed. If ruled to be not in order, the member shall remain silent or make additional remarks only for the purpose of complying with decorum rules of the city.

(6) If a member in debate transgresses the rules, the chair shall, or any member may, call him/her to order. Should the chair fail to do so, a majority vote of the remainder of the board or commission shall require him/her to enforce the procedures.

(Code 1996, §§ 1.20.035(1), 1.20.035(2)(B—H); Ord. No. O-28-10, 12/6/10)

Sec. 1.20.035. Members addressing a board or commission as a member of the public.[18]

(a) Due to potential violation of the requirements of V.T.C.A., Government Code, §§ 551.001 et seq. ~~Texas Open Meetings Act and any other applicable law~~, members and chairs of boards and commissions are discouraged from leaving the horseshoe or dais for the purpose of addressing the board or commission during a meeting.

(b) A member or chair desiring to exercise his or her right of freedom of speech by addressing a board of commission as a citizen should first advise the city manager or his or her designee of the desire to do so and should provide information on the topic to be discussed in order that the city manager or his or her designee may seek legal advice from the city attorney, if necessary, in order to avoid possible violation of V.T.C.A., Government Code, §§ 551.001 et seq.

(Code 1996, § 1.20.035(9); Ord. No. O-28-10, 12/6/10)

Sec. 1.20.037. Conference call meetings restricted; unauthorized polling of members prohibited.

Members of the board or commission and chair shall avoid conference call meetings not legally posted or other means of circumventing the requirements of V.T.C.A., Government Code, §§ 551.001 et seq., and shall not poll its members regarding matters of public concern.

(Code 1996, § 1.20.037(a); Ord. No. O-28-10, 12/6/10)

DIVISION 3. PUBLIC PARTICIPATION IN MEETINGS

Sec. 1.20.035. Rules of conduct for citizens and visitors.

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[18] **Sec. 1.20.035. Members addressing a board or commission as a member of the public.** Citations are corrected as shown.

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(a) Citizens and other visitors are welcome to attend all public meetings of the board and commissions and will be admitted to the council chambers or other room in which the board or commission is meeting in open session up to the fire safety capacity of the room.

(b) Persons attending the meeting will refrain from private conversations while the meeting is in session.

(c) Citizens and other visitors attending board or commission meetings shall not bring food or drink into the council chamber or into any room in which the board or commission is meeting.

(d) Public comment may be allowed regarding subjects on the agenda or not on the agenda, but no formal action be taken or deliberation of the board or commission conducted on any issue not on the agenda. The chair or a majority of the board or commission may set a uniform speaking time limit per speaker. The speakers will be called in the order their visitor's cards are received. Citizens and visitors shall observe the rules of decorum and courtesy and shall speak only upon recognition of the chair.

(e) At public hearings [19] ~~may be held as determined by the city manager or his or her designee or as required by the laws of the state and~~ citizens shall be given the opportunity to speak for or against an item after being recognized by the chair in accordance with the procedures provided in this article. Members of the public may not address or be present during any executive session unless such presence is allowed by law and the person is invited to be present by the chair or majority of the board or commission.

(f) Any person desiring to address a board or commission during a regular, special or workshop meeting shall fill out a visitor card provided by the city prior to the meeting. The card shall contain, at a minimum, the person's name, address, and the topic on which he or she wishes to speak. Visitors shall give their completed sheets to the city secretary prior to the convening of the meeting. Cards shall not be accepted after the meeting has convened unless invited or approved by a majority of the board or commission.

(g) No one except board or commission members and officers and employees of the city in the discharge of their official duties shall be permitted to participate in the deliberations of the board or commission concerning agenda items. Members of the public may not participate in deliberations of the board of commission regarding items on the agenda or during a workshop meeting unless invited to do so.

(h) Citizens and other visitors attending board or commission meetings shall observe the same rules of propriety, decorum and good conduct applicable to members of the board or commission. Any person making personal, impertinent, profane or slanderous remarks or who becomes boisterous while addressing the board or commission or while attending the meeting shall be removed from the room if the sergeant-at-arms is so directed by the chair, and the person shall be barred from further audience before the board or commission during that session of the board or commission. If the chair fails to act, any member of the board or commission may move to require enforcement of the rules, and the affirmative vote of a majority of the board or commission shall require the chair to act.

(i) Unauthorized remarks from the audience, stamping of feet, whistles, yells, and similar demonstrations shall not be permitted by the chair who may direct the sergeant-at-arms to remove

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[19] **Sec. 1.20.035. Rules of conduct for citizens and visitors.** Unnecessary and conflicting text is stricken as shown.

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offenders from the room. Aggravated cases shall be prosecuted on appropriate complaint signed by the chair. If the chair fails to act, any member of the board or commission may move to require enforcement of the rules, and the affirmative vote of the majority of the board or commission shall require the chair to act.

(j) No cards, banners, or signs shall be permitted in the council chamber or in any other room in which the board or commission is meeting. Exhibits, displays, and visual aids used in connection with presentations, however, are permitted.
(Code 1996, § 1.20.035(2)(A—K); Ord. No. O-28-10, 12/6/10)

Sec. 1.20.035. Copy of rules to be provided to public meeting attendees.

A copy of the conduct restrictions relative to citizens and other visitors shall be available to the public at all open meetings of the boards and commissions and shall provide the requisite notice and requirements of the code of conduct.
(Code 1996, § 1.20.038(b); Ord. No. O-28-10, 12/6/10)

Sec. 1.20.037. Public records requests.

Upon a written request of a citizen, public records shall be copied and distributed according to the state law. Fees will be charged in accordance with the fee schedule promulgated by the general services commission. A form will be provided at the city office.
(Code 1996, § 1.20.037(b); Ord. No. O-28-10, 12/6/10)

DIVISION 4. PARKS AND RECREATION BOARD

Sec. 9.11.001. Established; composition; member appointment, terms, and compensation.[20]

(a) The city has established an advisory board known as the city parks and recreation board consisting of seven citizens of the city serving staggered three-year terms. The members of the board shall be appointed by majority vote of the city council. ~~The initial appointment of the board members by city council shall designate which three members shall serve three years, which two members shall serve two years and which two members shall serve one year. On each succeeding year thereafter, at the end of the term year, the council shall select replacements for the board members whose terms have expired.~~

(b) In addition to the regular members, the city council shall appoint two alternate members who shall serve in the absence of one or more regular members. The alternates shall also serve staggered three-year terms. ~~a term of three years. The initial term of alternate number 1 shall be three years and alternate number 2 shall be two years.~~ In determining who shall serve in the event of an absence, the alternate with the longest tenure shall so serve. If, for any reason, the alternate with the longest tenure cannot serve, the second alternate shall serve.

(c) For purposes of this board, a term year is from July 1 until the following June 30. The terms of the board members and alternate members shall expire on June 30 of the third year. New members shall begin serving at the first regular meeting following the anniversary date or as soon thereafter as practicable.

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[20] **Sec. 9.11.001. Established; composition; member appointment, terms, and compensation.** Unnecessary text is stricken as shown.

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(d) Any individual who is interested in serving on the board shall submit to the city secretary an application to be obtained from city hall. The city council reviews the applications and may interview said applicants. The appointments are made during the public portion of the council meeting.

(e) The application submitted to the city secretary for consideration by the city council shall be completed in its entirety with an affirmation under oath that all information contained therein is true and correct. This information shall be subject to verification and may also be released for other purposes, such as conducting a background check. Any material misinformation contained on the application, as determined by the city council, shall be cause for immediate removal by majority vote of the city council.

(f) Members and alternate members of the board shall serve without compensation.
(Code 1996, §§ 9.11.001, 9.11.002; Ord. No. 770-04, §§ 3, 4, 2/16/04)

Sec. 9.11.003. Member eligibility.

All board members and alternate members shall be qualified voters of the city and shall remain eligible to vote in city elections during their tenure. Members and alternate members shall demonstrate a genuine interest in city parks and the community generally and the ability to work with the public and the time to devote to service.
(Code 1996, § 9.11.003; Ord. No. 770-04, § 5, 2/16/04)

Sec. 9.11.004. Attendance.

(a) A member of the board may not miss more than two consecutive meetings and in no event shall a member miss more than 25% of the regular meetings during a single term year. The chairman shall record the attendance of the board and submit the findings to the city manager.

(b) When, in the opinion of the chairman, or by virtue of the attendance record, a member has not complied with the attendance requirement, the city manager will be notified and he will advise the council of the need to fill a vacancy on said board.

(c) Alternate members are encouraged to, and should, attend all regularly scheduled and special meetings of the board. Alternates shall be given an opportunity to participate in the discussion and ask questions of staff and the applicant. Only seated members have voting privileges.
(Code 1996, § 9.11.004; Ord. No. 770-04, § 6, 2/16/04)

Sec. 9.11.005. Resignation or removal of members; filling vacancies.

(a) A position shall be declared vacant if a term expires, if a member misses two consecutive regularly scheduled meetings without a valid excuse as determined by council or without otherwise being excused by a majority of the board, or if the member misses more than 25% of the regular meetings during a term year.

(b) The council shall appoint a replacement to fill an unexpired term in case of a vacancy. Current alternate members may be considered prior to new applicants at the discretion of council. The alternate member with the longest tenure shall assume the duties of the vacant position until the expiration of the term of office of the vacated position unless council otherwise appoints a replacement.

(c) If more than one vacancy on the board exists, the alternate member with the longest tenure shall

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assume the duties of the vacant positions with the alternate member with the longest tenure assuming the longest remaining term of office, unless council otherwise appoints a replacement.

(d) Resignation of a member of the board shall be in writing. Resignation by a member of the board is effective, and not subject to revocation, upon tendering written notification to the city secretary and such vacancy shall be filled by the city council for the remaining term, as set forth herein.

(e) Regular and alternate members may be removed from office prior to the expiration of the term by a majority decision of the city council.

(f) A member or alternate member who ceases to reside in the city or is no longer a qualified voter during his term of office shall immediately forfeit his office. Notice must be submitted to the city secretary as soon as practicable.
(Code 1996, § 9.11.005; Ord. No. 770-04, § 7, 2/16/04)

Sec. 9.11.006. Powers and duties of city manager and board.

The city manager, or his designee, shall have management and control over all public parks, recreational facilities and programs within the city, and the board shall have the following powers and duties:

(1) Recommend a comprehensive plan for the physical development of the parks and recreation facilities of the city;

(2) Advise the staff and city council in policy matters, such as goals, objectives and programs;

(3) Assist the staff and city council in the planning process for parks, recreational facilities and programs;

(4) Recommend to city council approval or disapproval of proposed changes in the parks, recreational facilities and programs;

(5) Assist the city manager, in an advisory capacity, to supervise, manage and control the parks, recreational facilities and programs;

(6) Promote park use and recreation program participation;

(7) Assist the staff and city council in the recruitment of volunteers and solicitation of voluntary contributions; and

(8) Have and perform such additional duties as may be prescribed by ordinance.
(Code 1996, §§ 9.11.006, 9.11.007; Ord. No. 770-04, §§ 8, 9, 2/16/04)

Sec. 9.11.008. Meetings.

Dates and times. Dates and times of the regular meetings of the board shall be as determined by the city council, but in no event shall the board meet less than once a month. Specially scheduled meetings may be set, in coordination with the city secretary, and as properly noticed. Regular scheduled meetings may be reset upon the majority vote of the members.

Quorum. A meeting of the board must have a quorum of its members present to conduct business. A

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quorum is comprised of five members; however, the affirmative vote of at least four of those attending the meeting at which there is a quorum present, shall be necessary to make any decision on behalf of the board.
(Code 1996, § 9.11.008(1); Ord. No. 770-04, § 10, 2/16/04)

Sec. 9.11.008. Chairman and vice-chairman appointment, powers, and duties.

(a) The board shall appoint a chairman and vice-chairman each year at the first meeting following appointments, or as soon as practicable thereafter. Only members may vote for a chairman and vice-chairman. A chairman may serve multiple terms. The chairman may vote on all issues before the board. The vice-chairman acts as a chairman in the absence of the chairman.

(b) The chairman, or in his absence, the vice-chairman, shall preside at all meetings and shall decide all points of order and shall perform duties that ensure that the board achieves the tasks as directed by the city council. Examples of such duties are as follows:

(1) Exercise leadership and make suggestions to ensure that the group reaches a conclusion on the matter before them.

(2) After any debate or discussion, summarize the major points of the issue as discussed.

(3) Ensure that all parties act in accordance with the established rules.

(4) Ensure that the meeting moves along and stays on track.

(5) Ensure that attendance records are maintained and that the minutes of each meeting are acted upon and submitted for council review.

(6) Work with the city staff to ensure that agendas are properly prepared and posted.
(Code 1996, § 9.11.008(2—4); Ord. No. 770-04, § 10, 2/16/04)

Sec. 9.11.008. Rules of order; deliberations and voting.

(a) Robert's Rules of Order shall govern all meetings. The chairman shall rule on all points of order. The purpose of the rules of order are to ensure an orderly, efficient meeting that allows all persons the opportunity to speak.

(b) All official action must be by motion, seconded and receive the affirmative vote of the required number of members. The chairman shall state the motion, call for the vote, and announce the results of the vote.

(c) The vote shall be by ayes and nays and entered into the record. Any abstentions, due to conflict, shall also be noted for the record. Members abstaining due to a conflict of interest shall submit a written statement of abstention to the city secretary.

(d) All official action must take place in open session.

(e) Any member desiring to speak on the matter before the board shall do so only when recognized by the chairman. That member shall hold the floor until the member yields the floor to the chairman. The member shall confine all remarks and discussion to the matter under consideration. Unless otherwise

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recognized by the chairman, no member shall speak more than once on a particular subject until every member requesting to be recognized shall have had the opportunity to speak.

(f) Only one agenda item may be discussed at a time, unless logic and practical considerations allow similar topics to be considered together for purposes of convenience and efficiency. Notwithstanding the foregoing, the vote must be on one agenda item at a time and the record shall so reflect.
(Code 1996, § 9.11.008(4—5); Ord. No. 770-04, § 10, 2/16/04)

Sec. 9.11.008. Minutes and audio taping of meetings; board secretary.

(a) The board shall meet in open session to consider issues that may be brought before it for action and must keep minutes of the meetings. A member of the city staff will be designated by the city manager to act as the secretary and record and prepare minutes for the review and submission to the board and the city council. Minutes of each meeting be shall provided to the city council.

(b) The minutes shall reflect the date, time, place, attendance of members, issues that are addressed, vote taken and a brief description of the discussion. The board must vote to accept the minutes of any previous meetings as a standard practice and a standing agenda item. The minutes of the meeting shall be approved by majority vote of the board at the next regularly scheduled meeting or as soon thereafter as practicable.

(c) An audio tape recording of the meetings must be made.

(d) A copy of all minutes, after acceptance by a majority of the voting members, must be filed with the city secretary and become a part of the official city records.
(Code 1996, § 9.11.008(6); Ord. No. 770-04, § 10, 2/16/04)

DIVISION 5. OTHER ENTITIES

Sec. 1.22.001. Youth advisory committee.

(a) *Creation; duties; advisory nature.* The youth advisory committee has been created to provide participation by local youth in municipal government and to routinely report thereon to the city council. The youth advisory committee is advisory in nature only, charged with evaluating relevant issues, and submitting recommendations to the city council and others. The committee shall adopt such bylaws which govern its meetings and duties. The committee shall elect annually from among its members a chairperson and a vice- chairperson. The mayor shall serve as an advisor and one city council member shall serve as council liaison to the youth advisory committee.

(b) *Composition; appointment; terms.* The youth advisory committee shall consist of seven youth members and two alternate members, all being high school students, and one adult sponsor. The adult sponsor shall be appointed by a majority of the city council from among registered voters of the city. Each of the seven youth members and two alternate youth members shall be appointed by a majority of the city council. Terms of office shall be two years for the adult sponsor and one year for the youth members and alternates.

(c) *Applications for appointment.* The appointments to the youth advisory committee shall be made from applications submitted to the mayor and city council.
(Code 1996, §§ 1.22.001—1.22.003; Ord. No. O-17-18, 10/2/18)

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ARTICLE V. FINANCE

DIVISION 1. GENERALLY

Sec. 9.04.002. City manager to act as or designate purchasing agent; purchasing authority.[21]

(a) The city manager shall act as or designate a purchasing agent for the city, who shall assure that all merchandise, materials, supplies, equipment, and services utilized by the city are procured in accordance with state law and good municipal purchasing practices.

(b) Purchases shall be based on competitive bid for like quality and function except in instances when competition is impossible or impractical. The bid format shall be in accordance with law and is subject to the following limitations:

(1) Expenditure of $500.00 or less shall be informal.

(2) Expenditure of $500.01 to $2,999.99 ~~$500.00 to $3,000.00~~ shall be by telephone or in writing.

(3) Expenditure of $3,000.00 to $4,999.99 ~~$5,000.00~~ shall be in writing.

(4) Expenditure of $5,000.00 and over shall be by formal public bid.

(c) Bids for public works contracts shall be in conformance with V.T.C.A., Local Government Code, §§ 271.021—271.029 ~~state statutes as covered by article 2368a, V.A.T.S., as amended~~. Procurement involving hi-tech items may utilize provision of state law allowing for negotiated purchases.

(d) The city manager has authority to budget operational purchases and expenditures not exceeding $50,000.00 and, subject to formal procurement policy, those capital equipment purchases approved by the council upon adoption of the budget.

(e) In cases of accident or other circumstances creating an emergency, the city manager may, with consent of the city council, award contracts and make purchases for the purpose of repairing damages caused by such accident or avoiding such public emergency, but immediately after the emergency is abated, he shall file with the council a certificate showing such emergency and necessity for such action, together with an itemized account of all expenditures.
(Code 1996, § 9.04.002(9, 10); Ord. No. 776-04, 6-7-2004; Ord No. O-09-22, 8/16/2022)

Sec. 1.19.001. Conflicts between state law and city Charter regarding purchasing.

V.T.C.A., Local Government Code, ch. 252, shall supersede the provisions of the Charter of the city where there is conflict between that statute chapter and the charter as it relates to the notice of contracts, advertisement of the notice, requirements for the taking of sealed bids based on specifications for public improvements or purchases, the manner of publicly opening bids or reading them aloud, or the manner of letting contracts. This section shall not prevent the city, acting through its city council or its

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[21] **Sec. 9.04.002. City manager to act as or designate purchasing agent; purchasing authority.** Duplicative ranges are adjusted. Also, have these maximum amounts been changed? In addition, the citation is corrected as shown.

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administrators, from adopting administrative procedures as to the matters listed in this section.
(Code 1996, § 1.19.001; Ord. No. 688-00, 9/5/00)

DIVISION 2. CLAIMS AGAINST CITY FOR DAMAGES

Sec. 1.11.001. Notice required.[22]

The city shall never be liable for any claim for property damage or for personal injury, whether such personal injury results in death or not, unless the person damaged or injured, or someone in his behalf, or in the event the injury results in death, the person or persons who may have a cause of action under the law by reason of such death or injury, shall, within 90 days from the date the damage or injury was received, give notice in writing to the mayor and city council of the following facts:

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

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

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

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

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

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

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

(8) In 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 happening of the damage or any part thereof.

(Code 1996, § 1.11.001)

Sec. 1.11.005. Notice to be sworn.

The written notice required under this article shall be sworn to by the person claiming the damage or injuries or by someone authorized by him to do so on his behalf. Failure to swear to the notice as required herein shall not render the notice fatally defective, but failure to so verify the notice may be considered by the city council as a factor relating to the allegations and to the weight to be given to the allegations contained therein.
(Code 1996, § 1.11.005)

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[22] **Sec. 1.11.001. Notice required.** This section does not address the six-month notice requirement for matters cognizable under the state Tort Claims Act.

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Sec. 1.11.006. Exemptions.

The notice provisions required herein shall not be applicable in cases in which the plaintiff can demonstrate good cause, actual notice by the city, or civil rights violation.
(Code 1996, § 1.11.006)

Sec. 1.11.002. Refusal by city council as a prerequisite.

No suit of any nature whatsoever shall be instituted or maintained against the city unless the plaintiff therein shall aver and prove that previous to the filing of the original petition the plaintiff applied to the city council for redress, satisfaction, compensation, or relief, as the case may be, and that the same was by vote of the city council refused.
(Code 1996, § 1.11.002)

Sec. 1.11.003. Address for filing notices.

All notices required by this article shall be effectuated by serving them upon the city manager at City Hall, 1938 South Hampton Road, Glenn Heights, Texas 75154. All such notices shall be effective only when actually received in the office of the city manager.
(Code 1996, § 1.11.003)

Sec. 1.11.004. No authority to waive provisions.

Neither the mayor, a city council member, nor any other officer or employee of the city shall have the authority to waive any provision of this division.
(Code 1996, § 1.11.004)

ARTICLE VI. CITY PROPERTY

DIVISION 1. GENERALLY

Sec. 1.10. Sale of surplus city personal property.

The city may sell surplus personal property owned by the city in any manner not prohibited by state law or the state constitution. All sales are final. No refunds or exchanges will be authorized. All personal property must be removed within five days following the date of sale. No city employee, or city official, or member of their family, may purchase any item, either directly or indirectly.
(Code 1996, Art. 1.10; Ord. No. O-848-07, 8/6/07)

DIVISION 2. CITY VEHICLE MAINTENANCE

Sec. 1.21.001. Findings, purpose, and intent.

(a) The regional transportation council, comprised primarily of local elected officials, is the regional transportation policy body associated with the North Central Texas Council of Governments, and has been and continues to be a forum for cooperative decisions on transportation.

(b) The regional transportation council supports the adoption and implementation of a clean fleet vehicle policy by the city which was resolved on October 6, 2005.

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(c) The Dallas-Fort Worth area is a federally designated non-attainment area for the pollutant ozone and air quality impacts the public health of the entire region.

(d) The regional transportation council is responsible for air quality conformity, and the Clean Air Act Amendments of 1990 require that in air quality non-attainment areas transportation plans and improvement programs conform to the applicable air quality implementation plan.

(e) The city wants to set achievable goals and provide workable, cost-effective solutions to improve the Dallas-Fort Worth Metropolitan Area air and implement those measures as soon as practicable to improve air quality.

(f) Approximately 50 percent of the nitrogen oxide (NOx) emissions in the Dallas-Fort Worth non-attainment area come from on-road vehicles.
(Code 1996, § 1.21.001; Ord. No. O-33-08, 10/6/08)

Sec. 1.21.002. Vehicle acquisition.

(a) Vehicle acquisitions for fleet expansion or replacement of model year 2004 or newer shall be newest model year or engine standard only.

(b) Vehicle acquisitions to replace model year 2003 or older vehicles must show at least a 25% reduction in nitrogen oxides (NOx) emissions rate compared to the vehicle being replaced. (Waivers are possible when new technologies or achievements of the required emission reduction are not possible.)

(c) Aftermarket technologies and conversions are acceptable for fleet expansion and fleet replacements.

(1) Aftermarket technologies and conversions must be Environmental Protection Agency (EPA) or CARB verified or certified or technology equivalent or better, as determined by the North Central Texas Council of Governments (NCTCOG) staff.

(2) Conversions must comply with the provisions of EPA Memorandum 1A and Addendum Revision (June 25, 1974, and June 1, 1998).
(Code 1996, § 1.21.002; Ord. No. O-33-08, 10/6/08)

Sec. 1.21.003. Vehicle operation.

(a) Vehicle idling is allowed only for safety, emergency response, vehicle maintenance, equipment activity, warm-up/operations in cold temperature, and manufacturer-recommended minimum idle/warm-up times.

(b) Vehicles with the lowest NOx emissions that are capable of performing the required operational demands shall drive the most miles.

(c) The fleet manager shall abide by latest refueling time/season guidance published by NCTCOG air quality planning.

(d) Non-emergency vehicles shall drive no more than the posted speed limit and avoid rapid acceleration.

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(e) All drivers shall be trained on air quality appropriate operational requirements.
(Code 1996, § 1.21.003; Ord. No. O-33-08, 10/6/08)

Sec. 1.21.004. Vehicle maintenance.

(a) Perform annual emission and safety inspections for all vehicles, even for vehicles with no state-mandated inspection requirement.

(b) All vehicles with over 100,000 miles must have emission inspections every 25,000 miles thereafter.

(c) Perform manufacturer's recommended maintenance.

(d) Mandatory participation in any diesel or other state commission on environmental quality or NCTCOG inspection/maintenance program, including applicable test or pilot programs.
(Code 1996, § 1.21.004; Ord. No. O-33-08, 10/6/08)

Sec. 1.21.005. Compliance verification.

(a) The public sector entity shall provide NCTCOG with an annual electronic update of fleet size and activity in a format established by NCTCOG.

(b) The city acknowledges that entities not adopting and complying with the clean fleet vehicle policy or reporting requirements will not be eligible for future clean vehicle funding and RTC may assess city compliance when considering other RTC funding actions.
(Code 1996, § 1.21.005; Ord. No. O-33-08, 10/6/08)

ARTICLE VII. RECORDS MANAGEMENT[23]

Sec. 1.17.001. Definitions.[24]

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:

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

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

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[23] **Art. VII. Records Management.** This are old provisions that might be amenable to replacement with adoption of relevant state law, rules, and schedules. Please review.

[24] **Sec. 1.17.001. Definitions.** A standardized introduction is substituted for consistency.

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

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

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

Records liaison officers. The persons designated under section 1.17.010 of this article.

Records management. The application of management techniques to the creation, use, maintenance, retention, preservation, and disposal of records for the purposes of reducing the costs and improving the efficiency of recordkeeping. The term 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 committee. The committee established in section 1.17.006 of this article. Records management officer. The person designated in section 1.17.005 of this article.

Records management plan. The plan developed under section 1.17.007 of this article.

Retention period. The minimum time that must pass after the creation, recording, or receipt of a record, or the fulfillment of certain actions associated with a record, before it is eligible for destruction.
(Code 1996, §§ 1.17.001, 1.17.002)

Sec. 1.17.003. City records declared public property.

All city records are the property of the city. No city official or employee has, by virtue of his or her position, any personal or property right to such records even though he or she may have developed or compiled them. The unauthorized destruction, removal from files, or use of such records is prohibited.
(Code 1996, § 1.17.003)

Sec. 1.17.004. Policy.[25]

It is the policy of the city to provide efficient, economical, and effective controls over the creation, distribution, organization, maintenance, use, and disposition of all city records through a comprehensive system of integrated procedures for the management of records from their creation to their ultimate disposition, consistent with the requirements of the ~~Texas~~ Local Government Records Act, V.T.C.A., Local Government Code, ch. 201 and accepted records management practice.
(Code 1996, § 1.17.004)

Sec. 1.17.005. Designation of records management officer.

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[25] **Sec. 1.17.004. Policy.** Citation is corrected as shown.

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The city secretary, and the successive holders of the 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 Texas State Library within thirty days of the initial designation or of taking up the office, as applicable.
(Code 1996, § 1.17.005)

Sec. 1.17.006. Establishment and duties of records management committee.

A records management committee consisting of the city manager, city attorney and finance director is hereby established. The committee shall:

(1) Assist the records management officer in the development of policies and procedures governing the records management program;

(2) Review the performance of the program on a regular basis and propose changes and improvements if needed;

(3) Review and approve records control schedules submitted by the records management officer;

(4) Give final approval to the destruction of records in accordance with approved records control schedules; and

(5) Actively support and promote the records management program throughout the city.
(Code 1996, § 1.17.006)

Sec. 1.17.007. Records management plan development, approval and authority.

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

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

(c) State law relating to the duties, other responsibilities, or recordkeeping requirements of a department head do not exempt the department head or the records in the department head's care from the application of this article and the records management plan adopted under it and may not be used by the department head as a basis for refusal to participate in the records management program of the city.
(Code 1996, § 1.17.007)

Sec. 1.17.008. Duties of records management officer.

In addition to other duties assigned in this article, the records management officer shall:

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(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 city office and department to ensure maximum availability of the records in order to reestablish operations quickly and with minimum disruption and expense;

(4) Develop procedures to ensure the permanent preservation of the historically valuable records of the city;

(5) Establish standards for filing and storage equipment and for recordkeeping supplies;

(6) Study the feasibility of and, if appropriate, establish a uniform filing system and a forms design and control system for the city;

(7) Provide records management advice and assistance to all city departments by preparation of a manual or manuals of procedure and policy and by on-site consultation;

(8) Monitor records retention schedules and administrative rules issued by the state library and archives commission to determine if the records management program and the city's records control schedules are in compliance with state regulations;

(9) Disseminate to the city council and department heads information concerning state laws and administrative rules relating to local government records;

(10) Instruct records liaison officers and other personnel in policies and procedures of the records management plan and their duties in the records management program;

(11) Direct records liaison officers or other personnel in the conduct of records inventories in preparation for the development of records control schedules as required by state law and this article;

(12) Ensure that the maintenance, preservation, microfilming, destruction, or other disposition of the city is carried out in accordance with the policies and procedures of the records management program and the requirements of state law;

(13) Maintain records on the volume of records destroyed under approved records control schedules, the volume of records microfilmed or stored electronically, and the estimated cost and space savings as the result of such disposal or disposition;

(14) Report annually to the city council on the implementation of the records management plan in each department of the city, including summaries of the statistical and fiscal data compiled under subsection (13); and

(15) Bring to the attention of the city council noncompliance by department heads or other city personnel with the policies and procedures of the records management program or the Local

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Government Records Act, V.T.C.A., Local Government Code, ch. 201.[26]
(Code 1996, § 1.17.008)

Sec. 1.17.009. 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.

(Code 1996, § 1.17.009)

Sec. 1.17.010. Designation of records liaison officers.

(a) Each department head shall designate a member of his or her staff to serve as records liaison officer for the implementation of the records management program in the department.

(b) If the records management officer determines that in the best interests of the records management program more than one records liaison officer should be designated for a department, the department head shall designate the number of records liaison officers specified by the records management officer.

(c) Persons designated as records liaison officers shall be thoroughly familiar with all the records created and maintained by the department and shall have full access to the records of the city maintained by the department.

(d) In the event of the resignation, retirement, dismissal, or removal by action of the department head of a person designated as a records liaison officer, the department head shall promptly designate another person to fill the vacancy. A department head may serve as records liaison officer for his or her department.

(Code 1996, § 1.17.010)

Sec. 1.17.011. Duties and responsibilities of records liaison officers.

In addition to other duties assigned in this article, records liaison officers shall:

(1) Conduct or supervise the conduct of inventories of the records of the department in preparation for the development of records control schedules;

(2) In cooperation with the records management officer coordinate and implement the policies and

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[26] **Sec. 1.17.008. Duties of records management officer.** Citation is completed as shown.

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procedures of the records management program in their departments; and

(3) Disseminate information to department staff concerning the records management program.
(Code 1996, § 1.17.011)

Sec. 1.17.012. Development and approval of records control schedules; filing with state.

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

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

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

(d) Before its adoption, a records control schedule must be submitted to and accepted for filing by the director and librarian as provided by state law. If a schedule is not accepted for filing, the schedule shall be amended to make it acceptable for filing. The records management officer shall submit the records control schedules to the director and librarian.
(Code 1996, § 1.17.012)

Sec. 1.17.013. Implementation of records control schedules; destruction of records under schedule.

(a) A records control schedule for a department that has been approved and adopted under section 1.17.012 shall be implemented by department heads and records liaison officers 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 committee that the record be retained for an additional period.

(c) Prior to the destruction of a record under an approved records control schedule, authorization for the destruction must be obtained by the records management officer from the records management committee.
(Code 1996, § 1.17.013)

Sec. 1.17.014. 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.
(Code 1996, § 1.17.014)

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Sec. 1.17.015. Records center.

A records center, developed pursuant to the plan required by section 1.17.007, is under the direct control and supervision of the records management officer. Policies and procedures regulating the operations and use of the records center shall be contained in the records management plan developed under section 1.17.007.
(Code 1996, § 1.17.015)

Sec. 1.17.016. Time limits for responding to certain requests.[27]

(a) Annual time limit. Pursuant to ~~Texas~~ V.T.C.A., Government Code, § 552.275(a) and (b), 36 hours is established as the reasonable limit on the amount of time that personnel of the city are required to spend producing public information for inspection or duplication by a requestor in any given 12-month period commencing on October 1 of each year, without recovering the city's costs attributable to that personnel time.

(b) Monthly time limit. Pursuant to ~~Texas~~ V.T.C.A., Government Code § 551.275(a) and (b), 15 hours is hereby established as the reasonable limit on the amount of time that personnel of the city are required to spend producing public information for inspection or duplication by a requestor in any given one-month period, without recovering the city's costs attributable to that personnel time.

(c) Records of time spent fulfilling requests. The city secretary or his or her designee shall be responsible for maintaining records of the cumulative amount of personnel time spent complying with requests for public information from each individual requestor.

(d) Charges for personnel time spent in excess of time limits. Subject to the provisions of ~~Texas~~ V.T.C.A., Government Code, § 551.275, when the 36-hour fiscal year or 15-hour monthly limit is met or exceeded, the city will require a requestor to pay costs attributable to costs of materials, overhead, and personnel time necessary to comply with the request prior to furnishing any responsive information for inspection or duplication by a requestor or providing copies of public information to a requestor. The city secretary shall be responsible for providing all notices to the requestor as required by law, including written statements of accrued time required by ~~Texas~~ V.T.C.A., Government Code, § 552.275(d) and written estimates of charges required by ~~Texas~~ V.T.C.A., Government Code, § 552.275(e).

(e) 'Requestor' defined. For purposes of this section, 'requestor' shall have the meaning set forth in ~~Texas~~ V.T.C.A., Government Code, § 552.003(6).
(Code 1996, § 1.17.016; Ord. No. O-18-22, 12/21/2022)

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[27] **Sec. 1.17.016. Time limits for responding to certain requests.** Citations are completed and corrected as shown.

Chapter 4

ANIMAL CARE AND CONTROL

ARTICLE I. IN GENERAL

Sec. 2.01.001. Definitions.[28]

To the extent not otherwise defined herein, reference may be made, for purposes of clarifying definitions, to state law or generally accepted industry publications. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandon. To dump, desert, or leave any animal on public or private property with the intent of terminating any further responsibility for said animal; and shall also mean failing to timely redeem any animal impounded or quarantined by the city, as specified herein.

Adequate/proper shelter. A shelter for a dog that shall effectively protect the animal from any form of cold, overheating, inclement weather and direct effects of wind, rain, snow, ice or the sun. By way of example, and not limitation, a shelter may consist of a three-sided structure, with a roof. The shelter shall provide shade during hot weather months with provisions for cooling the animal when temperatures exceed 90 degrees Fahrenheit. During temperatures 50 degrees Fahrenheit or lower, auxiliary heat or clean, dry bedding material shall be provided for insulation against the cold.

Animal. Any living creature classified as a member of the animal kingdom including, but not limited to, birds, fish, mammals and reptiles, but specifically excluding human beings.

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

Animal control facility. An establishment that is operated, controlled or contracted with by the city for the impoundment, confinement, safekeeping, control, caring or destruction of animals which come into the custody of the city.

At large. Any animal, other than a domestic cat, that is not under immediate effective control of its owner as defined in this chapter. A domestic cat shall be considered at large when not located on the premises owned or controlled by its owner and not otherwise under immediate effective control.

(1) Off premises - Any animal:

(A) Which is not under immediate, effective control of a person by means of a cage, leash, physical restraint, or when such animal fails to respond to the voice command or other audible command of the person immediately upon issuance of said command, and is, at all times, within the visible presence of said person and not more than ten feet from said person.

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[28] **Sec. 2.01.001. Definitions.** A standardized introduction is substituted for consistency and definition duplicative of chapter 1 is stricken as shown.

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(B) Which, even when in the visible presence of the owner, or under physical restraint, as defined herein, enters onto the private property of another person, without that property owner's consent.

(2) On premises - Any animal not confined on 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 metal chain or leash sufficient in strength to prevent the animal from escaping from the premises, and so arranged that the animal will remain upon the premises and not come any closer than six feet to a public walkway or sidewalk when the restraint leash is stretched to full length.

City enforcement agent. City animal control officers, or other authorized representatives, including but not limited to police officers of the city.

Dangerous animal. Any animal which has been determined to be dangerous as set forth herein by the animal control officer or appropriate court; which demonstrates behavior or possesses the vicious propensity to inflict serious bodily injury or death upon human beings and constitutes a danger to human life or domestic animals; or any animal which has behaved in such a manner that the owner thereof knows, or reasonably should know, that the animal is possessed of tendencies to commit unprovoked attacks or to injure human beings or domestic animals; or any animal certified by a doctor of veterinary medicine, licensed in the state, after observation thereof, as posing a danger to human beings or animals; or any animal that commits an unprovoked attack upon a human being or other domestic animal; or any animal that commits an unprovoked act that causes a person to reasonably believe that the animal will attack and cause bodily injury to that person.

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

Enclosure. Any structure or device used to immediately restrict any animal or animals to a limited amount of space, such as a fence, room, pen, run, cage, compartment or hutch.

Exotic animal. Any nondomesticated animal, other than livestock, that is native to a foreign country or of foreign origin or character, is not native to the United States, or was introduced from abroad. This term specifically includes, but is not limited to, animals such as lions, tigers, jackals, dingoes, leopards, elephants, pandas, camels, antelope, anteaters, kangaroos, chimpanzees, gorillas, orangutans, water buffalo, and species of foreign domestic livestock requiring state or federal permits.

Fowl. A bird of any kind, including, but not limited to, chickens, ducks, geese, guineas, pigeons, roosters, turkeys and pheasants.

Guard dog. A dog that has received protection or guard dog training and used by law enforcement, private security, or in protective functions where the dog is responsive to control by its owner or handler and used only for protective functions, irrespective of its status as a personal pet of its owner or handler.

Guide dog. A dog that is trained to assist a handicapped person. Immediate effective control.

(1) Immediate, effective control means an animal which is under the power or restraint of a person by a means of cage, leash or physical restraint. For purposes of this chapter, an animal is not under the immediate effective control of a person when it is not restrained by means of a leash or chain of sufficient strength and not more than six feet in length to control the actions of such animal while off the owner's property.

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(2) When such animal responds to the voice command of the person immediately upon issuance of said command, and is, at all times, within the visible presence of said person and not more than ten feet from said person. It shall be prima facie evidence for purposes of this chapter that the animal is at large when the animal is not in the visible presence of the owner or fails to respond immediately to a verbal command.

Inhumane treatment of animals. Any treatment of an animal prohibited by section 42.09 of the Texas Penal Code, chapters 821, 822 or 826 of the Texas Health and Safety Code, as amended, or by any other provision of law including federal, state and local laws, ordinances or rules.

Kennel. Any business or establishment other than a veterinary hospital, whether operated separately or in connection with another business or establishment, that keeps, boards or trains dogs or cats for profit. Kennels must be established, maintained and operated in compliance with all applicable zoning and land use regulations of the city.

Livestock. Any horses, mules, donkeys, cattle, bison, goats, sheet, swine, ostriches, emus or rheas.

Owner. Any person, partnership, corporation or association that harbors, shelters, keeps, controls, manages, possesses or has whole or part interest in any animal. The occupant, owner or head of a household of any premises where an animal remains for 24 hours or more shall be presumed to be the owner of such animal for the purpose of this chapter. This presumption is rebuttable and shall have the effects and consequences set forth in section 2.05 of the Texas Penal Code, as amended.

~~Person. A natural individual, firm, corporation or other legal entity.~~

Pet. Any animal normally kept for pleasure rather than utility, excluding livestock.

Pet store. Any business or establishment other than a veterinary hospital, whether operated separately or in connection with another business or establishment, that buys and sells dogs, cats, or other species of pets for profit. Pet stores or shops must be established, maintained and operated in compliance with all applicable zoning and land use regulations of the city.

Public auction. Any place or facility where animals are sold to the highest bidder. This definition does not apply to individual sales of animals by private owners to other private owners.

Public nuisance. The following:

(1) An owner's failure to control, restrain or otherwise allow, either by conduct or condition, any animal to:

(A) Engage in conduct which establishes such animal as a "dangerous animal"; or

(B) Be "at large" as defined herein; or

(C) Cause a disturbance by excessive, continuous or untimely barking, howling, whining, crowing or otherwise make excessive noise near the private residence of another or continual barking, howling, whining, crowing or other audible noise, in excess of 15 minutes, even if in sporadic bursts, shall be prima facie evidence that the same constitutes a nuisance; or

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(D) Produce maggots, flies, odors or unclean conditions sufficient to annoy adjacent property owners or residents; or

(E) Chase vehicles or molest, attack or interfere with other animals or persons on public property; or

(F) Damage, soil, defile, or defecate on private property other than the owner's property or on public walks or recreation areas unless such waste is immediately removed and properly disposed of by the owner; or

(G) Allow such fecal matter or other animal waste to accumulate to such a degree as to cause unsanitary, dangerous or offensive conditions.

(2) Any animal normally found in the wild that has entered onto any public or private property by its presence is committing a threat to public health and safety or is generally interrupting the tranquility of the location.

Quarter or quartered. As it relates to livestock or other animals regulated herein, to provide shelter or to be sheltered.

Residential breeder. Any person licensed by the city to keep, harbor, breed or raise in excess of four but not more than ten dogs and ten cats six months of age or older on any premises used or zoned for residential purposes and less than two acres in area.

Residential foster owner. Any person licensed by the city to keep, harbor or foster in excess of four but not more than ten dogs and ten cats six months of age or older, including dogs or cats belonging to or owned by the foster owner, on any premises used or zoned for residential purposes and less than two acres in area.

Restraint. Secured by a leash, lead, cord, chain or rope six feet or less in length; or by electronic wires, probes or other similar device; or secured within a kennel or pen, or secured within the fenced real property limits of its owner, and may not come any closer than six feet to a public walkway or sidewalk when the restraint lead is stretched to full length.

Serious bodily injury. Bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ. An injury characterized by severe bite wounds or severe ripping and tearing of muscle that would cause a reasonably prudent person to seek treatment from a medical professional and would require hospitalization without regard to whether the person actually sought medical treatment satisfies this definition. For purposes of this chapter, serious bodily injury includes but is not limited to injuries for which the injured party seeks emergency or inpatient treatment irrespective of length of hospital stay.

Stray. An animal that is improperly restrained and that wanders upon a public place, roadway, street, highway, or the property of another person.

Vaccination. The inoculation of an animal with a rabies vaccine or other medicine that is accepted by the United States Department of Agriculture for use in that species, and which is administered by a veterinarian, licensed in the state, for the purpose of immunizing the animal against rabies or other diseases.

Veterinary hospital or clinic. Any establishment that is maintained and operated by a veterinarian,

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licensed in the state, for the diagnosis, treatment or surgery of injuries and diseases to animals.

Wild animal. Any animal not normally considered domesticated and which is now or historically has been found in the wild, or in the wild state, including but not limited to the following:

(1) Reptiles: venomous reptiles, any type of crocodile or alligator; or

(2) Fish: piranha; or

(3) Birds: condors, eagles, hawks, falcons, owls; or

(4) Mammals: ocelots, lions, tigers, jaguars, leopards, cougars, wolves or wolf hybrids, dingoes, coyotes and coyote mixes, jackals, weasels, martens, minks, badgers, skunks, bats, raccoons, pandas, bears, kangaroos, opossums, sloths, anteaters, armadillos, monkeys, chimpanzees, gorillas, orangutans, porcupines, antelope, deer, foxes, elephants, lynx, camels, squirrels; or

(5) Any species of animal illegal to own under federal, state or local law.

Zoonotic disease. An illness which is of animal origin and usually causes illness to other animals but which can be transmitted to and cause illness in humans.
(Code 1996, § 2.01.001; Ord. No. 695-01, 3/5/01)

Sec. 2.02.001. Care standards generally.

Animals shall be provided humane care, treated and transported in a humane manner and not in violation of V.T.C.A., Penal Code, § 42.09, V.T.C.A., Health and Safety Code, Title 10 (Health and Safety of Animals), or any other provision of law, including federal, state and local laws, ordinances and rules.
(Code 1996, § 2.02.001; Ord. No. 695-01, 3/5/01)

Sec. 2.02.002. Animal cruelty and neglect.

A person commits an offense if

(1) A person fails to provide an animal under his or her control or ownership with adequate wholesome food and water, proper shelter and protection from inclement weather, and veterinary care when needed to prevent suffering.

(2) A person having charge, care, custody or control of an animal places or confines such animal, or allows such animal to be placed or confined, in a motor vehicle trailer or other enclosure under such conditions, or for such a period of time, as to endanger the health of the animal due to heat, lack of food or water, or such other circumstances as may cause injury or death to the animal.

(3) A person treats an animal in an inhumane or cruel manner as defined by V.T.C.A., Penal Code, § 42.09 or V.T.C.A., Health and Safety Code, ch. 821.

(4) A person knowingly owns, harbors, trains, sells or offers for sale any animal which is to be used for the purpose of fighting; or to be trained, tormented, badgered or baited for the purpose of causing or encouraging said animal to attack human beings or animals when not provoked, except that this subsection shall not apply to guard dogs.

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(5) A person mutilates any animal, whether such animal is dead or alive. This subsection does not apply to medical or veterinary medical research, medical or veterinary medical autopsies, or biology class use of animals for educational purposes.

(6) A person causes an animal to fight another animal or person.

(7) A person, other than a licensed veterinarian, docks an animal's tail, or crops an animal's ears, or castrates an animal; provided, however, this subsection shall not apply to normal livestock operations occurring within the city.

(8) A person dyes or colors chicks, ducks, rabbits, reptiles or birds.

(9) A person transporting an animal fails to effectively restrain an animal so as to prevent the animal from leaving or being accidentally thrown from a vehicle during normal operation of the vehicle or fails to effectively restrain an animal so as to prevent infliction of bodily harm to a passerby; provided, however, the provisions of this subsection shall not prohibit a person from transporting an effectively confined or tethered dog in the open bed of a pickup truck.

(10) A person is in control of a motor vehicle which strikes a domestic animal or livestock within the corporate limits of the city and fails to report the accident to the city enforcement agent as soon as practical.

(11) A person abandons any animal, including the abandonment of an impounded animal at the animal control facility with the intent to readopt the animal to avoid impoundment fees.

(12) A person ties or tethers a dog in such a manner that prevents the animal from access to adequate shelter, food and water.

(13) A person ties or tethers a dog in such a manner that the animal could become entangled or injured.

(14) A person cruelly confines an animal in a manner that prevents the animal from being able to stand to its full height, stretch out, turn around and lie down and make normal postural adjustments comfortably for a period of 24 hours or more.

(15) A person confines an animal in such a way that the animal is forced to stand or lay within its own feces, standing water or other unsanitary conditions.

(Code 1996, § 2.02.002; Ord. No. 695-01, 3/5/01)

Sec. #. Poisoning of animals.

No person shall place any substance or article which has in any manner been treated with any poisonous substance, or is known to be toxic to animals, in any place accessible to human beings, birds, dogs, cats or other animals with the intent to kill or harm animals. This shall include antifreeze purposely left exposed to poison animals. This section, however, does not preclude the use of commercially sold rodent poisons when applied in accordance with the manufacturer's directions for such use, in that person's residence, accessory structure or commercial establishment.

(Code 1996, Art. 2.14)

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Sec. 2.13.001. Animal trapping.

(a) *Approval required.* It is unlawful for any person to place, set or bait any trap for the purpose of catching, wounding or killing any animal, fowl or reptile without the permission and assistance of a city animal control officer. This section, however, does not preclude the use of commercially sold rat and mouse traps, to be utilized as intended by the manufacturer in accordance with the manufacturer's direction for use, in that person's residence, accessory structure or commercial establishment.

(b) *Trap type; prohibited traps.* Only humane live animal traps may be used for capturing animals roaming unrestrained in the city. The placing or baiting of any steel jawed trap (commonly known as a bear trap, wolf trap or coyote trap) within the corporate limits of the city is expressly prohibited. As an exception to this subsection, governmental agencies and entities shall be permitted to use such traps and equipment necessary and permitted by state law or regulations.

(c) *Traps on public property.* Any animal traps found on public property are deemed abandoned, and the city enforcement agents are authorized and directed to seize any such trap and process the same as abandoned property in accordance with the applicable provisions of state law and this Code.

(d) *Bait type.* It shall be a violation of this chapter to use anything other than commercially sold animal food to bait any trap used for the purpose of trapping any animal.

(e) *Trap placement.* Unless the adjacent properties are separated by a solid masonry or wood fence at least six feet high, animal traps shall not be placed or located within ten feet of adjacent property lines. If no fence exists and the size, shape or other characteristics of the property preclude traps from being placed or located ten feet from adjacent property lines, the traps shall be placed or located as far from adjacent property lines as practicable.
(Code 1996, §§ 2.13.001—2.13.004; Ord. No. 695-01, 3/5/01)

Sec. 2.15.001. Disposal of dead animals.

(a) *Authority of animal control officer.* The city animal control officer shall have the authority to take custody of and dispose of all deceased animals found on any roadway, street, highway, or public or private property where the owner cannot otherwise be identified.

(b) *Disposal of livestock.* It shall be the specific responsibility of the owner of any livestock to have the livestock removed and properly disposed of within 24 hours of the death of said livestock, consistent with state law.

(c) *Disposal of other animals.* It shall be the owner's responsibility to remove and properly dispose of a deceased animal within 24 hours of the death of the animal. If requested by the owner, the city animal control officer will pick up a deceased domestic animal if the animal has been placed in a sealed clear plastic bag and left in a convenient place adjacent to a public roadway, or at curbside.
(Code 1996, §§ 2.15.001, 2.15.002; Ord. No. 695-01, 3/5/01)

Sec. 2.03.006. Guard dog registration.

(a) Each dog which has received protection or guard dog training and is kept in the city must be registered as a guard dog with animal control annually. It shall be a violation of this chapter for any person who keeps or allows any such dog to be kept upon his premises to fail or refuse to present proof to the city enforcement agent, upon request, that such dog has been registered as a guard dog within the preceding 12-month period.

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(b) The city enforcement agent shall issue a permit to each qualifying dog. Such permit and tag shall be valid for a period of 12 months and are not transferable to any other animal. The registration tag shall be prominently displayed on the dog at all times by securely affixing it to a properly fitted collar, harness, or similar device worn by the dog. The tag and permit can only be issued provided the owner first presents proof that the dog is currently vaccinated against rabies. No fee shall be required for the issuance of a guard dog permit as provided herein.
(Code 1996, § 2.03.006; Ord. No. 695-01, 3/5/01)

Sec. 2.04.003. State law regarding cat and dog sterilization adopted.[29]

The city shall comply with all sterilization laws as set forth in V.T.C.A., Health and Safety Code, ch. 828. ~~A copy of the statute may be obtained from the animal control officer.~~
(Code 1996, § 2.04.003; Ord. No. 695-01, 3/5/01)

Sec. 2.03.001. Rabies control law adopted; local rabies control authority. [30]

The Rabies Control Act of 1981, V.T.C.A., Health and Safety Code, ch. 826 and the state minimum standards for rabies control and quarantine are adopted by reference as though fully set forth herein, including particularly V.T.C.A., Health and Safety Code, §§ 826.015 and 826.033. ~~A copy of the statute may be obtained from the animal control officer.~~ The animal control officer shall act as the local rabies control authority for the purposes of this article and enforcing the provisions of V.T.C.A., Health and Safety Code, ch. 826.
(Code 1996, §§ 2.03.001, 2.03.002; Ord. No. 695-01, 3/5/01)

Sec. 2.03.003. Dog and cat identification, registration, and vaccination.

(a) No owner shall have within the city any dog or cat four months of age or older unless the dog or cat is currently registered as required in this section. The animal control facility or city animal control officer shall annually register and issue identification tags to any person living in the city who owns or possesses a dog or cat, provided that no dog or cat shall be registered until it has a current vaccination.

(b) Application for initial issuance or renewal of each registration must be made annually by the owner in writing or in person and must be accompanied by a fee for each animal. If the dog or cat has been spayed or neutered, proof of sterilization shall be provided with the registration application.

(c) Registration certificates shall be renewed annually. The registration period will be from January 1 to December 31. Certificates for the new period shall be available for sale at least 30 days in advance and shall constitute valid registration upon issuance.

(d) Upon registration, a current metal registration tag will be issued by animal control, or a veterinarian authorized by animal control to issue the certificate. The tag must be affixed to a collar or harness that must be worn by the dog or cat all times.

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[29] **Sec. 2.04.003. State law regarding cat and dog sterilization adopted.** Unnecessary text is stricken.

[30] **Sec. 2.03.001. Rabies control law adopted by reference; local rabies control authority.** Unnecessary text is stricken as shown.

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(e) Registration or vaccination certificates (and tags) shall be valid only for the animal for which the certificate or tag was originally issued. If there is a change in ownership of a registered dog or cat, the new owner shall have the identification tag transferred to his or her name within ten days after taking possession of the dog or cat. The application for transfer shall be made to animal control in writing or in person. There shall be no charge for a transfer of registration.

(f) Fees for registration of sterilized and unsterilized dogs and cat shall be as provided in the city fee schedule. Fee-exempt registrations may be issued for police or sheriff's department dogs and service dogs as defined in V.T.C.A., Human Resources Code, § 121.002(4). Veterinarians authorized by animal control to issue animal registration certificates may retain $1.00 of the registration fee for every animal registered in accordance with this section.
(Code 1996, § 2.03.003; Ord. No. 695-01, 3/5/01)

~~Sec. 2.03.004. Vaccination and license identification.~~[31]
~~An identification tag may not be issued for an animal that has not been vaccinated against rabies within the preceding year. The identification tag shall be valid for the length of time the rabies vaccination is valid.~~
~~(Code 1996, § 2.03.004; Ord. No. 695-01, 3/5/01)~~

Sec. 2.17.001. Residential breeder or foster owner license; facility standards.

(a) *License application.* Upon approval of the city council, the animal control officer shall issue annual residential breeder and residential foster owner licenses. The initial and renewal application for a license under this section shall include at a minimum:

(1) Name and permanent address of applicant and, if different, the location or address of the subject property or premises;

(2) The maximum number of dogs or cats that the applicant will keep, harbor, breed, raise and/ or foster on the subject property or premises; and

(3) A drawing showing the dimensions of the subject property or premises and identifying all structures on the premises, all fenced or enclosed areas, and the proximity of adjacent property owners and public streets.

(b) *Public hearing required; notice.* The city council shall hold a public hearing on any application for either a residential breeder license or a residential foster owner license or the renewal thereof. Public notice of the hearing shall be given by depositing written notice thereof in the mail addressed to all owners of real property located within 200 feet of the subject property or premises, as determined from the last approved city tax roll, and by publication thereof in a newspaper of general circulation in the city. Both the mailed and published notices shall be given at least ten days prior to the date set for the hearing.

(c) *Content of notice of hearing.* The notice shall state the date, time and place of the public hearing and adequately identify the location or address of the subject property or premises, state the nature of the application to be considered, and state that any party may appear in person or by attorney or agent. The

[31] **Sec. 2.03.004. Vaccination and license identification.** Stricken as duplicative of preceding section.

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public hearing procedure prescribed herein shall apply to the initial application for license and application for renewal thereof.

(d) *Fees.* An annual license and inspection fee shall be paid to the city prior to the issuance of any residential breeder or residential foster owner license or the annual renewal thereof in the amount provided in the city fee schedule.

(e) *Inspections; care and control standards.* The subject property or premises shall be subject to inspection by the city enforcement agent between the hours of 8:00 a.m. and 7:00 p.m. to ensure compliance with the following standards:

(1) The dogs or cats shall be housed in cages or pens inside a residence or a completely enclosed accessory structure.

(2) The dogs or cats shall be kept, harbored, bred, raised or fostered so as not to be a nuisance or detriment to any adjoining property or adjacent neighbors.

(3) The dogs or cats shall not bark, howl, create noises that cause the peace and quiet of the neighborhood or the adjacent premises to be disturbed, or create a public nuisance as defined by this chapter.

(4) The cages or pens in which the dogs or cats are housed shall be maintained in a sanitary condition, subject to the provisions of sections 2.16.002 and 2.16.005 herein, so as not to create any hazards to the general health and welfare of the community.

(5) The subject property or premises shall provide an enclosed or fenced area for the exercise of the dogs or cats that will be kept, harbored, bred, raised or fostered thereon containing a minimum area equal to or greater than 500 square feet multiplied by the number of dogs or cats six months of age or older including dogs or cats belonging to or owned by foster owners.

(6) The enclosed area in which the dogs or cats are to be housed shall be of adequate size, height and construction to prevent the dogs or cats from running at large.

(Code 1996, § 2.17.001; Ord. No. 695-01, 3/5/01)

Sec. 2.11.001. Keeping of fowl, rabbits, and guinea pigs.

(a) *Enclosure requirements.* Fowl, rabbits, and guinea pigs must be kept indoors, or if outdoors, in a secure pen or enclosure. Litter and droppings from these animals must be collected and disposed of in accordance with section 2.16.002 herein. However, the provisions of this section shall not apply to ducks or other waterfowl inhabiting natural or manmade watercourses or bodies of water.

(b) *Locational restrictions.* It is unlawful for any person to be in possession of fowl, rabbits or guinea pigs on any lot or tract of less than one acre or within 150 feet to any human living quarters in the city.

(Code 1996, §§ 2.11.001, 2.11.002; Ord. No. 695-01, 3/5/01)

Sec. 2.12.001. Beekeeping.

It is unlawful for any person to keep, or allow to be kept, bees in such a manner as to deny the reasonable use and enjoyment of adjacent property or endanger the personal health, safety and welfare of the

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inhabitants of the city. Honeybees may be kept if the following conditions are met:

(1) All hives shall be located a minimum of one hundred fifty feet (150') from any inhabited dwelling other than that of the person keeping such bees; and

(2) No more than three hives shall be allowed on lots or tracts of land less than one acre in area.

(3) There is an adequate source of water within twenty feet (20') of all hives; and

(4) Any hive contaminated with or known to have Africanized honeybees (killer bees) shall be destroyed by a qualified beekeeper or licensed bee remover at the owner's expense.

(Code 1996, § 2.12.001; Ord. No. 695-01, 3/5/01)

ARTICLE II. LIVESTOCK

Sec. 2.09.001. Keeping of livestock generally.

It is unlawful for any person to keep or permit the keeping of livestock on premises owned by him or under his control, except in compliance with the following regulations:

(1) Livestock shall not be kept on lots and tracts of land less than one acre in area;

(2) On lots and tracts of land between one acre and two acres in area, inclusive, no more than five livestock shall be kept; and

(3) On lots and tracts of land greater than two acres in area, there shall be no limit to the number of livestock that may be kept provided that adequate fences, barriers and other facilities are provided as required in sections 2.09.002 and 2.09.003 herein and, provided further, that a public nuisance is not created.

(4) The provisions of article 2.02 herein, relative to animal care in general, shall specifically apply to the keeping of livestock.

(5) It shall be a defense to prosecution regarding the number of livestock being kept, that the same livestock and no more than the number and kinds of livestock in question were being kept on the same premises, by the same owner, prior to March 5, 2001. Notwithstanding the foregoing, at such times as the livestock on the property dies or is otherwise disposed of by the owner, it may not be replaced until such time as the livestock meets the requirements set forth herein and then may only be replaced to the extent such number and kind is in conformance with this section.

(6) Notwithstanding anything herein to the contrary, it is unlawful for any person, other than a veterinarian, to keep any live swine within the city, except in areas zoned or designated for rural or agricultural purposes by the city zoning ordinance. This section shall not prohibit the keeping of not more than two purebred Vietnamese potbellied pigs with appropriate documentation as to breeding. Such documentation shall be kept available for inspection by a city enforcement agent upon demand. These potbellied pigs shall be no more than forty (40) inches from nose to tail, no higher than 20 inches at the shoulder and no heavier than ninety-five (95) pounds.

(7) Livestock shall not be kept in designated front yard areas as defined in city zoning regulations.

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(8) It is unlawful for any person to keep on premises under his or her control, within the city limits, any small or large livestock in such a manner that the livestock will be quartered closer than 150 feet to any human living quarters, other than the living quarters of the owner or keeper.

(9) Notwithstanding the foregoing, should another provision of this Code, such as zoning regulations, govern the setback requirement for a specific structure, or relate to the keeping of livestock, the other provision controls. Further, any structure that is in existence on March 5, 2001, shall constitute a nonconforming structure, which shall be grandfathered until such time as the same is removed with the intent to abandon or relocate the structure or is otherwise deemed to be a nuisance.
(Code 1996, § 2.09.001; Ord. No. 695-01, 3/5/01)

Sec. 2.09.002. Adequate fences and barriers.

(a) It is unlawful for any person to keep on his or her premises any livestock without providing adequate fences or barriers that will prevent such livestock from escaping or damaging neighboring flowers, trees, shrubbery or other property located on adjacent property.

(b) It shall be a rebuttable presumption that such fences or barriers are inadequate for the designated purpose, if livestock escapes from the premises. This presumption is rebuttable and shall have the effects and consequences set forth in V.T.C.A., Penal Code, § 2.05.

(c) A fence or barrier may include but is not limited to electronic barriers, whether underground, electrified wiring, or the erection of any structure of wood or wire, wood and wire, masonry or any other material, whether it encloses land on all sides or only on one or more sides, which is intended to prevent the passage of livestock. Such a fence or barrier is the means by which the land is enclosed so as to prevent the ingress and egress of livestock, and to make a complete enclosure that is sufficient, in unusual circumstances, to turn livestock of ordinary habits and disposition.
(Code 1996, § 2.09.02; Ord. No. 695-01, 3/5/01)

Sec. 2.09.003. Barns, stables and other animal facilities.

All barns, stables, and other animal facilities constructed after March 5, 2001, shall meet the requirements of the city building code and zoning regulations as applicable thereto.
(Code 1996, § 2.09.003; Ord. No. 695-01, 3/5/01)

Sec. 2.09.004. Places livestock prohibited.

It is unlawful for any person to ride or allow any type of livestock upon any public school ground, public park or municipal grounds within the city other than public rights-of-way or areas designated for such purpose; provided, however, the provisions of this section shall not apply to the riding or showing of horses or other livestock in conjunction with authorized parades, carnivals or other school or civic sponsored programs or events.
(Code 1996, § 2.09.004; Ord. No. 695-01, 3/5/01)

Sec. 2.10.001. Authority to impound livestock.

Any livestock found running at large within the corporate limits of the city may be impounded by a city enforcement agent, the county sheriff’s department, or their designee.
(Code 1996, § 2.10.001; Ordinance 695-01 adopted 3/5/01)

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Sec. 2.10.002. Disposal of impounded livestock.

(a) In the event that ownership of the impounded livestock can not be determined, the livestock will be held at the Dallas County holding facility for livestock and impounded by the Dallas County sheriff's department. At such time, the livestock shall become the responsibility of Dallas County. Should the owner be located within the five-day period, the owner shall pay all required fees. It is the intent of the city to comply with applicable provisions of state law relative to the impoundment of estrays.

(b) If, for any reason, the livestock are not able to be held at the Dallas County holding facility, the livestock shall be held at the designated animal shelter in use by the city for a period of five days. At such time, the livestock shall become the responsibility of the city. Should the owner be located within the five day period, the owner shall pay all required fees.

(c) If impounded livestock are sold at public auction by the Dallas County sheriff's department, the county holding facility will apply such amount to the proceeds as necessary to satisfy the fees and costs incurred because of animal impoundment and auction, and any fees and costs incurred by the city for impounding the livestock, restitution for any damage sustained by a property owner for said livestock having been at large, upon submission of a notarized affidavit and satisfactory proof of such damage, and shall deposit the remainder of such monies, if any, in the city general fund. Upon payment of all fees, costs and restitution, any remaining monies shall be returned to the owner of the livestock upon submission of a sworn notarized affidavit that the applicant was in fact the owner of the livestock immediately prior to the sale.
(Code 1996, § 2.10.02; Ord. No. 695-01, 3/5/01)

ARTICLE III. WILD AND EXOTIC ANIMALS

Sec. 2.08.001. Keeping of wild or exotic animals prohibited.

Any species of wild or exotic animal, not considered domesticated according to generally accepted animal control or veterinary practices, that poses a potentially serious threat to public health, safety or welfare, or is protected by international, federal or state regulations or any other wild animal, including birds of prey capable of or inclined to do serious bodily harm to humans or other domestic animals or fowl, shall not be kept within the corporate limits of the city.
(Code 1996, § 2.08.001; Ord. No. 695-01, 3/5/01)

Sec. 2.08.002. Exemptions to prohibition to keep wild or exotic animals.

The provisions in section 2.08.001 above shall not apply to the keeping of wild or exotic animals if the owner or possessor:

(1) Is a governmental agency or entity; or

(2) Holds a circus, carnival or zoo license from the state; or

(3) Is a licensed individual, or a member of a non-profit animal rehabilitation organization holding a permit from the state department of parks and wildlife; or

(4) Is a research institution or an accredited educational institution.
(Code 1996, § 2.08.002; Ord. No. 695-01, 3/5/01)

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Sec. 2.08.003. Exceptions to prohibition to keep wild or exotic animals.

(a) The following wild or exotic animals may be kept within the city, provided certain requirements are met:

(1) Bison, provided they are kept on lots or tracts of land two acres or greater in area; however, it shall be a defense to prosecution regarding the keeping of bison on lots or tracts of land less than two acres in area that the same bison and no more than the number of bison in question were being kept on the same premises, by the same owner, prior to March 5, 2001.

(2) Exotic birds, provided they are not birds of prey.

(3) Emus, ostriches, or rheas, pursuant to the provisions of article 2.09 herein; however, it shall be a defense to prosecution regarding the number of emus, ostriches or rheas being kept, that no more than the number of emus, ostriches or rheas in question were being kept on the same premises, by the same owner, prior to March 5, 2001.

(4) Any other animal not previously excluded in section 2.08.001 of this chapter and legally procured from breeders, pet stores or other persons, businesses or corporations engaged in the buying, selling or trading of said animals.

(b) The animals listed in this section may be kept within the city provided the owner or possessor of such animals meets the following requirements:

(1) Any area within the city where these animals are kept is zoned so as to allow the keeping of such animals.

(2) Any enclosure, corral, pen, cage or restrictive area in which these animals are kept is constructed so as to prevent their escape.

(3) All necessary international, federal, state, or local licenses or permits have been obtained, if required.
(Code 1996, § 2.08.003; Ord. No. 695-01, 3/5/01)

Sec. 2.06.011. Authority to seize or destroy dangerous and wild or exotic animal.

(a) In the event that any animal is declared to be a dangerous animal, or where a wild or exotic animal is found in violation of any provision of this chapter, a justice court, county court or municipal court may order the city enforcement agent to seize and impound such animal and shall issue a warrant authorizing the seizure.

(b) If the animal is found at large and is presenting a clear and present danger of imminent bodily injury or death to the city enforcement agent or any other person or animal, the animal may be destroyed and the owner notified if the owner can be established.
(Code 1996, § 2.06.011; Ord. No. 695-01, 3/5/01)

Sec. 2.03.005. Wild or exotic animal permits.

(a) The city animal control officer shall register and issue wild or exotic animal permits consistent and in accordance with the applicable provisions of article 2.08 for the purpose of owner identification in

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cases where an animal has bitten, scratched, attacked or injured a human being or another animal and in cases where the animal might become impounded, lost or injured. No permits will be issued for the purpose of keeping any wild or prohibited animal as a pet.

(b) If international, federal or state licenses or permits are required, the owner of the wild or exotic animal shall also obtain a wild or exotic animal permit from the city.
(Code 1996, § 2.03.005; Ord. No. 695-01, 3/5/01)

Sec. 2.08.004. Impoundment or quarantine of wild or exotic animals.

(a) The city enforcement agent may seize or order the immediate impoundment or quarantine, at the owner's expense, of any wild or exotic animal found in the city where there is a potentially serious threat to public health, safety or welfare, or if in violation of any provision of this chapter. The city enforcement agent may seek a seizure warrant from a justice court, county court or municipal court, which court, upon probable cause, may issue a warrant authorizing a seizure.

(b) A hearing shall be conducted on this disposition of the animal within ten business days of the date of seizure. The owner or harborer of the animal, to the extent the same is known or can be determined through reasonable due diligence, shall receive written notice of the hearing, by personal service or certified mail, return receipt requested, as soon as practicable but not later than five days prior to the hearing.
(Code 1996, § 2.08.004; Ord. No. 695-01, 3/5/01)

ARTICLE IV. ANIMAL NUISANCES

Sec. 2.16.001. Maximum number of animals.

It is unlawful to keep or harbor more than six dogs or cats or combination thereof that are six months of age or older on any premises used or zoned for residential purposes and less than two acres in area; provided, however, the provisions hereof shall not apply to licensed residential breeders or licensed residential foster owners. The keeping of more than the maximum number of animals permitted by this section shall be a public nuisance.
(Code 1996, § 2.16.001; Ord. No. 695-01, 3/5/01)

Sec. 2.16.002. Disposal of excrement.

(a) All animal manure and other excrement shall be disposed of in such a manner so as to prevent it from becoming a public nuisance.

(b) An owner, harborer, or other person having care, custody, or control of a dog commits an offense if he knowingly permits, or by insufficient control allows, the dog to defecate in the city:

(1) On private property other than property owned, leased, or controlled by the owner, harborer, or person having care, custody, or control of the dog; or

(2) On public property or any other place to which the public or a substantial group of the public has access, including but not limited to a street, sidewalk, alley, park, or playground, or any common area of a school, hospital, apartment house, office building, transport facility, or shop.

(c) It is a defense to a prosecution under subsection (b) that:

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(1) The owner, harborer, or other person having care, custody, or control of the dog immediately and in a sanitary manner removed and disposed of, or caused the removal and disposal of, all excreta deposited on the property by the dog;

(2) The dog was specially trained to assist a person with a disability and was in the care, custody, or control of that disabled person at the time it defecated on the property;

(3) The owner or person in control of the property had given prior consent for the dog to defecate on the property; or

(4) The dog was being used in official law enforcement activities.

(d) A person who violates this section is guilty of an offense and, upon conviction, is punishable by a fine not to exceed $50.00 for the first offense, $100.00 for the second offense, and $200.00 for the third and each subsequent offense.
(Code 1996, § 2.16.002; Ord. No. 695-01, 3/5/01)

Sec. 2.16.004. Noise prohibited.

It is unlawful for any owner to allow an animal to cause a disturbance by excessive, continuous, habitual or untimely barking, howling, crowing or noise-making near the private residence of another. A person shall be deemed to have knowingly violated the terms of this section if such person is notified by animal control or the police department of a complaint regarding an animal noise disturbance and fails to cease and thereafter prevent its recurrence.
(Code 1996, § 2.16.004; Ord. No. 695-01, 3/5/01)

Sec. 2.16.005. Odors or unclean conditions prohibited.

(a) It is unlawful for any owner to allow an animal to produce odors or unclean conditions sufficient to create a public nuisance.

(b) It is unlawful for any owner to allow an animal to be kept in a manner or under conditions which creates foul odors, unsanitary conditions, an unreasonable presence of vermin or their offspring, or other harmful or offensive conditions which can be attributed to the presence of the animal or to its physical or environmental conditions, including but not limited to the accumulation of animal excreta.

(c) A person who violates this section is guilty of a misdemeanor offense and, upon conviction, is punishable by a fine in accordance with the general penalty provision found in section 1.01.009 of this code.
(Code 1996, § 2.16.005; Ord. No. 695-01, 3/5/01)

Sec. 2.16.006. Animals at large prohibited.

It is unlawful for any owner to allow an animal to chase vehicles or molest, attack, or interfere with other animals or persons on public property, or be at large in the city. The animal enforcement agent is authorized to impound any animal at large.
(Code 1996, § 2.16.006; Ord. No. 695-01, 3/5/01)

Sec. 2.16.007. Penalty.

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Violation of this article, except as otherwise specifically stated herein, is a misdemeanor offense and, upon conviction, is punishable by fine not to exceed $200.00 for the first offense, $300.00 for the second offense, $400.00 for the third offense, and $500.00 for the fourth and each subsequent offense.
(Code 1996, § 2.16.007; Ord. No. 695-01, 3/5/01)

ARTICLE V. DANGEROUS ANIMALS[32]

Sec. 2.06.001. State law adopted.

The city council adopts the regulations and procedures outlined in the V.T.C.A., Health and Safety Code, § 822.001 et seq.
(Code 1996, § 2.06.001; Ordinance 695-01 adopted 3/5/01)

Sec. 2.06.002. Permit required.

No person shall knowingly sell, own, offer for sale, breed, possess, keep, buy or attempt to buy, or train a dangerous animal within the city unless the owner has received the proper permit pursuant to this chapter.
(Code 1996, § 2.06.002; Ord. No. 695-01, 3/5/01)

Sec. 2.06.003. Complaints regarding dangerous animals.

(a) Upon receipt of a written, sworn, notarized affidavit by any person, charging that a particular animal is dangerous, a city enforcement agent shall investigate the incident within three working days to determine whether such animal is, in fact, dangerous. If the animal has bitten a human then the animal must be held at the animal control facility or at an approved quarantine veterinarian clinic for the period required by law. Any written sworn notarized affidavit shall contain at least the following information:

(1) Name, address and telephone number of the complainant and witnesses;

(2) Date, time and location of the incident;

(3) A complete description of the animal including breed, color, sex, size, etc.;

(4) Name, address and telephone number of the animal's owner, if known, or the premises where the animal is kept;

(5) A statement that the animal bit or attacked with as much detail as possible with regard to the incident and whether medical attention was required; and

(6) Any other facts that the complainant believes to be relevant.

(b) The following will apply regarding the investigation to determine whether an animal shall be declared "dangerous":

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[32] **Art. #. Dangerous Animals.** It is unclear as to whether the provisions in this article are intended to apply to dangerous animals generally or dangerous dogs only. Please clarify.

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(1) Notice of such investigation shall be provided by a city enforcement agent to the owner of the animal either in person or by certified mail, return receipt requested. The complainant in the matter shall also be notified either in person or by certified mail, return receipt requested. During the investigation, all parties shall be given the opportunity to present evidence on the issue of whether such animal is to be declared dangerous.

(2) If required by the animal control officer and in accordance with state law, the owner of the animal shall deliver the animal to the city enforcement officer for impoundment within five days of the notice that a sworn complaint has been filed.

(3) The suspect animal shall be seized by the city enforcement agent pursuant to a sworn complaint, impounded, and if necessary, medically examined at the owner's expense if the animal caused serious bodily injury to a person. An animal causing serious bodily injury shall be held at an animal control facility pending the outcome of an investigation and determination as to whether the animal is, in fact, classifiable as dangerous. Such an investigation to determine if an animal is dangerous shall be conducted within ten days after receipt of the complaint or seizure of the animal.

(c) Upon conclusion of the investigation to determine if an animal is dangerous, the city enforcement agent may find that the animal is not dangerous. In such case, the animal shall be returned to the owner, provided the animal has been properly vaccinated and registered and all impoundment and medical fees paid.

(d) Should the animal be classified as a dangerous animal, the owner shall comply with one of the following requirements:

(1) Provide for the keeping of the animal as detailed in sections 2.06.004 and 2.06.005 of this chapter; or

(2) The court may order the seizure and humane destruction of the dangerous animal by a person listed in V.T.C.A., Health and Safety Code, § 822.004 consistent with state law requirements.

(e) No animal shall be declared a dangerous animal if the threat, injury or damages caused by the animal were the result of a willful trespass upon another's property; or the person injured was tormenting, abusing or assaulting the animal or its owner, or was committing or attempting to commit a crime at the time of injury.

(f) If an animal that has been declared to be a dangerous animal causes death or serious bodily injury to a person, the court may order the dangerous animal destroyed, consistent with state law requirements, by a person listed in V.T.C.A., Health and Safety Code, § 822.003 and all related expenses will be paid by the owner.

(g) Findings of the city enforcement agent pertaining to dangerous animals may be appealed to the city municipal court. An owner may appeal the decision of the city enforcement agent to the judge of the municipal court in the same manner as an appeal is made for other criminal cases. During the pendency of such appeal; however, the animal shall be confined in such a manner so as to protect the health and safety of the public until a final disposition is reached, unless otherwise ordered by the court, and provided the requisites for the keeping of a dangerous dog, as stated in this chapter, are satisfied.

(h) The owner may permanently remove the dangerous animal from the city limits, upon compliance with the following conditions:

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(1) The new owner must comply with local and state regulations for owning a dangerous dog and acknowledge, by sworn affidavit, that he/she has been advised that the dog has been deemed dangerous, is aware of the state law requirements and agrees to be bound by state law requirements.

(2) The name, address and phone number of the new owner and the location where the animal will be kept must be submitted to the animal control officer.

(3) The animal control officer shall notify the local authority of the classification of said animal as dangerous.

(4) Proof of compliance with the local and state laws from the local authority relating to dangerous Dogs must be provided to the city.
(Code 1996, § 2.06.003; Ord. No. 695-01, 3/5/01)

Sec. 2.06.004. Keeping of dangerous animals; failure to comply.

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

(1) Register the dangerous animal with the city animal control officer;

(2) Obtain liability insurance or show financial responsibility in an amount of at least one hundred thousand dollars ($100,000.00) to cover damages resulting from an attack by the dangerous dog causing bodily injury or death of any person, or for damages to any person's property, resulting from the keeping of such dangerous animal. Acceptability of such proof of liability insurance coverage or financial responsibility shall be subject to the final review and approval of the city attorney, which coverage shall require that it may not be cancelled without prior written notification to the city not less than 30 days prior to cancellation. It is unlawful for an owner of any dangerous dog found in the city to fail or refuse to present proof to an animal control officer or a designated representative, upon request, of current liability insurance coverage or proof of financial responsibility as required under this subsection.

(3) Restrain the dangerous animal at all times on a leash in the immediate control of the owner, or in a secure pen or enclosure as prescribed in this chapter.

(A) All dangerous Dogs, if not in a secure pen, shall be securely confined indoors.

(B) No dangerous animal may be kept on a porch, patio, or in any part of a house or structure that would allow the animal to exit such building of its own volition. In addition, no dangerous animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacles preventing the animal from exiting the structure.

(4) Provide to the city enforcement agent the name and address of the owner, breed, age, sex, color and any other identifying marks of said animal; the location where the animal is to be kept if not at the address of the owner; two color photographs of the dangerous animal, and the aforementioned certificate of liability insurance.

(5) Provide proof of the required documents necessary to register the animal and pay the required registration fee. The city enforcement agent shall provide to the owner a registration tag designating the animal as dangerous. The owner must place the tag on the animal's collar and must ensure that the animal

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wears such tag and collar at all times.

(6) Not allow the animal to go outside its pen, cage or enclosure unless the animal is under physical restraint and securely muzzled. No person shall permit a dangerous animal to be kept outside its cage, pen or enclosure on a chain, rope or other type of leash unless the owner is in physical control of the chain, rope or other type of leash. Dangerous animals shall not be leashed to inanimate objects such as trees, posts, buildings, etc. Signs, approved by the animal control officer, giving notice of the dangerous animal shall be prominently displayed so that all persons entering said property are immediately notified that a dangerous animal is being kept at the location.

(7) Microchip the dangerous animal, provide the microchip identification number and proof of insertion from a licensed veterinarian to animal control.

(b) Failure to comply.

(1) If the owner fails to register and restrain the dangerous dog or obtain liability insurance or comply with all other municipal restrictions, regulations or requirements or otherwise deliver the dog to the city enforcement officer, said owner shall deliver the dog to the city enforcement officer not later than the 30th day after the owner learns that the dog is a dangerous dog. If, upon application, a justice court, county court or municipal court finds that the owner failed to comply with subsection (a) herein, the court shall order the city enforcement officer to seize the dog and shall issue a warrant authorizing the seizure of the dog. The city enforcement officer shall seize or cause to be seized the dog and provide for impoundment under secure, humane conditions. The owner shall pay any cost or fee assessed by the city related to the seizure, acceptance and impoundment of the dog. The owner then has eleven days after the seizure to comply or the dog must be ordered humanely destroyed. The court can destroy the dog after 15 days if the owner cannot be found.

(2) Failure to comply constitutes a misdemeanor, which upon conviction is punishable by a fine in accordance with the general penalty provision found in section 1.01.009 of this code. Subsequent offenses are class B misdemeanors and shall be referred to the appropriate court.
(Code 1996, § 2.06.004; Ord. No. 695-01, 3/5/01)

Sec. 2.06.005. Dangerous animal enclosures.

The pen, cage or enclosure for a dangerous animal must be constructed from materials of sufficient strength to prevent the animal's escape, and must have secure sides, a secure top attached to the sides, and a secure bottom which is either attached to the sides or constructed so that the sides of the structure are embedded in the ground no less than two feet.
(Code 1996, § 2.06.005; Ord. No. 695-01, 3/5/01)

Sec. 2.06.006. Seizure of dog.

(a) Basis of seizure. The municipal court shall order the seizure of a dog and issue a warrant authorizing said seizure upon:

(1) A sworn complaint that the dog caused the death or serious bodily injury to a person; and upon

(2) A showing of probable cause to believe that the dog caused death or serious bodily injury to a person; and upon

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(3) Any other basis authorized by state law.

The dog is to be seized and impounded until the court orders the disposition of the animal.

(b) Hearing. A hearing is to be set by the court not later than the 10th day after the date on which the warrant is issued. The court is to give written notice to the concerned parties, the owner or person from whom the dog was seized and the complainant, and any other interested party, including the city attorney.

(c) Destruction of dog. The dog must be destroyed if the court finds that the dog caused the death of a person. The dog may be ordered destroyed if the court finds it caused only serious bodily injury by attacking, biting or mauling a person. If such findings are not made, the court is to release the dog to the owner, the person from whom the dog was seized or to any other authorized person.

(d) Exceptions to destruction. Even if the dog caused serious bodily injury to a person by attacking, biting or mauling, the court may not order its destruction if it also finds one of the following to be true:

(1) The dog was being used for protection of a person or a person's property and

(A) The attack, bite or mauling occurred in the dog's enclosure;

(B) The enclosure was reasonably certain to prevent the dog from leaving the enclosure on its own;

(C) Notice was provided of the presence of the dog;

(D) The injured person was at least eight years old; and

(E) Was trespassing in the enclosure at the time of the attack, bite or mauling;

(2) The dog was not being used for the protection of a person or a person's property but

(A) The attack, bite or mauling occurred in the dog's enclosure;

(B) The injured person was at least eight years old; and

(C) Was trespassing in the enclosure at the time of the attack, bite or mauling;

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

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

(5) The injured person was younger than eight years old and

(A) The attack, bite or mauling occurred in the dog's enclosure; and

(B) The enclosure was reasonably certain to keep a person younger than eight years old from entering the enclosure.

(Code 1996, § 2.06.006; Ord. No. 695-01, 3/5/01)

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Sec. 2.06.007. Dangerous dog determination.

(a) An owner learns that he/she is the owner of a dangerous dog when one of the following events occurs:

(1) Owner knows of an attack as described in Texas Health and Safety Code section 822.041(2)(A) or (B) and as provided herein;

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

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

(4) The owner is informed by the city enforcement agent that the dog is dangerous as determined by the city enforcement agent through investigations and upon sworn statements. The owner may appeal this decision to the municipal court within 15 days, as set forth in section 2.06.008; or

(5) Owner receives notice that the municipal court has found the dog is dangerous after a hearing on the matter, either on a report of an attack that caused bodily injury, or after an owner fails to comply with the requirements of an owner of a dangerous dog.

(b) Criminal responsibility for the keeping of a dangerous dog may be established by intent, knowledge or recklessness.
(Code 1996, § 2.06.007; Ord. No. 695-01, 3/5/01)

Sec. 2.06.008. Appeal of dangerous dog determination.

Findings of the city enforcement agent pertaining to dangerous animals may be appealed to the city municipal court, county court, or justice court of competent jurisdiction in accordance with the Health and Safety Code, section 822.0421(b), as amended. An owner may appeal the decision of the city enforcement agent to the judge of the municipal court in the same manner as an appeal is made for other criminal cases, but not later than the 15th day after the owner is notified of the city enforcement agent's determination. During the pendency of such appeal, the findings of the city enforcement agent shall be suspended; however, the animal shall continue to be impounded at the owner's expense at the designated animal control facility for observation and to protect the health and safety of the public until a final disposition is reached, or compliance with the requirements for the keeping of a dangerous dog are satisfied, unless otherwise ordered by the court. Appeal from the municipal court determination is the same as any other appeal from the municipal court.
(Code 1996, § 2.06.008; Ord. No. 695-01, 3/5/01)

Sec. 2.06.009. Report of dangerous dog to municipal court.

(a) A person may report a section 822.041(2) incident to the municipal court requiring only the establishment of bodily injury and not serious bodily injury.

(b) The dog owner must then deliver the dog to the animal control officer not later than the 5th day from the date the owner receives notice that the report has been filed.

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(c) If the owner fails to deliver the animal, the municipal court can issue a warrant authorizing the seizure of the dog. The dog will be impounded, at the owner's expense, until the court orders the disposition of the dog.

(d) Once the court has received an incident report or an application of a violation of section 822.042(c) the court will hold a hearing to determine whether a dog is dangerous or whether the owner has complied with the requirements for an owner of a dangerous dog not later than the 10th day after the dog is seized or delivered. Texas Health and Safety Code, section 822.0423.

(e) The appeal of the municipal court's decision is in the same manner as provided in the appeal of other municipal court cases. Texas Health and Safety Code, section 822.0423.
(Code 1996, § 2.06.009; Ord. No. 695-01, 3/5/01)

Sec. 2.06.010. Dogs that attack domestic animals.

(a) The city enforcement agent, to the extent applicable, shall adhere to procedures relative to Dogs that are a danger to animals, as set forth in subchapter B, section 822.011 et seq. of the Texas Health and Safety Code.

(b) Dogs deemed to be dangerous due to attacks on domestic animals shall be subject to the procedures set forth in this article for registration, hearing, determination or destruction.
(Code 1996, § 2.06.010; Ord. No. 695-01, 3/5/01)

ARTICLE VI. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. GENERALLY

Sec. 2.01.003. Enforcement authority; compliance with citations.

(a) The city enforcement agent shall be responsible for enforcement of this chapter, except as may be provided herein. Enforcement may be by the filing of a complaint in municipal court, by proceedings to enjoin nuisances or in any other manner authorized by law. An animal control officer and the city enforcement agent is authorized to issue citations for a violation of this chapter.

(b) It is unlawful for any person being issued a citation for a violation of this chapter to be filed in municipal court or any civil proceeding to intentionally or knowingly fail to give the city enforcement agent his or her true name and address or to intentionally or knowingly fail to appear in accordance with the terms of a citation or civil process issued by the city enforcement agent.

(c) If the individual who is to receive the citation is not present, the city enforcement agent may send the citation to the alleged offender by certified or registered mail, return receipt requested. If said citation should come back unclaimed, the citation shall be sent regular mail. If this regular mailing does not come back unclaimed, then service shall be deemed completed.
(Code 1996, § 2.01.003; Ord. No. 695-01, 3/5/01)

Sec. 2.07.001. Right of entry; search warrants; seizure warrants.

(a) City enforcement agents are hereby authorized to enter upon any fenced or unfenced lot, tract or parcel of land, to the extent allowed by law, for the purpose of capturing, impounding or quarantining any

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animal upon having probable cause to believe said animal to: have bitten, injured or otherwise attacked a human being or other animal; to have, or have been exposed to, rabies or another communicable disease posing a danger to the public health, safety or welfare; or otherwise posing a clear and present danger to human beings or other animals.

(b) This authorization is granted due to the emergency created by the potential rabies hazard or danger of injury to persons or other animals, and in recognition of the likelihood that such animal will otherwise escape capture. As a matter of policy, city enforcement agents shall not enter upon private property to capture or impound any animal known to belong to the owner of said property without probable cause. An animal control agent may enter upon a person's property if it is believed that said animal poses a threat or danger to property, human beings or other animals, or is in violation of the restraint law.

(c) Furthermore, should the city enforcement agent have probable cause to believe an animal has been, or is being, cruelly treated or has rabies or another communicable disease, the city animal control may, pursuant to V.T.C.A., Health and Safety Code, § 821.022, obtain a seizure warrant and impound such animal, even if it is enclosed on private property.

(d) The city enforcement agents may seek all available remedies allowed by law to gain entry onto property, including but not limited to search and seizure warrants.
(Code 1996, § 2.07.001; Ordinance 695-01 adopted 3/5/01)

Sec. 2.07.002. Failure to deliver animal for quarantine upon demand.

It is unlawful, and a violation of this chapter, for any person to fail to deliver an animal to the city enforcement agent, upon demand for impoundment, when an animal must be quarantined for legitimate medical reasons or for other health and safety reasons stated in this chapter.
(Code 1996, § 2.07.002; Ord. No 695-01, 3/5/01)

Sec. 2.01.002. Penalties.

(a) Any person violating any provision of this chapter, upon conviction, shall be deemed guilty of a class C misdemeanor, and fined in accordance with the general penalty provision found in section 1.01.009 of this Code or the amount fixed by state law if the violation is one for which the state has a fixed fine. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues to occur.

(b) Unless otherwise specifically set forth herein, or in state law as adopted, allegation and evidence of culpable mental state are not required for proof of an offense defined by this chapter.
(Code 1996, § 2.01.002; Ord. No. 695-01, 3/5/01)

DIVISION 2. IMPOUNDMENT, REDEMPTION AND DISPOSITION

Sec. 2.04.001. Authority and duties of enforcement agents.

(a) City enforcement agents are authorized to capture and impound any animal upon having probable cause to believe said animal to be in violation of any provision of this chapter or state law which authorizes or requires the animal's capture and impoundment, and in so doing, to enter upon any fenced or unfenced lot, tract or parcel of land when deemed necessary for the protection of the public health, safety and welfare, as allowed by law. As a matter of policy, city enforcement agents shall not enter upon

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private property to capture or impound any animal known to belong to the owner of said property without probable cause. An animal control agent may enter upon the property, as allowed by law, to capture an animal if it is believed that said animal poses a threat or danger to property, human beings or other animals.

(b) Additionally, it is the responsibility of the city enforcement agent to accept any animal delivered to the animal control facility pursuant to the requirements of this chapter, except those animals that are voluntarily released by their owners. For an animal to be voluntarily released, the owner must sign an owner release form and pay necessary fees. In addition, it is the duty of the city enforcement agent to capture and impound wild or non-domesticated animals in response to citizens' complaints of public nuisance or to control feral populations.
(Code 1996, § 2.04.001; Ord. No. 695-01, 3/5/01)

Sec. #. Interference with impounding officers.

It is unlawful for any person to interfere with, or attempt to prevent, a city enforcement agent from capturing or impounding any animal which may be legally impounded or otherwise interfering with the city enforcement agent while carrying out his or her lawful duties.
(Code 1996, art. 2.05; Ord. No. 695-01, 3/5/01)

Sec. 2.04.002. Procedure generally.

(a) If, by identification tag, the owner of an impounded animal can be identified, the city enforcement agent will, as soon as practical, notify the owner either in person or by telephone of said impoundment. If the animal is locally owned within the city and telephone contact cannot be made, the city enforcement agent will leave a notice at the owner's residence indicating that the animal has been impounded.

(b) All impounded animals shall be kept for not less than five days, unless the animal is reclaimed earlier by the owner under acceptable conditions. However, no impoundment period is required for an animal voluntarily delivered and released to the animal control facility or city animal control officer by its owner.

(c) After the expiration of any required impoundment period, the impounded animal shall be released to the animal control facility. At that time, the animal shall be disposed of by adoption from the facility, by offering it to a local animal humane group for adoption, or by humanely destroying the animal. No record shall be kept by the city animal control department as to the disposition of an individual animal after release is made to the animal control facility.

(d) Any animal, whether licensed or unlicensed, which is in great pain and suffering due to injury and probably will not recover, or which appears to have rabies, or which is at large and is posing an imminent danger to human beings or to other animals, may be destroyed by the city animal control officer.

(e) Any owner or person redeeming an unsterilized animal from the animal control facility for the fourth time within any 12-consecutive months must have the animal sterilized within 30 days of the date the animal is released from the facility. Proof of sterilization must be provided to the animal control facility within ten days of compliance.
(Code 1996, § 2.04.002; Ord. No. 695-01, 3/5/01)

Sec. 2.04.004. Adoption.

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(a) A person may adopt a dog or cat from the animal control facility that has been spayed or neutered and classified as adoptable. If the animal has not been spayed or neutered the adopting person must sign an agreement to have the animal spayed or neutered within a given period of time determined by an animal control agent. Written confirmation of such sterilization must be provided to animal control within seven days of the given date. The new owner shall be solely and legally responsible for compliance with all requirements specified in the adoption receipt and sterilization agreement executed at the time the animal is adopted.

(1) The animal control officer may establish an adoption receipt and sterilization agreement for use in the adoption process, and violation of any term of such agreement shall constitute a violation of this chapter.

(2) Any person who fails to sterilize the animal as set forth in the sterilization agreement is guilty of a misdemeanor offense and, upon conviction, is punishable by a fine in accordance with the general penalty provision found in section 1.01.009 of this Code.

(b) The animal control officer may refuse to allow a person to adopt an animal for any reason, including but not limited to a person to whom he/she has reason to believe:

(1) Would not have proper facilities to contain or care for the animal.

(2) Wants the animal for the purpose of resale or for purposes other than pet ownership.

(3) That there are reasonable grounds to believe the animal would be subjected to abandonment or cruelty.

(4) The person is under the age of 18.

(5) That the purpose of the adoption is to avoid, or assist in the avoidance of, the enforcement of any provision of this chapter.

(c) The person adopting the animal shall pay all applicable costs of adoption as set forth in the city fee schedule.

(d) The animal control officer shall be the sole judge as to whether an animal is suitable to offer for adoption; however, a decision to offer a particular animal for adoption shall not constitute any warranty, expressed or implied, of the health, temperament, or age of the animal.

(e) The city and its agents, employees and officers shall have no liability associated with the adoption or impoundment of any animal.
(Code 1996, § 2.04.004; Ord. No. 695-01, 3/5/01)

Sec. 2.04.005. Reclamation of adopted animals.

(a) If animal control does not receive written confirmation of sterilization or other written disposition regarding an adopted animal, as required in this chapter, after the seventh day after the sterilization completion date specified in the adoption receipt and sterilization agreement executed at the time the animal was adopted, animal control may promptly reclaim the animal from the new owner, or require the new owner to return the animal to animal control, or impose any other penalty as provided in this chapter.

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(b) A person shall not be entitled to any refund, reimbursement, or other compensation regarding an animal reclaimed or returned under this section.
(Code 1996, § 2.04.005; Ord. No. 695-01, 3/5/01)

Sec. 2.04.006. Requirements to redeem an impounded animal.

(a) An animal which has been impounded under the provisions of this chapter may be redeemed by its owner or the lawful representative, provided that the redeeming person:

(1) Is at least 18 years of age;

(2) Identifies himself or herself as the owner of the impounded animal or provides proof that he or she is the lawful representative of such owner;

(3) Presents identification, which verifies his/her identity and date of birth;

(4) Properly completes all applicable redemption forms as required; and

(5) Pays the applicable redemption fees and charges in the amount provided in the city fee schedule.

(b) The owner of an impounded animal, which is subject to the rabies vaccination requirements of this chapter, shall be required to provide positive proof that the animal is currently vaccinated against rabies at the time it is redeemed. If the owner cannot or refuses to provide proof that the animal is currently vaccinated against rabies at the time of redemption, the owner shall also be required to sign an agreement, as prescribed by animal control, and cause the animal to be vaccinated against rabies within three days. Failure to provide written confirmation of current rabies vaccinations is a violation of this chapter and subject to a fine.
(Code 1996, § 2.04.006; Ord. No. 695-01, 3/5/01)

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Chapter 6

BUSINESSES AND OCCUPATIONS

ARTICLE I. IN GENERAL

ARTICLE II. MASSAGE ESTABLISHMENTS[33]

Sec. 4.02.001. Definitions.[34]

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

~~Chief of police. The police chief or his duly authorized representative.~~

Massage. Any process consisting of kneading, rubbing, or otherwise manipulating the skin of the body of a human being, either with the hand or by means of electrical instruments or apparatus, or other special apparatus, but shall not include massage by any person not subject to the provisions of this article.

Massage establishment. A place of business that advertises or offers massage therapy or other massage services. The term includes a place of business that advertises or offers any service described by a derivation of the terms "massage therapy" or "other massage services." ~~Any building, room, place, or establishment, other than a regularly licensed hospital, where manipulative massage or manipulative exercises are practiced upon the human body by anyone subject to the provisions of this article, whether with or without the use of mechanical, therapeutic or bathing devices, and shall include Turkish bathhouses. This term shall not include, however, any premises required or permitted to be licensed or permitted under Art. 4512K, V.T.C.S., or any other applicable state law.~~
(Code 1996, § 4.02.001)

Sec. 4.02.002. Enforcement.

The city police chief shall have the primary responsibility for administration and enforcement of this article.
(Code 1996, § 4.02.002)

Sec. 4.02.003. License required.

It is unlawful for any person to operate a massage establishment without first having obtained a license therefor from the police chief in accordance with the provisions of this article, or to operate a massage establishment after such license has been revoked, or during the period for which such license has been

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[33] **Art. II. Massage Establishments.** Throughout this article, sections have been conformed to the provisions of V.T.C.A., Occupations Code, ch. 455, including 2025 amendments. I suggest that the city attorney review this article specifically to ensure that he/she concurs with the recommended updates.

[34] **Sec. 4.02.001. Definitions.** A standardized introduction is substituted for consistency, self-defining term is stricken, and definition of massage establishment is conformed to V.T.C.A., Occupations Code, § 455.001. (Art. 4512K cited in the stricken definition was repealed in 1999.)

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suspended. Such license shall be issued only upon the payment of the fees specified in section 4.02.007 and upon approval in writing of the police chief and issuance of a massage therapy license. Such license shall expire on December 31 of each year.
(Code 1996, § 4.02.003)

Sec. 4.02.004. License display.

The license required by this article shall be posted and kept in some conspicuous place in the massage establishment.
(Code 1996, § 4.02.004)

Sec. 4.02.005. Investigation.

After an investigation has been made for issuance of an original license or a renewal of an existing license to operate a massage establishment as defined herein, the police chief, as principal enforcement officer of this article, shall determine whether the applicant has been finally convicted in any court of theft, sodomy, procuring, pandering, keeping a bawdy house, keeping an assignation house, engaging in prostitution or engaging in assignation, or whether such establishment employs any person who has been finally convicted in any court of theft, sodomy, procuring, pandering, keeping a bawdy house, keeping an assignation house, engaging in prostitution or engaging in assignation.
(Code 1996, § 4.02.005)

Sec. 4.02.006. Information required on license application.[35]

At the time of making application for the license required by this article the applicant shall furnish to the police chief the following:

(1) Names, addresses, race, sex, dates of birth, driver's license numbers, and telephone number of the applicant, his spouse, and of all employees of the massage establishment.

(2) Evidence that all employees have obtained a health certificate from a physician certifying that such persons employed or to be employed by such establishment are free from any kind of infectious or communicable diseases.

(#) Evidence of required state licensures pursuant to V.T.C.A., Occupations Code, ch. 455.

(3) Name, address, date of birth, telephone number, social security number and driver's license number of any person, organization, corporation, partnership, business, or other entity owning or having any interest or otherwise controlling the applicant, including but not limited to natural persons, partnerships, corporations, associations or other legal entities, and:

a. If the applicant is a corporation, the applicant must state whether it is organized under the laws of the state or is a foreign corporation, and must show the mailing address, business location, telephone number, name of the main individual in charge of the local office of such corporation, if any, the names of all officers and directors and trustees of such corporation, and if a foreign corporation, the place of incorporation.

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[35] **Sec. 4.02.006. Information required on license application.** Requirement for proof of state licensure is added as shown.

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b. If a partnership, the name of all partners and the principal business address and telephone number of each partner.

c. If an association, then the association's principal business address and telephone number, if any, and the names of principal business or residence addresses and telephone numbers of all members of the association.

(4) Name, address, date of birth and telephone number of any person, officer, director or stockholder of a corporation, partners or any other entity which own or has an interest or otherwise controls the applicant or the establishment which has been convicted of, entered a plea of nolo contendere or guilty to, or received deferred adjudication for an offense under V.T.C.A., Penal Code, ch. 20A; V.T.C.A., Penal Code, §§ 22.011, 22.021, 43.021, 43.03, 43.031, 43.032, 43.04, 43.041, or 43.05, or any other defense defined by state law as a sexual offense, or an offense under federal law or the laws of another state containing elements that are substantially similar to the elements of an offense described by any of the listed statutes. ~~a final conviction in any court of theft, sodomy, procuring, pandering, keeping a bawdy house, keeping an assignation house, engaging in prostitution or engaging in assignation, occurring within five years of the date of the application.~~

(5) Name, address, and telephone numbers of any other establishment owned, operated or managed by applicant during the five years immediately preceding the date of the application.

(6) A statement listing for the applicant and all employees of the applicant any conviction of, entry of a plea of nolo contendere or guilty to, or deferred adjudication for an offense under V.T.C.A., Penal Code, ch. 20A; V.T.C.A., Penal Code, §§ 22.011, 22.021, 43.021, 43.03, 43.031, 43.032, 43.04, 43.041, or 43.05, or any other defense defined by state law as a sexual offense, or an offense under federal law or the laws of another state containing elements that are substantially similar to the elements of an offense described by any of the listed statutes. ~~any final conviction in any court of theft, sodomy, procuring, pandering, keeping a bawdy house, keeping an assignation house, engaging in prostitution or engaging in assignation, of the applicant and any employees.~~
(Code 1996, § 4.02.006)

Sec. 4.02.007. License fee.

The application for the license required by this article shall be accompanied by a nonrefundable license fee as provided in the city fee schedule~~found in appendix A to this code~~. The license fee shall be on an annual basis. If the license is obtained between January 1 and June 30 of any year, the full amount of such fee shall be paid. If such license is obtained between July 1 and December 31 of any year, the fee shall be one-half of such amount. No refund of license fee shall be made. Each applicant shall be required to pay a renewal fee.
(Code 1996, § 4.02.007)

Sec. 4.02.008. Refusal to issue or renew license.

(a) The police chief shall refuse to approve issuance or renewal of any license required by this article to any applicant or license holder who has been convicted of, entered a plea of nolo contendere or guilty to, or received deferred adjudication for an offense under V.T.C.A., Penal Code, ch. 20A; V.T.C.A., Penal Code, §§ 22.011, 22.021, 43.021, 43.03, 43.031, 43.032, 43.04, 43.041, or 43.05, or any other defense defined by state law as a sexual offense, or an offense under federal law or the laws of another state containing elements that are substantially similar to the elements of an offense described by any of the

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listed statutes. ~~been finally convicted in any court of theft, sodomy, procuring, pandering, keeping a bawdy house, keeping an assignation house, engaging in prostitution or engaging in assignation, or to any applicant who employs in such establishment any person who has been finally convicted in any court of theft, sodomy, procuring, pandering, keeping a bawdy house, keeping an assignation house, engaging in prostitution or engaging in assignation~~.

(b) The police chief shall refuse to approve issuance or renewal of any license required by this article to any applicant or license holder whose required state license has been suspended or revoked under V.T.C.A., Occupations Code, ch. 455.

(c) The police chief shall refuse to approve issuance or renewal of any license required by this article to any applicant or license holder whose state license is subject to suspension on the grounds provided in V.T.C.A., Occupations Code, § 455.251(a) or revocation on the grounds provided in V.T.C.A., Occupations Code, § 455.251(b) or (c).
(Code 1996, § 4.02.008)

Sec. 4.02.009. Revocation or suspension of license.

(a) A license issued pursuant to this article shall be revoked if the license holder has been convicted of, entered a plea of nolo contendere or guilty to, or received deferred adjudication for an offense under V.T.C.A., Penal Code, ch. 20A; V.T.C.A., Penal Code, §§ 22.011, 22.021, 43.021, 43.03, 43.031, 43.032, 43.04, 43.041, or 43.05, or any other defense defined by state law as a sexual offense, or an offense under federal law or the laws of another state containing elements that are substantially similar to the elements of an offense described by any of the listed statutes. ~~upon final conviction in any court of the holder of such license for the offense of theft, fornication, sodomy, procuring, pandering, keeping a bawdy house, keeping an assignation house, engaging in prostitution, or engaging in assignation.~~

(b) A license issued pursuant to this article shall be suspended for a period of not less than 30 days nor more than 90 days upon the license holder's conviction of or entry of a plea of nolo contendere or guilty to ~~final conviction in any court of the holder of such license for~~ the operation of the massage establishment in violation of any state statute or any provision of this Code.

(c) Any license issued pursuant to this article shall be suspended for a period of 90 days if an employee of the massage establishment has been convicted of, entered a plea of nolo contendere or guilty to, or received deferred adjudication for an offense under V.T.C.A., Penal Code, ch. 20A; V.T.C.A., Penal Code, §§ 22.011, 22.021, 43.021, 43.03, 43.031, 43.032, 43.04, 43.041, or 43.05, or any other defense defined by state law as a sexual offense, or an offense under federal law or the laws of another state containing elements that are substantially similar to the elements of an offense described by any of the listed statutes. ~~upon the final conviction in any court of any employee of such massage establishment for the offense of theft, sodomy, procuring, pandering, keeping a bawdy house, keeping an assignation house, engaging in prostitution or engaging in assignation, or violation of any provision of this article.~~

(#) Any license issued pursuant to this article shall be suspended or revoked upon the suspension or revocation of any massage related license required by V.T.C.A., Occupations Code, ch. 455. If the state license is suspended, the city license shall be suspended for the same period as the state suspension.

(d) Written notice of revocation or suspension shall be given by the police chief to the holder of such license at the holder's last known business address.
(Code 1996, § 4.02.009)

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Sec. 4.02.010. Appeal of license denial, revocation or suspension.

In the event the police chief shall refuse to approve the issuance of an original license or the renewal of a license to any applicant, or revokes or suspends the license issued to any license holder under this article, this action shall be final unless the license holder files an appeal to the city manager or his designated representative by submitting a letter to the police chief within ten days of the aggrieved action. A hearing shall be held within 15 days of the appeal. The city manager or his representative shall render a decision on the appeal within one day of the date of the hearing. The decision of the city manager or his designated representative shall be final.
(Code 1996, § 4.02.010)

Sec. 4.02.011. Hours.

No massage establishment shall be kept open for any purpose between the hours of 10:00 p.m. and 8:00 a.m., and no such establishment shall be operated or conducted in connection with, either directly or indirectly, any place used for living or sleeping quarters.
(Code 1996, § 4.02.011)

Sec. 4.02.012. Inspection and examination of employees.

(a) The police chief shall be authorized to make or cause to be made inspections to determine the condition of any massage establishment in order to safeguard the health, safety and welfare of the public and to make examinations through licensed physicians as are necessary to determine whether employees of the massage establishments are infected with any infectious or communicable disease.

(b) If, in the opinion of the police chief, there is probable cause to enter a massage establishment for the purpose of making inspections and examinations pursuant to this article, he shall request the owner or occupant thereof to grant permission for such entry, and if refused, he shall make application to a magistrate for a search warrant, showing said magistrate why such search warrant should be issued for the purpose herein.
(Code 1996, § 4.02.012)

Sec. 4.02.013. List of employees.

The manager or person in charge of the massage establishment shall keep a list of the names, addresses and telephone numbers of all employees, both on-duty and off-duty, and such list shall be shown to all proper authorities of the police, health and other departments of the city upon request.
(Code 1996, § 4.02.013)

Sec. 4.02.014. Operation in residential area prohibited.

It is unlawful for any massage establishment to operate in any section of the city which is zoned for residential purposes.
(Code 1996, § 4.02.014)

~~**Sec. 4.02.015. Sanitation requirements.**~~[36]

[36] **Sec. 4.02.015. Sanitation requirements.** Stricken as preempted by V.T.C.A., Occupations Code, § 455.005.

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~~(a) It shall be the duty of every person conducting or operating a massage establishment to keep the same at all times in a clean and sanitary condition. All instruments and mechanical, therapeutic, and bathing devices or parts thereof, that come into contact with the human body, shall be sterilized by a modern and approved method of sterilization before initial use. Any such instruments and devices, or parts thereof, after having been used upon one patron shall be sterilized before being used upon another. All towels and linens furnished for the use of one patron shall not be furnished for use of another until thoroughly laundered.~~

~~(b) All masseurs and operators shall wash there hands thoroughly before administering massage manipulation to each patron accommodated.~~

~~(c) No person suffering from any communicable or infectious disease shall work or be employed in a massage establishment.~~

~~(d) No person shall be accommodated as a patron with a massage establishment when to the knowledge of the owner, person in control, or any employee, such person is suffering from a communicable or infectious disease.~~
~~(Code 1996, § 4.02.015)~~

~~Sec. 4.02.016. Administering massage.~~[37]

~~(a) It is unlawful for any person to administer a massage to any person; provided, however, that this section shall not apply to any person licensed or registered by the state as a physician, chiropractor, physical therapist, nurse, massage therapist, cosmetologist, or athletic trainer, or as a member of a similar profession, subject to state licensing and registration, while performing duties authorized by the state license or registration.~~

~~(b) No patron shall receive a massage unless said patron is covered by opaque material such as a towel or shorts covering the private areas, hips, genitals, anal areas, and if the patron is a female, the private areas shall include the breasts.~~

~~(c) No employee of the establishment shall touch the private areas, genitals or anal area of any patron or the breasts, if the patron is a female, nor shall a patron touch the private areas, genitals or anal area of an employee of the establishment, and if the employee is a female, the private areas shall include the breasts.~~

~~(d) No alcoholic beverages shall be sold, distributed, stored, or dispensed on the premises of any establishment.~~

~~(e) All rooms in an establishment shall be illuminated permitting clear visibility of the entire room. Each room in an establishment in which massages are administered shall be open and not secured by a door.~~

~~(f) Massagers and other persons employed by or working in massage establishments shall, at all times when in the massage establishment, wear clothing which cannot be seen through and which covers~~

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[37] **Sec. 4.02.016. Administering massage.** Stricken as preempted by V.T.C.A., Occupations Code, § 455.005.

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~~the torso and extends at least to the knee.~~
~~(Code 1996, § 4.02.016)~~

Sec. 4.02.017. Transfer of license.

A licensee shall not transfer a license to another. In addition, no licensee shall operate a massage establishment under the authority of a license at any place other than the address designated in the application.
(Code 1996, § 4.02.017)

Sec. 4.02.018. Penalty.

Any person who violates any provision of this article, except section 4.02.012 or 4.02.014, upon conviction is punishable by a fine as provided for in the general penalty provision found in section 1.01.009 of this Code. Any person who violates section 4.02.012 or 4.02.014 of this article pertaining to health and sanitation and zoning, upon conviction, is punishable by a fine in accordance with the general penalty provision found in section 1.01.009 of this Code.
(Code 1996, § 4.02.018)

ARTICLE III. COIN-OPERATED AMUSEMENT DEVICES[38]

Sec. 4.03.001. Definitions.[39]

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:

Coin-operated amusement device. Any amusement machine or device operated by means of the insertion of a coin, token, or similar object, for the purpose of amusement or skill and for the playing of which a fee is charged. The term does not include vending machines in which are not incorporated gaming or amusement features, nor does the term include any coin-operated mechanical musical devices.

Commercial establishment. Any amusement establishment, office, store, restaurant, or business establishment which is designed for the purposes of carrying on any trade, profession, or business.

Operator. Any person, firm, corporation, partnership, or association located within the city who sets up for operation by another or leases or distributes for the purpose of operation by another, any coin-operated amusement device as herein defined, whether such setting up for operation, leasing, or distributing be for a fixed charge or rental or on the basis of a division of the income derived from such device or otherwise.

Proprietor or owner. Any person, firm, corporation, partnership, association, or club who, as the owner, lessee, or proprietor, has under his or its control any commercial establishment, place, or premises in or at which such device is placed or kept for use or play, or on exhibition for the purpose of use or play.
(Code 1996, § 4.03.001)

Sec. 4.03.002. Permit or license required.

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[38] **Art. III. Coin-Operated Amusement Devices.** Note that an occupation tax for these devices is authorized by V.T.C.A., Occupations Code, § 2153.451.

[39] **Sec. 4.03.001. Definitions.** A standardized introduction is substituted for consistency.

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No person, firm or corporation operating or being the proprietor of a commercial establishment shall engage in the business of an operator or proprietor of coin-operated amusement devices, as the terms are herein defined, without first having obtained the proper license or permit therefor.
(Code 1996, § 4.03.002)

Sec. 4.03.003. License fee for operator.

The license fee for each operator shall be as provided for in the city fee schedule ~~found in appendix A to this code~~. All operator's license fees shall be payable annually in advance; provided, however, that where application is made after the expiration of any portion of any year a license may be issued for the remainder thereof upon payment of a proportionate part of the annual fee. In no case shall any portion of the license fee be refunded to the permittee.
(Code 1996, § 4.03.003)

Sec. 4.03.004. Permit fee for device.

The permit fee for each device as herein defined shall be for the maximum amount allowed by state law as provided for in the city fee schedule ~~found in appendix A to this code~~. All device permit fees shall be payable annually in advance, provided that when application is made after the expiration of any portion of any permit year a permit may be issued for the remainder thereof upon payment of a proportionate part of the annual fee. In no case shall any portion of the permit fee be repaid to the permittee.
(Code 1996, § 4.03.004)

Sec. 4.03.005. Application for license or permit; term; display; transfer.

(a) Application for license or permit hereunder shall be filed in writing with the city, on a form to be provided by the city, and shall specify:

(1) The name and address of the applicant, and if a firm, corporation, partnership, or association, the principal officers thereof and their addresses.

(2) The address of the premises where the licensed devices are to be operated, together with the character of the business as carried on at such place.

(3) The trade name and general description of the device or devices to be permitted, the name of the manufacturer and the serial number, and, if the applicant is a proprietor, the number of devices to be permitted.

(4) The name and address of the operator of the device or devices, if other than the proprietor.

(b) The proper fee shall accompany the application.

(c) All licenses and permits under this article shall expire on December 31 following their issuance.

(d) The operator's license shall be posted in a conspicuous place in the establishment of the licensee. The device permit shall be posted on the device in a conspicuous place.

(e) Such permits shall be nonassignable and nontransferable, and in case of a proprietor or owner

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shall apply only to the premises for which such permit is issued.
(Code 1996, § 4.03.005)

Sec. 4.03.006. Gambling.

No person shall gamble, wager, or bet on the outcome of any activity engaged in on the premises of a commercial establishment, nor shall any operator, employee, owner or license holder permit any such gamble, wager, or bet to be conducted on said premises.
(Code 1996, § 4.03.006)

Sec. 4.03.007. Minors prohibited on premises licensed to sell alcoholic beverages.[40]

No operator, owner, manager, or employee of a commercial establishment shall knowingly or recklessly permit a patron who has not yet attained his 19th birthday to remain on the premises when the premises has been licensed by the state alcoholic beverage commission to sell or dispense alcoholic beverages unless accompanied by his parent or legal guardian.
(Code 1996, § 4.03.007)

Sec. 4.03.008. Controlled substances prohibited.

No operator, owner, manager, or employee of a commercial establishment shall, knowingly or recklessly, permit any person to illegally possess, use, or sell any drugs or controlled substances on the premises.
(Code 1996, § 4.03.008)

Sec. 4.03.009. Location of establishments.

No permit shall be issued hereunder nor be renewed to any commercial establishment located within 300 feet of any school, public or private, church, or any hospital, home for the aged or infirmed, or funeral parlor.
(Code 1996, § 4.03.009)

Sec. 4.03.010. Evidence of ownership of newly acquired devices.

Any proprietor purchasing a device after the effective date of this article shall file with the city evidence of ownership thereof before exhibiting or placing the device or devices for use or play.
(Code 1996, § 4.03.010)

ARTICLE IV. PEDDLERS, SOLICITORS, AND ITINERANT VENDORS

Sec. 4.04.001. Definitions.[41]

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:

Canvasser. Any individual, whether a resident of this city or not, traveling by foot, wagon, automobile,

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[40] **Sec. 4.03.007. Minors prohibited on premises licensed to sell alcoholic beverages.** Change age to 18 years old?

[41] **Sec. 4.04.001. Definitions.** A standardized introduction is substituted for consistency.

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motor truck of any other type of conveyance, from place to place, from house to house, or from street to street, for the promotion of political or religious ideas, usually through handbills, questionnaires, and verbal messages, but who does not ask for donations.

Interstate commerce. Soliciting, selling, taking orders for, or offering to take orders for any goods, wares, merchandise, photographs, magazines, or things which, at the time the order is taken, are in any federal district or territory, any commonwealth, or in any state other than Texas and shipped or introduced into the city in fulfillment of such orders.

Itinerant vendor. Any individual, whether a resident of this city or not, who offers for sale food, beverages, goods, merchandise, delivery, or services to be performed immediately or in the future, from a certain location which is not within a building or structure for which a certificate of occupancy is required by the city. This term shall not apply to businesses that operate from within a building or structure within the city for which a certificate of occupancy is required but which display or sell food, beverages, goods, or merchandise outside the building or structure. The term shall include itinerant merchant.

Motor vehicle. Any vehicle used for displaying, storing, or transporting of articles for sale by a itinerant vendor which is required to be licensed and registered by the state department of motor vehicles. The term is to include trailers, trucks, and automobiles.

Peddler. Any individual, whether a resident of this city or not, traveling by foot, wagon, automobile, motor truck or any other type of conveyance, from place to place, from house to house, or from street to street, for the sale of goods, wares and merchandise, personal property of any nature whatsoever for future or immediate delivery, or for services to be performed immediately or in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he or she is collecting advance payments on such sales. The word “peddler” shall include the [term] “solicitor” but not the term “canvasser.” The word “peddler” shall not include individuals traveling to businesses, houses, or places at the invitation of the resident or owner.

Public way. All areas legally open to public use, such as public streets, sidewalks, roadways, highways, parkways, alleys, parks, as well as the interior and areas surrounding public buildings.

Special event. Any occasion including, but not limited to, fairs, shows, exhibitions, city-wide celebrations, festivals, etc., within a specifically defined area of the city for a period of time established by the council.

Stand. Any newsstand, table, bench, booth, rack, handcart, pushcart, vehicle or any other fixture or device used for the display or storage of articles offered for sale by an itinerant vendor or peddler. Such stands must be located at least ten feet away from all property lines adjacent to a street. All stands must be removed from the property on which business is conducted each day.
(Code 1996, § 4.04.001; Ord. No. O-26-10, 10/18/10)

Sec. 4.04.002. Business and residence displaying “no soliciting” notice.

It is unlawful for any peddler or itinerant vendor to go to a residence, business, or commercial establishment for the purpose of taking orders or the selling of merchandise or services if the establishment has posted a sign which states “No Soliciting.” This warning must be displayed prominently at the main entrance to the residence or business. (Code 1996, § 4.04.002; Ord. No. O-26-10, 10/18/10)

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Sec. 4.04.003. Sales tax permit required.

It is unlawful for any peddler or itinerant vendor to engage in business within the city without having obtained and presented a sales tax permit issued by the state.
(Code 1996, § 4.04.003; Ord. No. O-26-10, 10/18/10)

Sec. 4.04.004. Sales tax permit exemptions.

The following are exempt from having to present a sales tax permit:

(1) Farmers who sell agricultural products that were raised or grown by them.

(2) Nonprofit organizations.

(3) Any other business or activity exempt by the state comptroller from collecting a state sales tax.
(Code 1996, § 4.04.004; Ord. No. O-26-10, 10/18/10)

Sec. 4.04.005. Peddler/itinerant vendor permit required.

It is unlawful for any peddler or itinerant vendor to solicit or to engage in business within the city without first obtaining a permit from the police chief or designee as provided in this article.
(Code 1996, § 4.04.005; Ord. No. O-26-10 adopted 10/18/10)

Sec. 4.04.006. Peddler/itinerant vendor permit exemptions.

The following are excluded from permitting provisions:

(1) Newspaper carriers.

(2) Farmers who sell agricultural products that were raised or grown by them when located within a public way and at a time designated by the city manager.

(3) Peddlers and itinerant vendors operating within a designated public way in connection with a special event approved by the city manager and appropriate body organizing and implementing the special event.

(4) Religious proselytizing.

(5) Individuals advocating for or against a political party, candidate, or ballot measure.

(6) Ordinary commercial travelers who sell or exhibit for sale goods or services to local firms or businesses and not to residences.

(7) Insurance salesmen, real estate salesmen, and other professionals licensed by the state, except that insurance salesmen shall personally solicit only at the specific request of the owner or occupant of the business or residence at which the solicitation is being made.
(Code 1996, § 4.04.006; Ord. No. O-26-10, 10/18/10)

Sec. 4.04.007. Written application for permit required.

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Any peddler or itinerant vendor desiring to engage in business within the city must file a written application for permit with the police chief or his/her designee, and which shall provide the following information:

(1) Applicant's name, telephone number, address, birthdate, physical description, and either:

(A) Driver's license number and state; or

(B) Social security number and an official, government-issued picture identification card.

(2) If the applicant is peddling or making solicitations for any commercial, charitable or political organization, the name, telephone number and address of such organization.

(3) Full and complete list of goods or services to be sold.

(4) If different than or in addition to the applicant, for each individual involved as a peddler or itinerant vendor: name, telephone number, address, birthdate, physical description, and either:

(A) Driver's license number and state; or

(B) Social security number and official, government-issued picture identification card number.

(5) Description (year, make, type) and license plate number and state of all motor vehicles to be used in soliciting and peddling.

(6) A statement that the applicant has not been convicted of any felonies of any nature or any other crimes of moral turpitude in this state or any other state; and, if having been so convicted, a full statement as to the place of conviction and crime for which the applicant was convicted.

(7) Itinerant vendors, except for special events, shall provide the following additional information:

(A) A letter from the owner of the property on which the itinerant vendor intends to conduct business stating that the itinerant vendor has permission to operate at that location.

(B) A site plan of the subject property indicating where the itinerant vendor will be located in relation to the adjacent right-of-way, adjacent buildings, and the location of two nine- by eighteen-foot (9' x 18') on-site parking spaces with a twenty-foot backup lane.
(Code 1996, § 4.04.007; Ord. No. O-26-10, 10/18/10)

Sec. 4.04.008. Permit application fee.

A nonrefundable application fee for a peddler/itinerant merchant permit in the amount of $50.00 shall be paid upon application for such permit, provided, however, when any person, firm, company, partnership, corporation or association acts through one or more agents or employees, such person, firm, company, partnership, corporation or association shall, in addition to such $50.00 fee, pay an application fee of $25.00 for each agent or employee so engaged.
(Code 1996, § 4.04.008; Ord. No. O-26-10, 10/18/10)

Sec. 4.04.009. Permit fee exemption.

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Any individual soliciting or peddling for a philanthropic, charitable, political or religious organization provided such activity is for the sole exclusive benefit of that organization and so long as the person engaging in such activity does not receive compensation in the form of a commission, salary, or other monies paid to him for such activity.
(Code 1996, § 4.04.009; Ord. No. O-26-10, 10/18/10)

Sec. 4.04.010. Permit issuance; investigation.

A copy of the application for permit will be referred to the police chief who will undertake an investigation of the applicant's record and background such as shall be reasonably necessary to protect the public. An applicant for permit under this article may be reasonably denied if he or she is currently wanted on a warrant for arrest, or if the applicant has been convicted of a felony involving theft, fraud, bribery, perjury, or any proof is developed that false information was presented for purposes of permit issuance.
(Code 1996, § 4.04.010; Ord. No. O-26-10, 10/18/10)

Sec. 4.04.011. Procedures for permit issuance; permit term.

(a) If the police chief or designee finds that all of the conditions precedent to the issuance of an itinerant vendor permit have been met and the applicant is qualified to receive a peddler and itinerant vendor permit, the police chief or designee shall issue the permit. Said determination shall be made within a reasonable time of the filing of the application or registration information, but in no case shall such time be longer than 10 business days. Permits will be issued for a period of up to one year, ending on December 31 of the same year. Renewal permits shall be issued for a period of one year beginning on January 1 and ending on December 31 of the same year.

(b) Any changes to agents or itinerant vendors must be submitted as an addendum to the original application and subject to the same permit fees and investigation. Failure to register new agents will be grounds for cancellation of the permit.
(Code 1996, § 4.04.011; Ord. No. O-26-10, 10/18/10)

Sec. 4.04.012. Identification of solicitors and itinerant vendors.

(a) Upon issuance of a permit, the city shall also issue a badge or other identification to the permit holder.

(b) All permit holders shall keep such badge or identification plainly visible on their person while engaging in any solicitation or itinerant vending, or any other activity which would require the issuance of a permit under this article. Such badge or identification must be clearly displayed so that individuals will know that the solicitor is complying with this article.

(c) It is unlawful for any permit holder to fail to clearly and visibly display such badge or city- issued identification while the permit holder is engaged in solicitation or itinerant vending, or any other activity which would require the issuance of a permit under this article.
(Code 1996, § 4.04.012; Ord. No. O-26-10, 10/18/10)

Sec. 4.04.013. Bond required.

(a) Solicitors requiring cash deposits or payment for future delivery or who require a contract of agreement to finance the sale of goods or services for future delivery, or for services to be performed in

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the future, shall furnish to the city a bond with the application in the amount listed below. This bond is to be signed by the applicant and a surety company authorized to do business in the state, conditioned:

(1) For the final delivery of goods or services in accordance with the terms of any order obtained;

(2) To indemnify purchasers for defects in material or workmanship that may exist in the goods sold and that are discovered within 30 days after delivery; and

(3) For the use and benefit of persons, firms, or corporations that may make a purchase or give an order to the principal of the bond or to the agent or employee of the principal of the bond.

(b) If the applicant is a person, firm, or corporation engaging in solicitation activities through one or more agents or employees, only one bond is required for the activities of all the agents or employee solicitors.

(c) The required bond amount shall be calculated based upon the total estimated amount that the permit holder will collect in cash deposits and other payments for the duration of the permit. This estimated amount must be provided by the permit holder, with supporting documentation. The amount of the required bond shall be 25% of the total estimated amount of cash deposits and other payments the permit holder anticipates that he or she will collect during the duration of the permit. In the event that the permit holder does not have sufficient supporting documentation to justify their proposed bond amount, the city may require a bond amount satisfactory to the city.
(Code 1996, § 4.04.013; Ord. No. O-26-10, 10/18/10)

Sec. 4.04.014. Permit revocation.

After the registration provided for in this article has been issued, the police chief of the city or his/her duly authorized representative may revoke such registration if it is found that:

(1) The registration was obtained by false representation;

(2) The holder of the registration has violated any ordinance of the city, or any law of the state in connection with any soliciting by such holder or in connection with the collecting or attempted collection of any account due to such registration holder or his employer or in connection with the repossession or attempted repossession of goods sold;

(3) The holder of the registration is convicted of a felony, misdemeanor, or ordinance violation involving a sexual offense, assault, possession or sale of a controlled substance, or any violent act against person or property. Also any judgment based upon or conviction for fraud, deceit, or misrepresentation or involving moral turpitude; or

(4) If the holder of registration has endangered the health or safety of a citizen of the city.
(Code 1996, § 4.04.014; Ord. No. O-26-10, 10/18/10)

Sec. 4.04.015. Permit renewal.

Upon application by a permit holder, a current permit may be renewed for a one-year period, beginning on January 1, and ending on December 31 of the same year. The requirements for receiving a permit renewal are the same as the requirements for an initial permit. Renewal fees shall be the same as the permit fees stated above. Renewal record and background checks will be performed at the discretion of

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the police chief.
(Code 1996, § 4.04.015; Ord. No. O-26-10, 10/18/10)

Sec. 4.04.016. Appeals from decisions of police chief.

If the applicant for a permit under this article or the holder of such permit is dissatisfied with any holding or finding of the police chief, he or she shall have the right to appeal to the city manager by filing a written notice of such appeal with the city secretary within ten days from the making and filing of such decision of the police chief. Upon filing of such notice of appeal, the application for the permit and all papers possessed by the police chief in connection with such application and such permit shall be delivered to the city manager. And such matter as may be in controversy shall be heard by the city manager within ten working days after the filing of the notice of appeal.
(Code 1996, § 4.04.016; Ord. No. O-26-10, 10/18/10)

Sec. 4.04.017. Use of public ways prohibited.

Unless otherwise permitted or exempted by section 4.04.04, 4.04.006, or 4.04.016, it is unlawful for any peddler or itinerant vendor to engage in business within any public way within the city.
(Code 1996, § 4.04.017; Ord. No. O-26-10, 10/18/10)

Sec. 4.04.018. Use of public ways exemption.

(a) Itinerant vendors may locate within a designated public way in connection with a special event approved by the city manager and the appropriate body organizing and implementing the special event; provided, however, that a business location for an itinerant vendor will not be allowed if it results in a reduction in the number of parking spaces serving an existing business to a number below that required by this Code..

(b) Farmers may sell agricultural products that were raised or grown by them within a public way at a time designated by the city manager.

(c) Permitted or exempted peddlers may utilize streets and roads to travel from house to house or place to place in pursuit of their business.
(Code 1996, § 4.04.018; Ord. No. O-26-10, 10/18/10)

Sec. 4.04.019. Time restrictions.

It is unlawful for any peddler or itinerant vendor to vend, sell, or solicit at a private residence at any time other than between the hours of 8:00 a.m. to 9:00 p.m., or such other hours posted by the occupant unless a prior invitation from the occupant has been received.
(Code 1996, § 4.04.019; Ord. No. O-26-10, 10/18/10)

Sec. 4.04.020. Distribution of handbills and commercial flyers.

In addition to the other regulations contained herein, a solicitor or canvasser leaving handbills or commercial flyers in the city shall observe the following regulations:

(1) No handbill or flyer shall be left at or attached to any sign, utility pole, transit shelter or other structure within the public right-of-way. The police are authorized to remove any handbill or flyer found within the right-of-way.

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(2) No handbill or flyer shall be left at or attached to any privately owned property in a manner that causes damage to such privately owned property.

(3) No handbill or flyer shall be left at or attached to any of the property having a "no solicitors" sign.

(4) Any person observed distributing handbills or flyers shall be required to identify himself/herself to the police (either by producing a license or other form of identification). This is for the purpose of knowing the likely identity of the perpetrator if the city receives a complaint of damage caused to private property during the distribution of handbills or flyers.
(Code 1996, § 4.04.020; Ord. No. O-26-10, 10/18/10)

Sec. 4.04.021. Penalty.

Any person, firm, or corporation violating any provision of this article or failing to observe any provisions hereof shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00) and each day or fraction of a day during which this article or any part thereof is further violated shall be deemed a separate offense and punishable as such.
(Code 1996, § 4.04.021; Ord. NO. O-26-10, 10/18/10)

ARTICLE V. SEXUALLY ORIENTED BUSINESSES

Sec. 4.05.001. Purpose and intent.[42]

(a) It is the purpose of this article to regulate sexually oriented businesses to promote the health, safety, morals, and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the continued concentration of sexually oriented businesses within the city. The provisions of this article have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.

(b) It is the intent of the city council that the location regulations of section 4.05.013 of this article are promulgated pursuant to V.T.C.A., Local Government Code, ch. 243. It is the intent of the city council that all other provisions of this article are promulgated pursuant to the city charter and V.T.C.A., Local Government Code, ch. 9 ~~article 1175, Revised Civil Statutes of Texas and its successor provisions in the Local Government Code~~.
(Code 1996, § 4.05.001)

Sec. 4.05.002. Definitions.[43]

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[42] **Sec. 4.05.001. Purpose and intent.** Citation is updated as shown.

[43] **Sec. 4.05.002. Definitions.** A standardized introduction is substituted for consistency. Self-defining term and term duplicative of chapter 1 provisions are stricken as shown.

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

Adult arcade. Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of “specified sexual activities” or “specified anatomical areas.”

Adult bookstore or adult video store. 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, videocassettes or video reproductions, slides, or other visual representations which depict or describe “specified sexual activities” or “specified anatomical areas”; or

(2) Instruments, devices, paraphernalia which are designed for use in connection with “specified sexual activities.”

Adult cabaret. A nightclub, bar, restaurant, or similar commercial establishment which regularly features:

(1) Persons who appear in a state of 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, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”

Adult motel. A hotel, motel or similar commercial establishment which:

(1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or

(2) Offers a sleeping room for rent for a period of time that is less than ten hours; or

(3) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten hours.

Adult motion picture theater. A commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”

Adult theater. A theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the

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exposure of “specified anatomical areas” or by “specified sexual activities.”

Board of adjustment. The board of adjustment of the city, which shall act as the appeals board for all purposes of this article.

~~Chief of police. The police chief or his designated agent.~~

Escort. A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or privately perform a striptease for another person.

Escort agency. A person or business association who furnishes, offers to furnish, or advertises to hire escorts as one of its primary business purposes, for a fee, tip, or other consideration.

Establishment. Any of the following:

(1) The opening or commencement of any sexually oriented business as a new business;

(2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;

(3) The addition of any sexually oriented business to any other existing sexually oriented business; or

(4) The relocation of any sexually oriented business.

Licensee. A person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license.

Nude model studio. Any place where a person who appears in a state of nudity or displays “specified anatomical areas” is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.

Nudity or a state of nudity.

(1) The appearance of a human bare buttock, anus, male genitals, or female breast; or

(2) A state of dress which fails to opaquely cover a human buttock, anus, male genitals, female genitals, or areola of the female breast.

Operates or causes to be operated. To cause to function or to put or keep in operation. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner, or licensee of the business.

~~Person. An individual, proprietorship, partnership, corporation, association, or other legal entity.~~

Residential district. A single-family, duplex, townhouse, multiple-family or mobile home zoning district as defined in the city zoning ordinances as amended.

Residential use. A single-family, duplex, multiple-family, townhouse, or mobile home park use as defined

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in the city zoning ordinances as amended.

Semi-nude. A state of dress in which clothing covers no more than the genitals, pubic region, and areolae of the female breast, as well as portions of the body covered by supporting straps or devices.

Sexual encounter center. A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

(1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(2) Activities between male and female persons or persons of the same sex when one or more of the persons is in a state of nudity or seminude.

Sexually oriented business. 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. Human genitals in a state of sexual arousal. Specified sexual activities. Any of the following:

(1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;

(2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;

(3) Masturbation, actual or simulated; or

(4) Excretory functions as part of or in connection with any of the activities set forth in (1) through (3) above.

Substantial enlargement of a sexually oriented business. The increase in floor area occupied by the business by more than 25 percent, as the floor area exists as of the date of adoption of this article.

Transfer of ownership or control of a sexually oriented business. 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.

(Code 1996, § 4.05.002)

Sec. 4.05.003. Classification.

Sexually oriented businesses are classified as follows:

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(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.

(Code 1996, § 4.05.003)

Sec. 4.05.004. License required.

(a) A person commits an offense if he operates a sexually oriented business without a valid license, issued by the city for the particular type of business.

(b) An application for a license must be made on a form provided by the police chief. 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 or drawn with marked dimensions of the interior of the premises to the accuracy of plus or minus six inches. Applicants who must comply with section 4.05.019 of this article shall submit a diagram meeting the requirements of section 4.05.019.

(c) The applicant must be qualified according to the provisions of this article.

(d) If a person who wishes to operate a sexually oriented business is an individual, he must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a 20 percent or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under section 4.05.005 and each applicant shall be considered a licensee if a license is granted.

(e) The fact that a person possesses a valid license for any other type of business does not exempt him from the requirement of obtaining a sexually oriented business license.

(Code 1996, § 4.05.004)

Sec. 4.05.005. Issuance of license.

(a) The police chief shall approve and issue any license required hereunder to an applicant within 30 days after receipt of an application unless the police chief finds one or more of the following to be true:

(1) An applicant is under 18 years of age.

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(2) An applicant or an applicant's spouse is overdue in payment to the city of taxes, fees, fines, or penalties assessed against or imposed upon the applicant or the applicant's spouse in relation to a sexually oriented business.

(3) An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.

(4) An applicant or an applicant's spouse has been convicted of a violation of a provision of this article, other than the offense of operating a sexually oriented business without a license, within two years immediately preceding the application. The fact that a conviction is being appealed shall have no effect.

(5) The license fee required by this article has not been paid.

(6) An applicant has been employed in a sexually oriented business in a managerial capacity within the preceding 12 months and has demonstrated an inability to operate or manage a sexually oriented business premises in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.

(7) An applicant or the proposed establishment is in violation of or is not in compliance with section 4.05.007, 4.05.012, 4.05.013, 4.05.015, 4.05.016, 4.05.017, 4.05.018, 4.05.019, or 4.05.020 of this article.

(8) An applicant or an applicant's spouse has been convicted of a crime.

(A) Involving:

(i) Any of the following offenses as described in V.T.C.A., Penal Code, ch. 43:

(aa) Prostitution;

(bb) Promotion of prostitution;

(cc) Aggravated promotion of prostitution;

(dd) Compelling prostitution;

(ee) Obscenity;

(ff) Sale, distribution, or display of harmful material to a minor;

(gg) Sexual performance by a child;

(hh) Possession of child pornography;

(ii) Any of the following offenses as described in V.T.C.A., Penal Code, ch. 21:

(aa) Public lewdness;

(bb) Indecent exposure; (cc) Indecency with a child;

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(dd) Sexual assault or aggravated sexual assault as described in V.T.C.A., Penal Code, ch. 22;

(ee) Incest, solicitation of a child, or harboring a runaway child described in V.T.C.A., Penal Code, ch. 25; or

(ff) Criminal attempt, conspiracy, or solicitation to commit any of the foregoing offenses;

(B) For which:

(i) Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is a misdemeanor offense;

(ii) Less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or

(iii) Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24 month period.

The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or applicant's spouse.

(c) An applicant who has been convicted or whose spouse has been convicted of an offense listed in subsection 4.05.005(a)(8)(A) may qualify for a sexually oriented business license only when the time period required by subsection 4.05.005(a)(8)(B) has elapsed.

(d) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the sexually oriented business. The license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.
(Code 1996, § 4.05.005)

Sec. 4.05.006. License fees.

The annual fee for a sexually oriented business license shall be as provided for in the city fee schedule ~~found in appendix A to this code~~.
(Code 1996, § 4.05.006)

Sec. 4.05.007. Inspection.

(a) An applicant or licensee shall permit representatives of the police department, health department, fire department, planning department, code services department, and building inspection department to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.

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(b) A person who operates a sexually oriented business or his agent or employee commits an offense if he refuses to permit a lawful inspection of the premises by a representative of the city at any time it is occupied or open for business.

(c) The provisions of this section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.
(Code 1996, § 4.05.007)

Sec. 4.05.008. Expiration of license.

Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in section 4.05.004. Application for renewal should be made at least 30 days before the expiration date, and when made less than 30 days before the expiration date, the expiration of the license will not be affected.
(Code 1996, § 4.05.008)

Sec. 4.05.009. Suspension of license.

The police chief shall suspend a license for a period not to exceed 30 days if he determines that a licensee or an employee of a licensee has:

(1) Violated or is not in compliance with sections 4.05.007, 4.05.012, 4.05.013, 4.05.015, 4.05.016, 4.05.017, 4.05.018, 4.05.019, and 4.05.020 of this article;

(2) Engaged in excessive use of alcoholic beverages while on the sexually oriented business premises;

(3) Refused to allow an inspection of the sexually oriented business premises as authorized by this article;

(4) Knowingly permitted gambling by any person on the sexually oriented business premises;

(5) Demonstrated inability to operate or manage a sexually oriented business in a peaceful and law-abiding manner thus necessitating action by law enforcement officers.
(Code 1996, § 4.05.009)

Sec. 4.05.010. Revocation of license.

(a) The police chief shall revoke a license if a cause of suspension in section 4.05.009 occurs and the license has been suspended within the preceding 12 months.

(b) The police chief shall revoke a license if he determines that:

(1) A licensee gave false or misleading information in the material submitted to the police chief during the application process;

(2) A licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises;

(3) A licensee or an employee has knowingly allowed prostitution on the premises;

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(4) A licensee or an employee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;

(5) A licensee has been convicted of an offense listed in section 4.05.005(a)(8)(A) for which the time period required in section 4.05.005(a)(8)(B) has not elapsed;

(6) On two or more occasions within a 12 month period, a person or persons committed an offense occurring in or on the licensed premises of a crime listed in section 4.05.005(a), for which a conviction has been obtained, and the person or persons were employees of the sexually oriented business at the time the offenses were committed;

(7) A licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in or on the licensed premises. The term "sexual contact" shall have the same meaning as it is defined in V.T.C.A., Penal Code, § 21.01; or

(8) A licensee is delinquent in payment to the city for taxes related to the sexually oriented business.

(c) The fact that a conviction is being appealed shall have no effect on the revocation of the license.

(d) Subsection 4.05.010(b)(7) does not apply to adult motels as a ground for revoking the license unless the licensee or employee knowingly allowed the act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in a public place or within public view.

(e) When the police chief revokes a license, the revocation shall continue for one year, and the licensee shall not be issued a sexually oriented business license for one year from the date revocation became effective. If, subsequent to revocation, the police chief finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective. If the license was revoked under subsection (b)(5), an applicant may not be granted another license until the appropriate number of years required under subsection 4.05.005(a)(8)(B) has elapsed.
(Code 1996, § 4.05.011)

Sec. 4.05.011. Appeal of license denial, suspension or revocation.

(a) If the police chief denies the issuance of a license or suspends or revokes a license, the police chief shall send to the applicant, or licensee, by certified mail, return receipt requested, written notice of the action and the right to an appeal. In the case of suspension or revocation of an existing license, written notice shall also be posted upon the business premises.

(b) Upon receipt of written notice of the denial, suspension, or revocation, the licensee whose application for a license has been denied or whose license has been suspended or revoked shall have the right to appeal to the board of adjustment. The filing of an appeal stays the action of the police chief in suspending, denying or revoking a license until the board of adjustment makes a final decision.

(c) The decision of the board of adjustment shall be final and any appeal shall be made directly to the state district court. An appeal to the state district court must be filed within 30 days after the receipt of notice of the decision of the board of adjustment. The licensee shall bear the burden of proof in court.
(Code 1996, § 4.05.011)

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Sec. 4.05.012. Transfer of license.

A licensee shall not transfer his license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application. (Code 1996, § 4.05.012)

Sec. 4.05.013. Location of sexually oriented businesses.

(a) A person commits an offense if he operates or causes to be operated a sexually oriented business within fifteen hundred (1,500) feet of:

(1) A church, rectory, or church-related structure;

(2) A public, private or parochial elementary or secondary school, or a school zone in which the speed of traffic is regulated by posted signs during certain school hours;

(3) A boundary of a residential district or historical district;

(4) A public park, playground or recreational facility, library, day care center, nursery school or kindergarten; or

(5) The property line of a lot devoted to a residential use;

(6) Any public transportation facility (DART Park & Ride).

The above location restrictions apply whether or not the church, rectory, church-related structure, public school, private school, parochial school, elementary school, secondary school, school zone, residential district boundary, public park, playground, recreational facility, library, day care center, nursery school, kindergarten or property line devoted to residential use is located within or outside the city.

(b) A person commits an offense if he causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within one thousand (1,000) feet of another sexually oriented business.

(c) A person commits an offense if he causes or permits the operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.

(d) For the purposes of subsection (a), 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 a church, rectory, public or private elementary or secondary school, day care center, nursery school, kindergarten, or to the nearest boundary of an affected public park, playground, library, recreational facility, residential district, or residential lot.

(e) For purposes of subsection (b) of this section, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

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(f) Any sexually oriented business lawfully operating on the effective date of this article (July 18, 1994), that is in violation of subsection (a), (b), or (c) shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed three years, unless sooner terminated for any reason or voluntarily discontinued for a period of 30 days or more. Such nonconforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within one thousand (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.

(g) A sexually oriented business lawfully operating on July 18, 1994, as a conforming use is not rendered a nonconforming use by the location, subsequent to grant or renewal of the sexually oriented business license, of a church, rectory, or church-related structure; a public, private or parochial elementary or secondary school, or a school zone in which the speed of traffic is regulated by posted signs during certain school hours; a boundary of a residential district or historical district within fifteen hundred (1,500) feet of the sexually oriented business; a public park, playground or recreation facility, library, day care center, nursery school or kindergarten; or the property line of a lot devoted to a residential use. This provision applies only to the renewal of a valid license and does not apply when an application for a license is submitted after a license has expired or has been revoked.
(Code 1996, § 4.05.013)

Sec. 4.05.014. Appeal from locational restrictions.

(a) If the police chief denies the issuance of a license to an applicant because the location of the sexually oriented business establishment is in violation of section 4.05.013, then the applicant may, not later than ten calendar days after receiving notice of the denial, file with the police chief a written request for an exemption from the locational restrictions of section 4.05.013.

(b) If the written request is filed with the police chief within the ten day limit, the board of adjustment shall consider the request. The board shall set a date for the hearing within 60 days from the date the written request is received.

(c) A hearing by the board may only proceed if all the board members are present. The board shall hear and consider evidence offered by any interested person. The formal rules of evidence do not apply.

(d) The board may, in its discretion, grant an exemption from the locational restrictions of section 4.05.013 if it makes the following findings:

(1) That the location of the proposed sexually oriented business will not have a detrimental effect on nearby properties or be contrary to the public safety or welfare;

(2) That the granting of the exemption will not violate the spirit and intent of this article;

(3) That the location of the proposed sexually oriented business will not downgrade the property values or quality of life in the adjacent areas or encourage the development of urban blight;

(4) That the location of an additional sexually oriented business in the area will not be contrary to any program of neighborhood conservation nor will it interfere with any efforts of urban renewal or restoration; and

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(5) That all other applicable provisions of this article will be observed.

(e) The board shall grant or deny the exemption by a majority vote. A majority of the members shall be necessary to affirm, modify or reverse any decision. Disputes of fact shall be decided on the basis of a preponderance of the evidence. The decision of the board is final.

(f) If the board grants the exemption, the exemption is valid for one year from the date of the board's action. Upon the expiration of an exemption, the sexually oriented business is in violation of the locational restrictions of section 4.05.013 until the applicant applies for and receives another exemption.

(g) If the board denies the exemption, the applicant may not reapply for an exemption until at least 12 months have elapsed since the date of the board's action.

(h) The grant of an exemption does not exempt the applicant from any other provisions of this article other than the locational restrictions of section 4.05.013.
(Code 1996, § 4.05.014)

Sec. 4.05.015. Additional regulations for escort agencies.

(a) An escort agency shall not employ any person under the age of 18 years.

(b) A person commits an offense if he acts as an escort or agrees to act as an escort for any person under the age of 18 years.
(Code 1996, § 4.05.015)

Sec. 4.05.016. Additional regulations for nude model studios.

(a) A nude model studio shall not employ any person under the age of 18 years.

(b) A person under the age of 18 years commits an offense if he appears in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under 18 years was in a restroom not open to public view or persons of the opposite sex.

(c) A person commits an offense if he appears in a state of nudity or knowingly allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right-of-way.

(d) A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises which can be viewed from the public right-of-way.
(Code 1996, § 4.05.016)

Sec. 4.05.017. Additional regulations for adult theaters and adult motion picture theaters.

(a) The requirements and provisions of this article remain applicable to adult theaters and adult motion picture theaters.

(b) A person commits an offense if he knowingly allows a person under the age of 18 years to appear in a state of nudity in or on the premises of an adult theater or adult motion picture theater.

(c) A person under the age of 18 years commits an offense if he knowingly appears in a state of

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nudity in or on the premises of an adult theater or adult motion picture theater.

(d) It is a defense to prosecution under subsections (b) and (c) if the person under 18 years was in a restroom not open to public view or persons of the opposite sex.
(Code 1996, § 4.05.017)

Sec. 4.05.018. Additional regulations for adult motels.

(a) Evidence that a sleeping room in a hotel, motel, or similar commercial establishment has been rented and vacated two or more times in a period of time that is less than ten hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this article.

(b) A person commits an offense if, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented business license, he rents or subrents a sleeping room to a person and within ten hours from the time the room is rented, he rents or subrents the same sleeping room again.

(c) For purposes of subsection (b) above, the term “rent” or “subrent” means the act of permitting a room to be occupied for any form of consideration.
(Code 1996, § 4.05.018)

Sec. 4.05.019. Exhibition of sexually explicit films or videos.

(a) A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, videocassette, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

(1) Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager’s stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager’s station 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 six inches. The police chief may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(2) The application shall be sworn to be true and correct by the applicant.

(3) No alteration in the configuration or location of a manager’s station may be made without the prior approval of the police chief or his designee.

(4) 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.

(5) The interior of the premises shall be configured in such a manner that there is an unobstructed

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view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

(6) It shall be the duty of the 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 subsection (a)(5) remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times that any patron is present in the premises and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (a)(1) of this section.

(7) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one (1.0) footcandle as measured at the floor level.

(8) 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.

(b) A person having a duty under subsections (1) through (8) of subsection (a) above commits an offense if he knowingly fails to fulfill that duty.
(Code 1996, § 4.05.019)

Sec. 4.05.020. Display of sexually explicit material to minors.

(a) A person commits an offense if, in a business establishment open to persons under the age of 17 years, he displays a book, pamphlet, newspaper, magazine, film, or videocassette, the cover of which depicts, in a manner calculated to arouse sexual lust or perversion for commercial gain, any of the following:

(1) Human sexual intercourse, masturbation, or sodomy;

(2) Fondling or other erotic touching of human genitals, pubic region, buttocks, or female breasts;

(3) Less than completely and opaquely covered human genitals, buttocks, or that portion of the female breast below the top of the areola; or

(4) Human male genitals in a discernibly turgid state, whether covered or uncovered.

(b) In this section, "display" means to locate an item in such a manner that, without obtaining assistance from an employee of the business establishment:

(1) It is available to the general public for handling and inspection; or

(2) The cover or outside packaging on the item is visible to members of the general public.
(Code 1996, § 4.05.020)

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Sec. 4.05.021. Enforcement.

(a) Except as provided by subsection (b) below, any person violating section 4.05.013 of this article, upon conviction, is punishable by a fine in accordance with the general penalty provision found in section 1.01.009 of this code.

(b) If the sexually oriented business involved is a nude model studio or sexual encounter center, then violation of section 4.05.013 of this article is punishable as a class A misdemeanor.

(c) Except as provided by subsection (b) above, any person violating a provision of this article other than section 4.05.013, upon conviction, is punishable by a fine as provided for in the general penalty provision found in section 1.01.009 of this code.

(d) It is a defense to prosecution under sections 4.05.004(a), 4.05.013, 4.05.016(d) that a person appearing in a state of nudity did so in a modeling class operated:

(1) By a proprietary school licensed by the state, a college, junior college, or university supported entirely or 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 days in advance of the class; and

(C) Where no more than one nude model is on the premises at any one time.

(e) It is a defense to prosecution under section 4.05.004(a) or section 4.05.013 that each item of descriptive, printed, film, or video material offered for sale or rental, taken as a whole, contains serious literary, artistic, political, or scientific value.
(Code 1996, § 4.05.021)

Sec. 4.05.022. Injunction.

A person who operates or causes to be operated a sexually oriented business, without a valid license or in violation of section 4.05.013 of this article is subject to a suit for injunction as well as prosecution for criminal violations.
(Code 1996, § 4.05.022)

ARTICLE VI. DANCE HALLS

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Sec. 4.06.001. Definitions.[44]

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:

Board of adjustment. The board of adjustment of the city, which shall act as the appeals board for all purposes of this article.

Dance hall. A place where dancing by patrons or customers is permitted or dance, drama, opera, music or any similar live performance is presented to the public, classified as follows:

Class A dance hall. Any place where dancing is permitted three days or more a week.

Class B dance hall. Any place where dancing is permitted less than three days a week.

Class C dance hall. Any place where dancing is scheduled one day at a time.

Class D dance hall. Any place where dancing is permitted one day a week or more by a person in a state of seminudity or simulated nudity or that is advertised either on or off the premises:

(A) As topless;

(B) As a gentleman's club, bar or saloon;

(C) As adult entertainment;

(D) As X-rated; or

(E) By any other term calculated to attract patrons with nudity, seminudity or simulated nudity.

Class E dance hall. Any place where dancing is permitted seven days a week for persons from age 14 through age 18 only.

In session. The status of a school during the fall or spring term when students are required to attend the school.

Late hours permit. A permit authorizing a licensee to operate a class A, B, C or D dance hall until 4:00 a.m.

License. A permit to operate a dance hall.

Licensee. A person in whose name a license to operate a dance hall has been issued, as well as the individual listed as an applicant on the application for a dance hall license.

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[44] **Sec. 4.06.001. Definitions. A standardized introduction is substituted for consistency.** Also, definitions duplicative of chapter 1 are stricken as shown.

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~~Person. An individual, partnership, corporation, association, or other legal entity.~~

Private club. An association of persons for the promotion of some common object, which operates not for a profit a place for the accommodation of its members and guests only.

School. A public or private elementary or secondary school.

Seminudity. A state of dress in which clothing covers no more than the genitals, pubic region, buttocks, and areolae of the female breast, as well as parts of the body covered by supporting straps or devices.

Simulated nudity. A state of dress in which any device or covering, exposed to view is worn that simulates any part of the genitals, buttocks, pubic region, or areolae of the female breast.
(Code 1996, § 4.06.001)

Sec. 4.06.002. License required; application; exceptions; defenses.

(a) A person commits an offense if he operates a dance hall without a license.

(b) An application for a license must be made on a form provided by the police chief. The applicant must be qualified according to the provisions of this article.

(c) A person who wishes to operate a dance hall must sign the application for a license as applicant. If a person who wishes to operate a dance hall is other than an individual, each individual who has a 20 percent or greater interest in the business must sign the application for a license as an applicant. Each applicant must meet the requirements of section 4.06.006 and each applicant shall be considered a licensee if a license is granted.

(d) It is a defense to prosecution under this article that the actor is conducting a dance at:

(1) A private residence from which the general public is excluded;

(2) A place owned by the federal, state or local government;

(3) A public or private elementary school, secondary school, college or university;

(4) A place owned by a religious organization; or

(5) A private club.

(e) A person who obtains a valid sexually oriented business license is not required to obtain a dance hall license. A person who operates a dance hall that is also a sexually oriented business shall comply with the requirements and provisions of article 4.05 of this code, as well as the requirements and provisions of this chapter.
(Code 1996, § 4.06.002)

Sec. 4.06.003. Location of Class E dance halls restricted.

(a) In this section, “business that serves or sells alcoholic beverages” means a bar, lounge, tavern, liquor store use, or similar establishment.

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(b) No license may be issued for a class E dance hall under this section if the dance hall will be located within one thousand (1,000) feet of a lawfully existing business that serves or sells alcoholic beverages.

(c) For purposes of this section, measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest entry door in the part of a building used as a class E dance hall to the nearest entry door in the part of a building used as a business that serves or sells alcoholic beverages.

(d) If, on July 18, 1994, a business operating as a class E dance hall is located within one thousand (1,000) feet of a business that serves or sells alcoholic beverages, then the business that was first lawfully established and continually operating at that particular location is deemed a conforming use and the later established business is deemed a nonconforming use. A nonconforming use is exempted from the location requirement of subsection (b) of this section for the first three license renewals after the effective date of this article, unless the use is sooner terminated for any reason or voluntarily discontinued for a period of 30 days or more. A nonconforming use may not be increased, enlarged, extended, or altered, except that the use may be changed to a conforming use.
(Code 1996, § 4.06.003)

Sec. 4.06.004. Location of class D dance halls restricted.

(a) A person commits an offense if he operates or causes to be operated a class D dance hall within fifteen hundred (1,500) feet of:

(1) A church, rectory, or church-related structure;

(2) A public, private or parochial elementary or secondary school, or a school zone in which the speed of traffic is regulated by posted signs during certain school hours;

(3) A boundary of a residential district or historical district as defined in article 4.05 of this chapter;

(4) A public park, playground or recreation facility, library, day care center, nursery school, or kindergarten; or

(5) The property line of a lot devoted to a residential use as defined in article 4.05 of this chapter, whether such use is within the city limits or not.

(6) Any public transportation facility (DART).

(b) A person commits an offense if he causes or permits:

(1) The operation, establishment, substantial enlargement, or transfer of ownership or control of a class D dance hall within one thousand (1,000) feet of another class D dance hall;

(2) The operation, establishment, or maintenance of a class D dance hall in a building, structure, or part of a building or structure containing another class D dance hall; or

(3) The increase of floor area of any class D dance hall in any building, structure, or part of a building or structure containing another class D dance hall.

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(c) For purposes of subsection (a) above, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest part of the building or structure used as a part of the premises where a class D dance hall is conducted, to the nearest property line of the premises of a church, rectory, or church-related structure; a public, private or parochial elementary of secondary school, or a school zone in which the speed of traffic is regulated by posted signs during certain school hours; a boundary of a residential district or historical district within fifteen hundred (1,500) feet of the sexually oriented business; a public park, playground or recreation facility, library, day care center, nursery school or kindergarten; or the property line of a lot devoted to a residential use.

(d) For purposes of subsection (b) above, the distance between any two class D dance halls 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 class D dance hall is located.

(e) Any class D dance hall lawfully operating on July 18, 1994, that is in violation of subsection (a) or (b) above shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed 18 months, unless sooner terminated for any reason or voluntarily discontinued for a period of 30 days or more. The nonconforming use shall not be increased, enlarged, extended, or altered, except that the use may be changed to a conforming use. If a class D dance hall is within one thousand (1,000) feet of another class D dance hall and otherwise in a permissible location, the class D dance hall that was first established and continually operating at a particular location is the conforming use and the later established class D dance hall is the nonconforming use.

(f) A class D dance hall lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the class D dance hall license, of a church, rectory, or church-related structure; a public, private or parochial elementary or secondary school, or a school zone in which the speed of traffic is regulated by posted signs during certain school hours; a boundary of a residential district or historical district within fifteen hundred (1,500) feet of the sexually oriented business; a public park, playground or recreation facility, library, day care center, nursery school or kindergarten; or the property line of a lot devoted to a residential use, within fifteen hundred (l,500) feet of the class D dance hall. This provision applies only to the renewal of a valid license and does not apply when an application for a license is submitted after a license has expired or been revoked.
(Code 1996, § 4.06.004)

Sec. 4.06.005. Exemption from locational restrictions for class D dance halls.

(a) If the police chief denies the issuance of a class D dance hall license to an applicant because the location of the class D dance hall is in violation of section 4.06.004 of this article, then the applicant may, not later than ten calendar days after receiving notice of the denial, file with the police chief a written request for an exemption from the locational restrictions of section 4.06.004.

(b) If the written request is filed with the police chief within the ten day limit, the board of adjustment shall consider the request. The board of adjustment shall set a date for the hearing within 60 days from the date the written request is received.

(c) A hearing by the board may proceed only if all the board members are present. The board shall hear and consider evidence offered by any interested person. The formal rules of evidence do not apply.

(d) The board may, in its discretion, grant an exemption from the locational restrictions of section 4.06.004 if it finds that:

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(1) The location of the proposed class D dance hall will not have a detrimental effect on nearby property or be contrary to the public safety or welfare;

(2) The granting of the exemption will not violate the spirit and intent of this article;

(3) The location of the proposed class D dance hall will not downgrade the property value or quality of life in any adjacent area or encourage the development of urban blight;

(4) The location of an additional class D dance hall in the area will not be contrary to any program of neighborhood conservation or interfere with any efforts of urban renewal or restoration; and

(5) All other applicable provisions of this article will be observed.

(e) The board shall grant or deny the exemption by majority vote. Failure to reach a majority vote shall result in denial of the exemption. Any dispute of fact must be decided on the basis of a preponderance of the evidence. The decision of the board is final.

(f) If the board grants the exemption, the exemption is valid for one year from the date of the board's action. Upon the expiration of an exemption, the class D dance hall is in violation of the locational restrictions of section 4.06.004 until the applicant applies for and receives another exemption.

(g) If the board denies the exemption, the applicant may not reapply for an exemption until at least 12 months have elapsed since the date of the board's action.

(h) The grant of an exemption does not exempt the applicant from any provision of this article other than the locational restrictions of section 4.06.004.
(Code 1996, § 4.06.005)

Sec. 4.06.006. Issuance of license; posting.

(a) The police chief shall issue a license to an applicant within 30 days after receipt of an application unless the police chief finds one or more of the following to be true:

(1) An applicant is under 18 years of age.

(2) An applicant or an applicant's spouse is not of good moral character and does not have a good reputation for being peaceable and law-abiding in the community where the applicant or the applicant's spouse resides or does business.

(3) An applicant or applicant's spouse is overdue in payment to the city of taxes, fees, fines, or penalties assessed against or imposed upon the applicant or the applicant's spouse.

(4) An applicant uses alcoholic beverages to excess.

(5) An applicant is physically or mentally incapacitated to an extent that the applicant cannot operate a dance hall.

(6) An applicant has failed to answer or falsely answers a question or request for information on the application form provided.

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(7) An applicant or an applicant's spouse has been convicted of a violation of a provision of this article, other than the offense of operating a dance hall without a license, within two years immediately preceding the application. The fact that a conviction is being appealed shall have no effect.

(8) An applicant is residing with a person who has been denied a license by the city to operate a dance hall within the preceding 12 months, or residing with a person whose license to operate a dance hall has been revoked within the preceding 12 months.

(9) The license fee required by this article has not been paid.

(10) An applicant or an applicant's spouse has been convicted of a crime;

(A) Involving:

(i) Any of the following offenses as described in V.T.C.A., Penal Code, ch. 43:

(aa) Prostitution;

(bb) Promotion of prostitution;

(cc) Aggravated promotion of prostitution;

(dd) Compelling prostitution;

(ee) Obscenity;

(ff) Sale, distribution, or display of harmful material to minor;

(gg) Sexual performance by a child; or

(hh) Possession of child pornography.

(ii) Any of the following offenses as described in V.T.C.A., Penal Code, ch. 21:

(aa) Public lewdness;

(bb) Indecent exposure; or

(cc) Indecency with a child.

(iii) Sexual assault or aggravated sexual assault as described in V.T.C.A., Penal Code, ch. 22;

(iv) Incest, solicitation of a child, or harboring a runaway child as described in V.T.C.A., Penal Code, ch. 25 or

(v) Criminal attempt, conspiracy, or solicitation to commit any of the offenses listed in subsections (a)(10)(A)(i) through (iv) of this section;

(B) For which:

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(i) Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

(ii) Less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or

(iii) Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24 month period.

(11) An applicant has been employed in a dance hall within the preceding 12 months and has demonstrated an inability to operate or manage a dance hall premises in a peaceful and law-abiding manner.

(12) Alcoholic beverages are possessed, consumed, or sold on premises used or to be used by the applicant for a class E dance hall.

(13) An applicant for a Class E dance hall license is in violation of the locational requirements of section 4.06.003 of this article.

(14) An applicant for a Class D dance hall license is in violation of the locational requirements of section 4.06.004 of this section.

(b) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or the applicant's spouse.

(c) An applicant who has been convicted or whose spouse has been convicted of an offense listed in subsection (a)(10)(A) may qualify for a dance hall license only when the time period required by subsection (a)(10)(B) has elapsed.

(d) The license shall state on its face the name of the person to whom it is granted, the expiration date, the address of the dance hall, and whether it is issued for a Class A, B, C, D, or E dance hall.

(e) The license, along with any late hours permit, shall be posted, in a conspicuous place at or near the entrance to the dance hall so that it may be easily read at any time.
(Code 1996, § 4.06.006)

Sec. 4.06.007. Late hours permit.

(a) A person who is issued a Class A, B, C, or D dance hall license may apply, on a form provided by the police chief, for a late hours permit. Upon receipt of the application and payment of the late hours permit fee, the police chief shall issue a late hours permit to the applicant.

(b) Once issued, a late hours permit is considered a part of the license for a Class A, B, C, or D dance hall and is valid only when the dance hall license it accompanies is valid.
(Code 1996, § 4.06.007)

Sec. 4.06.008. Fees.

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License and permit fees are as provided for in the city fee schedule ~~found in appendix A to this code~~.
(Code 1996, § 4.06.008)

Sec. 4.06.009. Hours of operation.

(a) A person without a late hours permit commits an offense if he operates a Class A, B, C, or D dance hall between the hours of 2:00 a.m. and 7:00 a.m. Monday through Saturday, or between 2:00 a.m. and 12:00 noon on Sunday.

(b) A person with a late hours permit commits an offense if he operates a Class A, B, C, or D dance hall between the hours of 4:00 a.m. and 7:00 a.m., Monday through Saturday, or between 4:00 a.m. and 12:00 noon on Sunday.

(c) A person commits an offense if he operates a class E dance hall during any hours other than the following:

(1) When school is in session in the school district in which the dance hall is located, between the hours of:

(A) 4:00 p.m. and 10:00 p.m., Monday through Thursday;

(B) 4:00 p.m. and 12:00 midnight, Friday;

(C) 1:00 p.m. and l2:00 midnight, Saturday; and

(D) 1:00 p.m. and 10:00 p.m. Sunday; or

(2) When school is not in session in the school district in which the dance hall is located, between the hours of 1:00 p.m. and 12:00 midnight, Monday through Sunday.
(Code 1996, § 4.06.009)

Sec. 4.06.010. Inspection.

(a) Representatives of the police, planning, fire, building and code services departments may inspect the premises of a dance hall, for the purpose of insuring compliance with the law, at any time it is open for business or occupied.

(b) A person who operates a dance hall or a person designated as the dance hall supervisor commits an offense if he refuses to permit a lawful inspection of the premises of a dance hall by a representative of the police department or authorized representative at any time it is open for business or occupied.
(Code 1996, § 4.06.010)

Sec. 4.06.011. Dance hall supervisor.

(a) A person who operates a dance hall must designate a person as dance hall supervisor and register that person’s name with the police chief.

(b) A person designated dance hall supervisor must remain on the premises of the dance hall during the time dancing is permitted and until 30 minutes after the end of the dance to insure that the dance is conducted in an orderly manner.

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(Code 1996, § 4.06.011)

Sec. 4.06.012. Persons under 17 prohibited.

(a) No person under the age of 17 years may enter a Class A, B, or C dance hall unless accompanied by a parent or guardian.

(b) A person commits an offense if he falsely represents himself to be either a parent or guardian of a person under the age of 17 years for the purpose of gaining the person's admittance into a Class A, B, or C dance hall.

(c) A licensee or employee of a Class A, B, or C dance hall commits an offense if he knowingly allows a person under the age of 17 years to enter or remain on the premises of the dance hall unless the person is accompanied by a parent or guardian.

(d) A licensee of a Class A, B, or C dance hall commits an offense if he maintains the premises without posting a sign at each entrance to the business that reads: "It is unlawful for any person under 17 years old to enter this location without a parent or guardian."
(Code 1996, § 4.06.012)

Sec. 4.06.013. Persons under 14 and over 18 prohibited in Class E dance halls.

(a) No person under the age of 14 years or over the age of 18 years may enter a Class E dance hall.

(b) A person commits an offense if he is over the age of 18 years and:

(1) Enters a Class E dance hall; or

(2) For the purpose of gaining admittance into a Class E dance hall, he falsely represents himself to be:

(A) Of an age from 14 years through 18 years;

(B) A licensee or an employee of the dance hall;

(C) A parent or guardian of a person inside the dance hall; or

(D) A governmental employee in the performance of official duties.

(c) A licensee or an employee of a Class E dance hall commits an offense if he knowingly allows a person to enter or remain on the premises of the dance hall who is:

(1) Under the age of 14 years; or

(2) Over the age of 18 years.

(d) It is a defense to prosecution under subsections (b)(1) and (c)(2) above that the person is:

(1) A licensee or employee of the dance hall;

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(2) A parent or guardian of a person inside the dance hall; or

(3) A governmental employee in the performance of official duties.

(e) A licensee of a Class E dance hall commits an offense if he maintains the premises without posting a sign at each entrance to the dance hall that reads: "It is unlawful for any person under 14 years old to enter this location without a parent or guardian. It is unlawful for any person over 18 years old to enter this location."
(Code 1996, § 4.06.013)

Sec. 4.06.014. Persons under 18 prohibited in Class D dance halls.

(a) No person under the age of 18 years may enter a Class D dance hall.

(b) A person commits an offense if he falsely represents himself to be a person 18 years of age or older for the purpose of gaining admittance into a Class D dance hall.

(c) A licensee or employee of a Class D dance hall commits an offense if he knowingly allows a person under the age of 18 years to enter or remain on the premises of the dance hall.

(d) A licensee of a Class D dance hall commits an offense if he maintains the premises without posting a sign at each entrance to the dance hall that reads: "It is unlawful for any person under 18 years old to enter this location."
(Code 1996, § 4.06.014)

Sec. 4.06.015. Expiration of license or permit.

(a) A license for a Class A, B, C, D, or E dance hall expires one year from the date of issuance and may be renewed only by making application as provided in section 4.06.002. Application for renewal should be made at least 30 days before the expiration date, and when made less than 30 days before the expiration date, the expiration of the license will not be affected.

(b) A late hours permit for a Class A, B, C, or D dance hall expires in conjunction with the accompanying dance hall license and may be renewed only by making application as provided in section 4.06.007.

(c) A license for a Class C dance hall expires at 2:00 a.m., or 4:00 a.m., if a late hours permit has been issued, on the day following the day of the dance.

(d) When the police chief denies renewal of a license, the applicant shall not be issued a license for one year from the date denial becomes final. If, subsequent to denial, the police chief finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date denial became final. If a renewal of a license is denied under section 4.06.006(a)(13) only, the applicant may be granted a license immediately upon compliance with section 4.06.003 of this article. If a renewal of a license is denied under section 4.06.006(a)(14) only, the applicant may be granted a license immediately upon compliance with section 4.06.004 of this article.
(Code 1996, § 4.06.015)

Sec. 4.06.016. Suspension of license.

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The police chief shall suspend a dance hall license for a period of time not exceeding 30 days if the police chief determines that a licensee or an employee of a licensee has:

(1) Violated section 4.06.006(d), 4.06.009, 4.06.012, 4.06.013, 4.06.014, or 4.06.019 of this article;

(2) Engaged in excessive use of alcoholic beverages while on the dance hall premises;

(3) Refused to allow an inspection of the dance hall premises as authorized in this article;

(4) Knowingly permitted an intoxicated person to remain on the premises;

(5) Knowingly permitted gambling by any person on the dance hall premises;

(6) Demonstrated inability to operate or manage a dance hall premises in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers; or

(7) Knowingly permitted the possession, consumption, or sale of an alcoholic beverage on the premises of a class E dance hall.
(Code 1996, § 4.06.016)

Sec. 4.06.017. Revocation of license.

(a) The police chief shall revoke a license if a cause of suspension in section 4.06.016 occurs and the license has been suspended within the preceding 12 months.

(b) The police chief shall revoke a license if the police chief determines that one or more of the following is true:

(1) A licensee has given false or misleading information in the material submitted to the police chief during the application process.

(2) A licensee or an employee is unable to lawfully operate the dance hall because of physical or mental impairment.

(3) A licensee or an employee has knowingly allowed possession, use or sale of controlled substances on the premises.

(4) A licensee or an employee has knowingly allowed prostitution on the premises.

(5) A licensee or an employee knowingly permitted dancing or a live performance during a period of time when the dance hall license was suspended.

(6) A licensee has been:

(A) Convicted of an offense listed in section 4.06.006(a)(10)(A) for which the time period required in section 4.06.006(a)(10)(B) has not elapsed; or

(B) Convicted of or is under indictment for any felony offense while holding a dance hall license.

(7) While an employee of the dance hall and while on the licensed premises, a person has committed

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an offense listed in section 4.06.006(a)(10)(A), for which a conviction has been obtained, two or more times within a 12 month period.

(8) A licensee of a Class E dance hall is in violation of the locational requirements of section 4.06.003 of this article.

(9) A licensee of a Class D dance hall is in violation of the locational requirements of section 4.06.004 of this article.

(c) The fact that a conviction is being appealed shall have no effect on the revocation of the license.

(d) When the police chief revokes a license, the revocation shall continue for one year and the licensee shall not be issued a dance hall license for one year from the date revocation became final. If subsequent to revocation the police chief finds that the basis for the revocation action has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became final. If the license was revoked under subsection (b)(8) above only, the applicant may be granted a license immediately upon compliance with section 4.06.003 of this article. If the license was revoked under subsection (b)(9) above only, the applicant may be granted a license immediately upon compliance with section 4.06.004 of this article. If the license was revoked under subsection (b)(7) above, an applicant may not be granted another license until the appropriate number of years required under section 4.06.006(a)(10)(B) has elapsed.
(Code 1996, § 4.06.01)

Sec. 4.06.018. Appeal of license denial, suspension or revocation.

(a) If the police chief denies the issuance of a license or suspends or revokes a license, the police chief shall send to the applicant, or licensee, by certified mail, return receipt requested, written notice of the action and the right to an appeal. The aggrieved party may appeal the decision of the police chief to the board of adjustment. The filing of an appeal stays the action of the police chief in suspending or revoking a license until the board makes a final decision. If within a ten day period the police chief suspends, revokes, or denies issuance of a sexually oriented business license for the same location involved in the city police chief's actions on the dance hall license, then the city police chief may consolidate the request for appeals of those actions into one appeal.

(b) If the police chief denies the issuance of a Class D dance hall license or suspends or revokes a Class D dance hall license, the police chief shall send to the applicant, or licensee, by certified mail, return receipt requested, written notice of the action and the right to an appeal. Upon receipt of written notice of the denial, suspension, or revocation, the licensee whose application for a license has been denied or whose license has been suspended or revoked shall have the right to appeal to the state district court. An appeal to the state district court must be filed within 30 days after the receipt of notice of the decision of the police chief. The licensee shall bear the burden of proof in court.
(Code 1996, § 4.06.018)

Sec. 4.06.019. Transfer of license or late hours permit.

A licensee shall not transfer a license or late hours permit to another, nor shall a licensee operate a dance hall under the authority of a license, or a late hours permit, at any place other than the address designated in the application.
(Code 1996, § 4.06.019)

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Sec. 4.06.020. Penalty.

Any person who violates any provision of this article, except sections 4.06.003 and 4.06.004, upon conviction is punishable by a fine as provided for in the general penalty provision found in section 1.01.009 of this code. Any person who violates section 4.06.004 or 4.06.003 of this article pertaining to zoning, upon conviction, is punishable by a fine in accordance with the general penalty provision found in section 1.01.009 of this code.
(Code 1996, § 4.06.020)

Sec. 4.06.021. Injunction.

A person who operates or causes to be operated a dance hall without a valid license or in violation of section 4.06.003 or 4.06.004 of this article is subject to a suit for injunction as well as prosecution for criminal violations.
(Code 1996, § 4.06.021)

ARTICLE VII. SECONDARY METAL RECYCLERS

Sec. 4.10.001. Purpose; authority.

This article is an exercise of the city's police power to promote, through regulation of secondary metal recyclers, the recovery of stolen property. This article provides licensing and recordkeeping requirements and enforcement procedures that will enable the police department to identify and recover public and private property composed of certain metals that may have been illegally appropriated.
(Code 1996, § 4.10.001; Ord. No. O-19-08, 6/16/08)

Sec. 4.10.002. Definitions.[45]

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

~~Chief. The police chief for the city or a designated representative.~~

Ferrous metal. A metal that contains significant quantities of iron or steel.

Hold notice. Written notification by the city police chief to a secondary metals recycler stating that the secondary metals recycler may not sell, redeem or dispose of certain regulated metal property that the city police chief has reasonable cause to believe has been stolen.

Licensee. A person in whose name a license has been issued under this article or a person listed as an applicant on the application for a license.

Nonferrous metal. A metal that does not contain significant quantities of iron or steel including yet not limited to copper, brass, aluminum, bronze, lead, zinc, nickel and their alloys.

Passport. A passport issued by the United States government or issued by another country and recognized by the United States government.

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[45] **Sec. 4.10.002. Definitions.** Definitions duplicative of chapter 1 are stricken as shown.

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~~Person. An individual, partnership, corporation, joint venture, trust, association and any other legal entity.~~

Personal identification certificate. A personal identification card issued by the state department of public safely under V.T.C.A., Transportation Code, ch. 521, subchapter E, or a similar card or certificate issued by another state.

Purchase transaction. A transaction in which a secondary metals recycler gives consideration in exchange for regulated metal property.

Regulated metal property. Any item composed in whole or in part of any ferrous or nonferrous metal other than an item composed in whole of tin.

Secondary metals recycler. Any person who engages in the business of purchasing, collecting or soliciting regulated metal property or operates or maintains a facility where regulated metal property is purchased or kept for shipment, sale, transfer or salvage.

Seller. Any person who in a purchase transaction receives consideration from a secondary metals recycler in exchange for regulated metal property.
(Code 1996, § 4.10.002; Ord. No. O-19-08, 6/16/08)

Sec. 4.10.003. Records required.

(a) A secondary metals recycler shall maintain an accurate and legible record of each purchase transaction. Each transaction must be recorded separately.

(b) The record of each purchase transaction must be in English and contain the following information:

(1) The name and address of the secondary metals recycler;

(2) The name or initials of the individual recoding the information required by this section for this secondary metals recycler;

(3) The seller's name, address, sex and birthdate as well as the identifying number from the seller's driver's license, military identification card, passport or personal identification certificate;

(4) The license number of any motor vehicle in which the regulated metal property is delivered in a purchase transaction;

(5) The place, date and time of the purchase transaction;

(6) The weight, quantify or volume and a description made in accordance with the custom of the trade of the regulated metal property purchased;

(7) A general description of the predominant types of regulated metal property purchased in the purchase transaction;

(8) The amount of consideration given in a purchase transaction for the regulated metal property;

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(9) A signed statement from the seller in a purchase transaction affirming a legal right of ownership and the right to sign over title to the regulated metal property offered for sale;

(10) A digital photograph, videotape or similar likeness of the seller that clearly depicts the seller's facial features; and

(11) A clear thumbprint of the seller.

(c) A person selling or attempting to sell regulated metal property to a secondary metals recycler shall:

(1) Display to the secondary metals recycler the person's driver's license, military identification card, passport or personal identification certificate; and

(2) Sign a written statement provided by the secondary metals recycler affirming that the person is a legal owner or is lawfully entitled to sell the regulated material offered for sale.

(d) The secondary metals recycler or the recycler's agent shall visually verify the accuracy of the identification presented by the seller at the time of each purchase of regulated metal property.

(e) A secondary metals recycler shall maintain on file the information required by this section for not less than one year from the date of the purchase transaction. A secondary metals recycler shall make these records available for inspection by any police officer, upon request, at the secondary metals recycler's place of business during the usual and customary business hours of the secondary metals recycler.

(f) The recordkeeping requirements of this section, other than subsection (b)(7) and (b)(10), do not apply to purchase transactions involving regulated metal property composed solely of the following nonferrous metal materials for which definitions and recordkeeping requirements are provided by V.T.C.A., Occupations Code, ch. 1956, subchapter A.

(1) Copper or brass material in excess of 50 pounds.

(2) Bronze material.

(3) Aluminum material in excess of 40 pounds.

(g) It is a defense to prosecution under subsection (b)(10) of this section that:

(1) A photograph of the seller, taken within the preceding six months, was currently on file with the secondary metals recycler; and

(2) At the time of the purchase transaction, the secondary metals recycler or an employee of the secondary metals recycler visually verified that the seller was actually the person depicted in the file photograph.

(Code 1996, § 4.10.003; Ord. No. O-19-08, 6/16/08)

Sec. 4.10.004. Notice to sellers.

(a) A secondary metals recycler shall at all times maintain in a prominent place in the secondary metals recycler's place of business, in open view to a seller of regulated metal property, a notice in two-

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inch lettering that contains the following or similar language approved by the city police chief: "A person attempting to sell any regulated metal property must present sufficient identification required by City of Glenn Heights ordinance."

(b) The notice required by this section may be contained on a sign that contains another notice required by law to be displayed by the secondary metals recycler.
(Code 1996, § 4.10.004; Ord. No. O-19-08, 6/16/08)

Sec. 4.10.005. Facsimile, telecopier or similar equipment required.

A secondary metals recycler shall maintain at its place of business or otherwise have immediate access to a facsimile, telecopier or other equipment of similar function on which notifications of stolen property or other notifications relating to regulated metal property may be expeditiously received from the police department. The equipment must be operable at all times during the usual and customary business hours of the secondary metals recycler. The secondary metals recycler shall maintain the facsimile number or other access number of the equipment on file with the city police chief and shall notify the city police chief within 24 hours after any change in the number.
(Code 1996, § 4.10.005; Ord. No. O-19-08, 6/16/08)

Sec. 4.10.006. Restrictions on purchase of regulated metal property.

(a) A secondary metals recycler shall conduct all purchase transactions only between the hours of 7:00 a.m. and 7:00 p.m.

(b) A secondary metals recycler shall not purchase any item of regulated metal property from an intoxicated person.

(c) A secondary metals recycler shall not purchase any item of regulated metal property from an individual who does not arrive at the secondary metals recycler in a motor vehicle.

(d) A secondary metals recycler shall not purchase any item of regulated metal property using cash payments.

(e) A secondary metals recycler shall not purchase any of the following items of regulated metal property without obtaining proof that the seller owns the property (such as by receipt or bill of sale) or proof that the seller is an employee, agent or contractor of a governmental entity, utility company, cemetery, railroad, manufacturer or other person, business or entity owning the property and the seller is authorized to sell the item of regulated metal property on behalf of the person, business or entity owning the property:

(1) A manhole cover.

(2) An electric light pole and its fixtures and hardware.

(3) A guard rail.

(4) A street sign, traffic sign or traffic signal and its fixtures and hardware.

(5) Communication, transmission and service wire.

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(6) A funeral marker or funeral vase.

(7) An historical marker.

(8) Railroad equipment including yet not limited to a tie plate, switch plate, E-clip or rail tie junction.

(9) Any metal item that is marked with any form of the name, initials or logo of a governmental entity, utility company, cemetery or railroad.

(10) A copper or aluminum condensing or evaporator coil from a heating or air conditioning unit.

(11) An aluminum or stainless steel container or bottle designed to hold propane for fueling forklifts.

(f) A secondary metals recycler shall maintain on file the information required by subsection (e) of this section for not less than one year from the date of the purchase of the item of regulated metal property. A secondary metals recycler shall make these records available for inspection by any police officer, upon request, at the secondary metal recycler's place of business during the usual and customary business hours of the secondary metals recycler.

(g) The requirements of subsections (e) and (f) of this section do not apply to purchase transactions involving regulated metal property composed solely of the following nonferrous metal materials for which definitions, recordkeeping requirements and other regulations are provided by V.T.C.A., Occupations Code, ch. 1956: copper or brass material in excess of 50 pounds, bronze material, or aluminum material in excess of 40 pounds.
(Code 1996, § 4.10.006; Ord. No. O-19-08, 6/16/08)

Sec. 4.10.007. Hold on regulated metal property; segregation, labeling and inspection; exceptions.

(a) Except as provided in subsection (c) of this section, a secondary metals recycler shall retain possession of purchased regulated metal property at the secondary metals recycler's local place of business and withhold the property from alteration, processing, resale or salvage use for 72 hours after purchase unless the property is released sooner by written order of the city police chief or by order of a court of competent jurisdiction.

(b) Except as provided in subsection (c) of this section, a secondary metals recycler shall segregate all regulated metal property purchased from a seller from regulated metal property purchased from other sellers and attach to the property, or to the container in which the property is held, a label indicating the name of the seller, the date on which the property was purchased and the number of the receipt on which the purchase information is recorded. If in any single purchase transaction there are multiple items of regulated metal property of the same general type, only one representative item from each type of regulated property must be segregated and labeled in accordance with this subsection.

(c) The hold, segregation and labeling requirements of subsections (a) and (b) of this section do not apply to any item of regulated metal property composed solely of ferrous metal material unless the secondary metals recycler has received notice that the city police chief has, in accordance with this subsection, designated the item or type of item as being subject to those requirements. The city police chief shall periodically review theft statistics on ferrous regulated metal property and establish a list of items or types of items that the city police chief determines are subject to the requirements of subsections (a) and (b). A current list must be maintained on file in the city police chief's office or in another designated office of the police department so that it may be inspected by the public during the city's

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normal business hours. Notice of the list must be given to secondary metals recyclers in accordance with schedules and procedures established by the city police chief. A secondary metals recycler is presumed to have received notice of the list if the police department transmits the list to the facsimile number or access number provided by the secondary metals recycler under section 4.10.005.

(d) While in possession of purchased regulated metal property, a secondary metals recycler shall make the property available for inspection by any police officer at the secondary metals recycler's place of business during the usual and customary business hours of this secondary metals recycler.
(Code 1996, § 4.10.007; Ord. No. O-19-08, 6/16/08)

Sec. 4.10.008. Hold on stolen regulated metal property; hold notice.

(a) When a police officer has reasonable cause to believe that certain items of regulated metal property in the possession of a secondary metals recycler are stolen, the city police chief may issue a hold notice. The hold notice must:

(1) Identify those items of regulated metal property alleged to be stolen and subject to hold; and

(2) Inform the secondary metals recycler of the restrictions imposed on the regulated metal property under subsection (b) of this section.

(b) A secondary metals recycler may not, for 60 days from the date of receiving a hold notice under this section, process or remove from the secondary metals recycler's place of business any regulated metal property identified in the hold notice unless the property is released sooner by the city police chief or by order of a court of competent jurisdiction. At the expiration of the hold period, the hold is automatically released and the secondary metals recycler may dispose of the regulated material unless otherwise directed by a court of competent jurisdiction.

(c) This section does not apply to items of regulated metal property composed solely of the following nonferrous metal materials for which definitions and hold notice requirements are provided by V.T.C.A., Occupations Code, ch. 1956: copper or brass material in excess of 50 pounds, bronze material, or aluminum material in excess of 40 pounds.
(Ord. No. O-19-08, 6/16/08)

§ 4.10.009. Offenses; defenses; penalty.

(a) A person who knowingly violates any provision of this article or who knowingly fails to perform a duty required of him under this article commits an offense. A person is guilty of a separate offense for each item of regulated metal property involved in a violation of this article. An offense under this article is punishable by a fine not to exceed $500.00.

(b) It is a defense to prosecution under this article that the regulated metal property involved:

(1) Was purchased from a charitable, philanthropic, religious, fraternal, civic, patriotic, social or school-sponsored organization or association, or from any organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code;

(2) Was purchased from any public officer acting in an official capacity as a trustee in bankruptcy, executor, administrator, or receiver, from any public official acting under judicial process or authority, or from a sale on the execution or by virtue of any process issued by a court;

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(3) Consists of aluminum food or beverage containers, used food or beverage containers, or similar food or beverage containers for the purpose of recycling other than beer or beverage kegs; or

(4) Was purchased from a manufacturing, industrial or other commercial vendor that generates or sells regulated metal property in the ordinary course of its business.
(Code 1996, § 4.10.008; Ord. No. O-19-08, 6/16/08)

ARTICLE VIII. VEHICLES FOR HIRE[46]

Sec. 4.11.001. 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:

Limousine. Any chauffeured motor vehicle for general passenger use with a rated passenger capacity of not more than 15 passengers and which operates on a prearranged appointment basis only whereby such prearrangement is made not less than 1 hour in advance of the time transportation is to begin. At no time shall such vehicle operate on a call-and-demand basis as a taxicab.

Taxicab. A chauffeured motor vehicle having a rated passenger capacity of 8 or less which typically operates on irregular routes and schedules and on a call-and-demand basis. The term shall not apply to motor vehicles operating under a license or certificate of the railroad commission of the state or the Interstate Commerce Commission nor to a limousine.

Vehicle service for hire. Any motor or other vehicle operated within the city for the purpose of carrying passengers for hire from within the city, except motor buses operating on fixed routes as specified in this article, specially chartered buses and driverless vehicles (rental cars). The term “vehicles for hire” includes limousine and taxicab, as defined. The term specifically excludes demand services by public entities relative to providing transportation for senior citizens and disabled persons.
(Code 1996, § 4.11.001; Ord. No. O-24-08, 9/2/08)

Sec. 4.11.002. Applicability of article; exclusions.[47]

(a) The operation of vehicles for hire shall be subject to this article, except that this article does not apply to a vehicle that is:

(1) Used to transport a person from a point of origination outside the city to a destination inside the city (including a round-trip transport), so long as the vehicle leaves the city without receiving a different passenger from inside the city;

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[46] **Art. VIII. Vehicles for Hire.** The city should review this article carefully in light of local circumstances and the current provisions of V.T.C.A., Occupations Code, ch. 2402. Depending on the type of local for hire vehicles the city has to regulate some or all of this article may be obsolete. The city can regulate traditional taxis and, in certain circumstances, limousines, but not TNCs which may fall under the definition of vehicles for hire above. Please review and advise.

[47] **Sec. 4.11.002. Applicability of article; exclusions.** Obsolete text is stricken as shown.

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(2) Owned and operated by the federal or state government, or by a political subdivision of the state; or

(3) Used in a carpool to transport the person and others on a prearranged basis between their homes and places of employment or places of common destination, if only a fee calculated to reasonably cover expenses is charged.

(b) It is unlawful to operate or cause to be operated from within the city any vehicle for hire unless a license therefor shall have been issued to the owner or operator thereof in accordance with t this article. ~~Provided, however, the owner or operator of an existing, approved vehicle for hire service required to obtain a license as herein provided shall file an application for license on or before the 90th day after passage of this article, or , 2008.~~

(Code 1996, § 4.11.002; Ord. No. O-24-08, 9/2/08)

Sec. 4.11.003. License application, contents, amendment and revocation.

(a) Every person, entity or business desiring to own or operate a vehicle for hire, or operate a business for vehicles for hire, shall file with the city secretary a written application signed by such applicant and stating:

(1) The name of the owner of the business or owner of the vehicle for hire if different than the business owner:

(A) If the owner is a person, the mailing address, physical address, work telephone number, home telephone number, driver's license number, and state of issuance of such driver's license;

(B) If the owner is a partnership, the name of all partners, the principal business address and telephone number of each partner;

(C) If the owner is a corporation, the state of incorporation, the name and address of the registered agent, the names of all officers, and the contact information of any local office of such corporation.

(2) Name, place of residence, sex, age, customary occupation; the name of any other person, firm or corporation who owns any interest in the business; and the name of the person, firm or corporation that owns any title or interest in any vehicle used in the business.

(3) The year, make and model of each vehicle proposed to be used.

(4) If applicable, the address and description of the stand at which taxicabs will remain while not in actual service.

(5) Binder or policy for commercial liability insurance in the single limit amount of $300,000.00 bodily injury and property damage.

(6) The experience of the applicant in the business and a statement of proposed rates.

(7) It shall be the responsibility of the applicant to prove to the council in writing that public convenience and necessity for an additional taxicab service or vehicle service for hire exists.

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(8) A copy of a current, valid Texas driver's license of every operator of every taxicab or vehicle service for hire that operates within the city limits.

(9) Signature of the applicant verifying information submitted for government approval and shall be considered a government document.

(b) A new application or amendment shall be filed promptly if and when any changes have occurred in the information then on file with the city and set forth on the license application.

(c) As to taxicabs only, before the city secretary shall issue a license, a certificate declaring that public convenience and necessity require the issuance of such license shall first be obtained from the city manager. The number of taxicabs authorized to operate in the city and for which certificate of public convenience and necessity may be issued under this article shall be based upon the public convenience and necessity as found and determined by the city manager.

(d) A license issued under this article shall be nonassignable. A license issued under this article may be revoked by the city council at any time it shall appear to council that the licensee has violated any provision of this article, or for other good cause.

(e) No license shall be issued under this article unless and until the applicant has furnished copies of such insurance policies. Such policy shall contain a provision that the city shall be given at least 30 days' prior written notice of cancellation, nonrenewal or material change of the required insurance coverage. This action shall be evidenced by registered or certified mail.

(f) The owner or operator of each taxicab or vehicle service for hire shall post in a conspicuous place on the inside of each vehicle a card showing the rates charged and the owner or operator may not charge an amount in excess of the rates so displayed. Such rates shall correspond with the rates furnished to the city secretary annually.
(Code 1996, § 4.11.003; Ord. No. O-24-08, 9/2/08)

Sec. 4.11.004. License fees; renewal; exemptions.

(a) At the time of original issuance of a license, the licensee shall pay to the city secretary the sum of $25.00, regardless of the number of vehicles covered by the license; provided that no license fee or license renewal fee is required for a license covering only a vehicle service for hire that has been licensed by the state railroad commission or the federal department of transportation.

(b) A license shall be valid for one year. Thereafter, the licensee shall renew such license, each year, by:

(1) Paying $25.00 for the renewal, subject to the exemption from fees referenced in subsection (a) of this section.

(2) Furnishing the city copies of the insurance policies required under this article with 30-day prior written cancellation/change notice.

(3) As to taxicabs only, furnishing the city a statement of rates, unless the city council has adopted a rate schedule by ordinance applicable to all taxicabs in the city.

(4) Valid Texas driver's license of all operators of any vehicle service for hire.

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(c) Fees for city permits, open stands and other fees shall be as provided in the city fee schedule ~~established by resolution of the city council~~.
(Code 1996, § 4.11.004; Ord. No. O-24-08, 9/2/08)

Sec. 4.11.005. Required vehicle for hire identification.

(a) The owner or driver of a vehicle for hire shall obtain a decal, indicating the vehicle's authority to operate, from the city. Such decal shall indicate a period of time in which the taxicab is authorized to operate within the city. A decal must be attached to the lower right corner of the front windshield of the vehicle. A decal assigned to one person is not transferable to another without prior written consent of the city.

(b) City identification card. Each operator shall obtain a city identification card prior to operation of a vehicle for hire.
(Code 1996, § 4.11.005; Ord. No. O-24-08, 9/2/08)

Sec. 4.11.006. Vehicle maintenance requirements.

(a) Each vehicle for hire shall comply with all equipment and safety standards contained in applicable state or local law. No vehicle for hire shall be operated with more passengers than the manufacturer's recommendations for the maximum number of occupants.

(b) Each vehicle for hire shall be regularly maintained in good operating condition and such maintenance records shall be business records subject to inspection by the city.

(c) Each vehicle for hire shall be inspected and registered and display current inspection and registration certificates as required by applicable state law.
(Code 1996, § 4.11.006; Ord. No. O-24-08, 9/2/08)

Sec. 4.11.007. City not liable, indemnity.

(a) The city shall not be liable to any person whatsoever for damages arising out of the operation or ownership of any vehicle for hire, or arising out of the enforcement, or lack of enforcement, of this article.

(b) The regulation of vehicles for hire is a governmental function.

(c) The owner and operator of every vehicle for hire business operated on the streets of the city, whether licensed under this article or not, shall indemnify and save the city harmless from all liabilities arising out of the ownership or operation of any such vehicles, even though it be alleged, or even proved, that city negligence caused (in whole or in part) such liability. This subsection is a part of every license whether stated therein or not.
(Code 1996, § 4.11.007; Ord. No. O-24-08, 9/2/08)

Sec. 4.11.008. Refusal to grant license.

(a) If any of the representations in any application filed under this article are found to be false or fraudulent, such application may be refused.

(b) The city council shall have and hereby reserves the right to determine whether additional vehicle

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for hire service is required for efficiently and properly meeting and serving public interests and necessity in the city, and without other cause existing, to refuse any application filed unless the council decides that the granting of same will serve public convenience and necessity.

(c) The city council may revoke or refuse to grant a license where the license holder has committed numerous offenses under this article such that the continued operation of the business is not in the best interest of the safety and welfare of the citizens of the city. In such event, the city council shall provide a written statement of the reasons for the revocation or refusal to grant or renew a license.
(Code 1996, § 4.11.008; Ord. No. O-24-08, 9/2/08)

Sec. 4.11.009. Transfer of license prohibited; operation of taxi limited.

(a) No license issued under the terms of this article shall be transferred to any other person, nor shall such license be used for the operation of any vehicle for hire except the vehicles for hire for which the license is issued; provided, however, that in the event a vehicle for hire becomes disabled or is withdrawn from service for repairs, another vehicle may be substituted for such disabled vehicle only until same is repaired.

(b) No vehicle for hire for which a license has been issued under this article shall be operated by anyone except the licensee thereof or an employee of the licensee.
(Code 1996, § 4.11.009; Ord. No. O-24-08, 9/2/08)

Sec. 4.11.010. Insurance.

Before the city shall issue any license under this article, or before any renewal of such license shall be granted, an applicant shall file with the city secretary and thereafter maintain in full force and effect, a policy of commercial liability and property damage insurance executed by an insurance company duly authorized to do business in the state and performable in the county, insuring the public against any loss or damage that may result to any person or property from the operation of such vehicle or vehicles in the minimum single limit amount of $300,000.00.
(Code 1996, § 4.11.010; Ord. No. O-24-08, 9/2/08)

Sec. 4.11.011. Violations.

It is unlawful for any person in the city to:

(1) Falsify or omit any material information on the license application. The license application is a government record and as such, falsification, tampering, and other offenses may be prosecuted as provided by state law.

(2) Operate a vehicle service for hire or taxicab without a current and valid decal for such vehicle.

(3) Fail to update any material information on the license application upon renewal.

(4) Fail or refuse to provide business records during regular business hours upon reasonable request.

(5) Assign or transfer the license.

(6) Fail to comply with applicable federal, state and local laws, regulations or ordinances that apply to the use and operation of vehicle service for hire or taxicabs.

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(7) Own or operate a vehicle for hire on any of the streets of the city, advertising transportation services, unless a license for such vehicle or vehicles has been issued by the city for the current calendar year.

(8) Hold a license under this article and license or allow an unlicensed driver to operate a vehicle service for hire or taxicab.

(9) Operate a vehicle for hire with an expired decal or with no decal affixed to it;

(10) Attach a decal to a vehicle not authorized to operate as a vehicle for hire;

(11) Forge, alter, or counterfeit a vehicle for hire decal required by this article;

(12) Possess a forged, altered, or counterfeited vehicle for hire decal required by this article;

(13) Display more than one vehicle for hire decal issued by the city on a vehicle at the same time; or

(14) Fail to display upon demand the city-issued identification card for operators of vehicles for hire.

(Code 1996, § 4.11.011; Ord. No. O-24-08, 9/2/08)

Sec. 4.11.012. Penalty for violation.

(a) A person who violates a provision of this article, or who fails to perform an act required by this article, commits a misdemeanor offense. A person commits a separate offense each day or portion of a day during which a violation is committed, permitted, or continued.

(b) Every charge made, every trip made upon the street of this city, and answering a call or carrying a person not authorized by a vehicle for hire license shall constitute a separate offense

(c) An offense under this article is punishable by a fine not to exceed $500.00.

(d) Allegation and evidence of a culpable mental state is not required for proof of an offense defined by this article.

(Code 1996, § 4.11.012; Ord. No. O-24-08, 9/2/08)

ARTICLE IX. GARAGE SALES

Sec. 4.12.001. Definitions.[48]

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 or home sale. The sale of personal property on the same lot as a residential dwelling within a residential zoning district and means to include yard sales, estate sales, and moving sales. It shall not include the sale of retail merchandise sold for the benefit of a commercial retail establishment

[48] **Sec. 4.12.001. Definitions.** A standardized introduction is substituted for consistency.

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Nonprofit organization. A charitable, religious, educational, fraternal, governmental, or civic organization that is located in the city.
(Code 1996, § 4.12.001; Ord. No. O-12-13, 10/22/13)

Sec. 4.12.002. Unlawful for commercial retailers to offer or sell merchandise at garage sale.

It is unlawful under this article for a commercial retail establishment (e.g., department stores, warehouses, etc.) to sell or offer for sale merchandise at a garage sale.
(Code 1996, § 4.12.002; Ord. No. O-12-13, 10/22/13)

Sec. 4.12.003. Permit.

Prior to the commencement date of any garage or home sale, the person desiring to engage in the sale shall obtain from the city building inspector a permit for such sale. Any person desiring a permit under this article shall make application for such permit to the building inspector or code enforcement officer, setting forth the location, time and date of said sale, the name and address of the person holding said sale and the type of goods, wares and merchandise to be sold.
(Code 1996, § 4.12.003; Ord. No. O-12-13, 10/22/13)

Sec. 4.12.004. Permit fee.

A nonrefundable permit fee in the amount provided in the city fee schedule ~~set forth in the fee schedule in appendix A of this code, as amended,~~ shall accompany the permit application to cover the cost of administration of this provision. For permits issued after sale has commenced, the permit fee shall be double.
(Code 1996, § 4.12.004; Ord. No. O-12-13, 10/22/13)

Sec. 4.12.005. Number, duration of sales.

Two garage or home sales may be held per year per household covered by the permit application. No other such sales shall be held at that location during that year, which year consists of 365 days, between January 1 and December 31. Each sale may be held from Thursday through Sunday, dawn to dusk, and no more than four consecutive days in duration. If the sale continues for more than one day, the days must be consecutive. No more than two permits shall be issued for any one premises during said year.
(Code 1996, § 4.12.005; Ord. No. O-12-13, 10/22/13)

Sec. 4.12.006. Signs.

(a) The permittee shall be entitled to one on-premises sign placed one day prior to the garage sale. The permittee shall be entitled to post four additional signs off-premises for the purpose of notifying the public of the date, time and location of the sale; provided, however, no sign shall be placed in a public right-of-way, in any sight visibility triangle, utility pole, official sign, tree, nor be in excess of three feet above ground level or exceed six square feet in area.

(b) All off-premises signs shall have the address and dates of the sale on the sign. The off-premises signs may be placed one day prior to the sale.

(c) All signs or notices posted in regard to any garage or home sale for which a permit is issued under the provisions of this article shall be located so as not to constitute an impairment to or obstruction of traffic. All signs must be removed within 24 hours after the sale has concluded.

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(d) All signs shall be constructed from a weatherproof material. Cardboard and paper signs are prohibited.
(Code 1996, § 4.12.006; Ord. No. O-12-13, 10/22/13)

Sec. 4.12.007. Sales by nonprofit organizations.

A nonprofit organization may obtain a permit to engage in a garage, yard, sidewalk or similar sale open to the public, conducted from or on any property located in any residential zone or at the premises of the organization. In the event that such sale is to be held at a site that is not owned by the nonprofit organization, the applicant shall furnish the city with satisfactory proof of its authority to conduct the sale at that site. The city may require proof of the nonprofit or similar status of the organization. The city may waive the permit fee for such sale.
(Code 1996, § 4.12.007; Ord. No. O-12-13, 10/22/13)

Sec. 4.12.008. Penalties for violation.

Any person violating any of the provisions or terms of this article shall, upon conviction in the municipal court, be punished by a fine not to exceed $200.00 for each offense, and every day such violation shall continue shall be deemed to constitute a separate offense.
(Code 1996, § 4.12.008; Ord. No. O-12-13, 10/22/13)

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Chapter 8

EMERGENCY MANAGEMENT AND SERVICES

ARTICLE I. IN GENERAL

Sec. #. Basic emergency operations plan adopted and incorporated by reference.

A basic emergency operations plan for the city has been approved and adopted for use by all city departments, agencies, and employees. A copy of the plan is on file in the office of the city secretary and is incorporated herein by reference.
(Code 1996, art. 9.08)

Sec. 1.14.009. Declaration of local state of disaster by mayor.[49]

~~As provided for under article 5890e, V.T.C.S.,~~ Pursuant to V.T.C.A., Government Code, § 418.108 the mayor is hereby authorized to declare a local state of disaster ~~state of emergency~~ when necessary to protect lives and property of the inhabitants of the city.
(Code 1996, § 1.14.009)

ARTICLE II. EMS ORGANIZATION

Sec. 1.14.001. Composition; functions.

The operational emergency management organization of the city shall consist of the officers and employees of the city so designated by the director in the emergency management plan, as well as organized volunteer groups. The functions and duties of this organization shall be distributed among such officers and employees in accordance with the terms of the emergency management plan.
(Code 1996, § 1.14.001)

Sec. 1.14.002. Emergency management director; designation, powers, and duties.[50]

(a) The city has established the office of emergency management director which position shall be held by the mayor in accordance with state law. An emergency management coordinator may be appointed by and serve at the pleasure of the director.

(b) The director shall be responsible for a program of comprehensive emergency management within the city for carrying out the duties and responsibilities set forth in this article. He/she may delegate authority for execution of these duties to the coordinator, but ultimate responsibility for such execution shall remain with the director.

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

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[49] **Sec. 1.14.009. Declaration of state of emergency by mayor.** VTCS art. 5890e was repealed in 1987. See suggested corrections.

[50] **Sec. 1.14.002. Emergency management director; designation, powers, and duties.** Citation corrected as shown.

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(1) Conduct an ongoing survey of actual or potential hazards which threaten life and property within the city and an ongoing program of identifying and requiring or recommending the implementation of measures which would tend to prevent the occurrence or reduce the impact of such hazards if disaster did occur.

(2) Supervision of the development and approval of an emergency management plan for the city and shall recommend for adoption by the city council all mutual aid arrangements deemed necessary for the implementation of such plan.

(3) Authority to declare a local state of disaster which may not be continued for renewed or a period in excess of seven days except by or with the consent of the city council.

(4) Issuance of necessary proclamations, regulations or directives which are necessary for carrying out the purposes of this article.

(5) Direction and control of the operations of the emergency management organization as well as the training of the emergency management personnel.

(6) Determination of all questions of authority and responsibility that may arise within the emergency management organization of the city.

(7) Maintenance of liaison with other municipal, county, district, state, regional or federal emergency management organizations.

(8) Marshaling of all necessary personnel, equipment or supplies from any department of the city to aid in the carrying out of the provisions of the emergency management plan.

(9) Supervision of the drafting and execution of mutual aid agreements, in cooperation with the representatives of the state and of other local political subdivisions of the state, and the drafting and execution, if deemed desirable, of an agreement with the county in which the city is located and with other municipalities within the county, for the countywide coordination of emergency management efforts.

(10) Supervision of and final authorization for the procurement of all necessary supplies and equipment, including acceptance of private contributions which may be offered for the purpose of improving emergency management within the city.

(11) Authorizing of agreements, after approval by the city attorney, for use of private property for public shelter and other purposes.

(12) Survey of the availability of existing personnel, equipment, supplies and services which could be used during a disaster, as provided for herein.

(13) Other requirements as specified in the Texas Disaster Act of 1975, V.T.C.A., Government Code, ch. 418 ~~(V.T.C.S. article 68889-7)~~.

(d) Any order or proclamation declaring, continuing, or terminating a local state of disaster shall be given prompt and general publicity and shall be filed promptly with the city secretary. Also, all proclamations, regulations, or directives shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and, unless circumstances attendant on the disaster prevent

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or impede, promptly filed with the city secretary.
(Code 1996, § 1.14.002)

Sec. 1.14.003. Emergency management plan.[51]

(a) A comprehensive emergency management plan shall be developed and maintained in a current state. The plan shall set forth the form of the organization, establish and designate divisions and functions, assign responsibilities, tasks, duties, and powers, and designate officers and employees to carry out the provisions of this article. As provided by state law, the plan shall follow the standards and criteria established by the state division of emergency management.

(b) When approved, it shall be the duty of all departments and agencies to perform the functions assigned by the plan and to maintain their portion of the plan in a current state of readiness at all times.

(c) The emergency management plan shall be considered supplementary to this article and have the effect of law during the time of a disaster.
(Code 1996, § 1.14.003)

Sec. 1.14.004. Interjurisdictional program.

The mayor is authorized to join with the county judges of the Counties of Dallas and Ellis in the formation of an emergency management council for the Counties of Dallas and Ellis and shall have the authority to cooperate in the preparation of a joint emergency management coordinator, as well as all powers necessary to participate in a countywide program of emergency management insofar as the program may affect the city.
(Code 1996, § 1.14.004)

Sec. 1.14.005. Override.

At all times when the orders, rules, and regulations made and promulgated pursuant to this article shall be in effect, they shall supersede and override all existing ordinances, orders, rules, and regulations insofar as the latter may be inconsistent therewith.
(Code 1996, § 1.14.005)

Sec. 1.14.006. Liability.

(a) This article is an exercise by the city of its governmental functions for the protection of the public peace, health, and safety and neither the city, the agents and representatives of the city, nor any individual, receiver, firm, partnership, corporation, association, or trustee, nor any of the agents thereof, in good faith carrying out, complying with or attempting to comply with any order, rule, or regulation promulgated pursuant to the provisions of this article shall be liable for any damage sustained to persons as the result of the activity.

(b) Any person owning or controlling real estate or other premises who voluntarily and without compensation grants to the city a license or privilege, or otherwise permits the city to inspect, designate and use the whole or any part or parts of such real estate or premises for the purpose of sheltering persons

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[51] **Sec. 1.14.003. Emergency management plan.** Is this different than the basic emergency operations plan in article I? If not, has this plan been adopted?

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during an actual, impending or practice enemy attack or natural or manmade disaster shall, together with his successors in interest, if any, not be civilly liable for the death of, or injury to, any person on or about such real estate or premises under such license, privilege or other permission or for loss of, or damage to, the property of such person.
(Code 1996, § 1.14.006)

Sec. 1.14.007. Commitment of funds.

No person shall have the right to expend any public funds of the city in carrying out any emergency management activity authorized by this article without prior approval by the city council, nor shall any person have any right to bind the city by contract, agreement or otherwise without prior and specific approval of the city council unless during a declared disaster. During a declared disaster, the mayor may expend or commit public funds of the city when deemed prudent and necessary for the protection of health, life, or property.
(Code 1996, § 1.14.007)

Sec. 1.14.008. Offenses; penalties.

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

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

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

(d) Convictions for violations of the provisions of this article shall be punishable by a fine as provided for in the general penalty provision found in section 1.01.009 of this code.
(Code 1996, § 1.14.008)

ARTICLE III. CITY AMBULANCE SERVICE[52]

Sec. 1.15.001. Under supervision of fire chief.

The ambulance service equipment held by the city shall be utilized as an ambulance service for persons requesting or utilizing such service, which shall be subject to the further provision of this article, and such ambulance service is under the immediate supervision of the fire chief, and under the overall supervision of the city manager and such equipment shall be maintained at locations under the direction of such fire chief, subject to the approval of the city manager.
(Code 1996, § 1.15.001)

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[52] **Art. III, City Ambulance Service.** I assume this is now EMS, which indicates this article needs updating, at a minimum with regard to current titles and terminology. Also, see the provisions in the fire chapter regarding collection of fees (including EMS fees). Should those be moved into this chapter? Please review and advise.

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Sec. 1.15.002. Charges for service.

Any person who utilizes the ambulance service of the city, whether such person requested the same or not, by reason of emergencies then existing, shall pay for the service the amounts as provided for in the city fee schedule ~~found in appendix A of this code~~.
(Code 1996, § 1.15.002)

Sec. 1.15.003. Failure to pay service.

Any person who utilizes the ambulance service of the city and who fails to pay for the service within 30 days after a statement of costs for such service has been mailed to the address of the user or parent, in the event a minor is the user, which address shall be sufficient for the purpose of this section, in accordance with the address which is supplied to the operator of the ambulance or which is obtained from the hospital where such person is delivered, shall be prima facie evidence by the copy of notice of statement as forwarded by the city for the purposes of this section.
(Code 1996, § 1.15.003)

Sec. 1.15.004. Notice of indebtedness.

It shall be prima facie evidence that the person utilizing such service did so with the intent to defraud upon a showing that such person was notified in writing of the indebtedness for such service, which notice in writing shall be by certified or registered mail to the address as is set forth in section 1.15.003 hereof or by personal service of a peace officer of the city, and upon failure of such person to pay such indebtedness within ten days after receipt of notice. A copy of the caption of the ordinance adopting this section shall accompany the notice forwarded to the user of such services by certified or registered mail.
(Code 1996, § 1.15.004)

Sec. 1.15.005. Restrictions on use.

Ambulances owned and operated by the city shall be restricted to responding to emergency calls in its incorporated areas of Dallas and Ellis Counties. Ambulances owned and operated by the city shall not be used for the transport of nonemergency patients.
(Code 1996, § 1.15.005)

ARTICLE IV. E-911 EMERGENCY SERVICE FEE

Sec. 1.16.001. Emergency service fee.[53]

(a) The city has imposed on each telephone subscriber's local exchange access line, or its equivalent, in the city, an E-911 emergency service fee, as provided in the city fee schedule ~~for in the fee schedule found in appendix A of this code~~. The fee is based upon the base rate for residential, business and business trunk lines as established by Southwestern Bell and approved by the public utility commission of the state. Such fees shall be used to provide for the purchase, installation, operating and maintenance expenses of E-911 service to be furnished pursuant to an application for service dated between the city and Southwestern Bell Telephone Company for E-911 services. (A copy of the application for service is on file in the office of the city manager.)

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[53] **Sec. 1.16.001. Emergency service fee.** Citation is corrected as shown.

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(b) The city manager is authorized to execute a contract on behalf of the city with Southwestern Bell Telephone Company pursuant to the provisions of this article, to provide for the implementation and maintenance of E-911 emergency service for all telephone subscribers located within the municipal boundaries of the city. Such contract shall contain no provision or term inconsistent with V.T.C.A., Health and Safety Code, ch. 772, ~~article 1432d or 1432e, Vernon's Annotated Texas Statutes~~ or approved by the public utility commission of the state.

(c) The E-911 emergency service fee imposed by this article shall be subject to the following restrictions and limitations: A fee may not be imposed upon more than 100 local exchange access lines per telephone subscriber per location; nor may a fee be imposed upon any coin operated or coin/card reader operated telephone equipment. The fee shall be separately stated on each subscriber's bill; and the fee may not exceed six percent (6%) of Southwestern Bell's base rate (recurring) charge, exclusive of all taxes, fees, license costs or similar charges, for local exchange access lines or trunks or their equivalent. Furthermore, the fee is uniformly applied to all local exchange access lines within the city limits.

(d) The fees imposed by this article may not be imposed until the E-911 service is fully operational within the city. Southwestern Bell shall be advised with a certified copy of this article at least 120 days prior to the desired first billing date of the fees imposed by this article. One or more public hearings shall be conducted prior to the amendment of the emergency service fees imposed by this article. In the event the city council desires to amend such fees, it will provide Southwestern Bell Telephone Company at least 90 days written notice prior to the desired implementation date of such amended fees.

(e) Southwestern Bell will provide the city with a list of subscribers who have specifically refused a pay the E-911 emergency service fee. Such list shall be provided not more than once per calendar year. Southwestern Bell will not be obligated to take any legal action to enforce the collection of any billed emergency service fees, nor will it be obligated to disconnect any subscriber's telephone service for failure to pay the emergency service fees.

(f) Southwestern Bell will retain records of the fees collected pursuant to this article. Such records will be retained for a period not to exceed two years from the date of collection. The city may, at its sole cost and expense, audit Southwestern Bell's records of the collected fees not more often than once annually.

(g) Southwestern Bell will remit the collected E-911 emergency service fees to the city on a periodic basis, not more frequently than monthly, on/or before the 60th day after the close of the month in which such fees have been collected. Southwestern Bell will retain, from its remittance to the city, two percent of the collected E-911 emergency service fees as its compensation for providing such collection. (Code 1996, § 1.16.001)

ARTICLE VI. ALARM SYSTEMS

Sec. 4.08.001. Definitions.

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

Alarm site. A premises served by an alarm system or CATV alarm system.

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Alarm system. A device or system which transmits a signal which is intended to summon an emergency service of the city. For the purposes of this definition, the categories of alarm systems are robbery, burglary and emergency assistance. The term includes an alarm that emits an audible signal on the exterior of the structure. Alarm system does not mean an alarm installed on a vehicle, unless used for a habitation at a permanent site, or an alarm designed to alert only the inhabitants within the premises, but does include a local alarm as defined in this section.

Alarm system company or alarm system monitor. Any person or company that sells, installs, services, monitors or responds to burglar alarm signal devices, burglar alarms, television cameras, still cameras or any other electronic device used:

(1) To prevent or detect burglary, theft, shoplifting, pilferage or other losses of that type;

(2) To detect or prevent intrusion; or

(3) Primarily to detect and summon aid for other emergencies, and includes persons relaying alarm notifications.

Appeal hearing official. The city manager or his designee.

Burglar alarm notification. A notification that summons the police, which was initiated or triggered by an alarm system designed to respond to a stimulus characteristic of unauthorized intrusion.

CATV alarm system. A device or system that transmits or relays a signal by community antenna television cable, or indirectly, intended to summon emergency police services of the city.

Commercial unit. Any business establishment.

Director. The police chief or his authorized representative.

False burglar alarm notification. A notification of criminal activity reported to law enforcement that:

(1) That is based solely on electronic information remotely received by an alarm system monitor;

(2) That is uncorroborated by eyewitness, video, or photographic evidence that an emergency exists; and

(3) Concerning which an agency of the city has verified that no emergency exists after an on-site inspection of the location from which the notification originated.

False robbery alarm notification. A robbery alarm notification to the police, when the responding police officer reasonably finds there is no evidence of a robbery or an attempted robber.

Financial institution. An institution required to have an alarm system by the provisions of the Bank Protection Act of 1968, 12 USC § 1882.

Governmental unit. Any agency of the federal or state government or a political subdivision of the state.

Local alarm. Any alarm system, other than an alarm system monitored by an alarm system company that results in notification to and response by members of the police department due to activation of audio or

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visual signaling devices.

Panel alarm. An alarm that is directly monitored by the public safety communications section of the police department.

Permit. A certificate, license, permit or other form of permission that authorizes a person to engage in an action.

Permit holder. The person who has received an alarm permit and is directly responsible for management and control of the alarm site. In any multiple-family dwelling unit (more than four dwelling units per building), the permit holder shall be the owner of the premises or his representative.
(Code 1996, § 4.08.001; Ordinance O-01-16 adopted 1/11/16)

Sec. 4.08.002. Permit required.

A person commits an offense if he operates or causes to be operated an alarm system or a CATV alarm system without first obtaining an alarm permit from the director. An alarm permit must be obtained by the person directly responsible for management and control of the alarm site. A separate permit is required for each alarm site. For purposes of this section, governmental units are exempt from all permit requirements.
(Code 1996, § 4.08.002; Ord. No. O-01-16, 1/11/16)

Sec. 4.08.003. Permit application.

(a) Each application for a permit required under this article must contain the following information:

(1) Name, address and telephone number of the person who will be the permit holder and be responsible for the proper maintenance and operation of the general alarm system or CATV system and payment of the fees assessed under this article.

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

(3) Classification of the alarm site as either residential, commercial, multifamily, or governmental unit.

(4) Any business name or title used for the premises on which the alarm system is to be installed or operated.

(5) The name of two other persons who have agreed to respond to an alarm in the event the permit holder is not available.

(6) Any other information required by the director which is necessary for he enforcement of this article.

(b) Application for a permit under the provisions of this article constitutes a grant of approval for members of the police department to conduct a search for intruders or the fire department to conduct a search for injured or ill persons on the interior of any building on the alarm site found to be unsecured when responding to the alarm site as a result of an alarm notification.

(c) Any false statement or misrepresentation of a material fact made by an applicant for the purpose

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of obtaining an alarm permit or renewal, or while making a change thereto, shall be sufficient cause of refusal to grant, or revocation of, a permit under this article.

(d) Upon receipt of a completed application form for a permit, the director shall issue a permit unless there is cause to believe the equipment responsible for initiating an alarm will not be maintained or operated in accordance with this article or the applicant will not comply with each provision of this article. Burglary/robbery panel alarms will be limited to financial institutions.

(e) An alarm permit cannot be transferred to another person. However, the individual designated to respond to an alarm or relay an alarm may be changed. A permit holder must inform the director of any change that alters information listed on the permit application. No fee will be assessed for such changes.

(f) The director may refuse to permit particular systems which in his discretion have a history of unreliability.

(g) For purposes of this article, information contained in the permit application will be used for law enforcement purposes. All information contained in any permit application shall be deemed confidential, pursuant to V.T.C.A., Government Code, ch. 552 and V.T.C.A., Occupations Code, § 1702.284. To the extent allowed by law, the information contained in the permit application shall not be subject to public disclosure.
(Code 1996, § 4.08.003; Ord. No. O-01-16, 1/11/16)

Sec. 4.08.004. Biennial permit fee.

Applicants shall pay a nonrefundable permit fee at the time application for a permit is made and then on the biennial anniversary thereafter in an amount provided in the city fee schedule ~~set forth in appendix A of this code~~. Permits are nontransferable.
(Code 1996, § 4.08.004; Ord. No. O-01-16, 1/11/16)

Sec. 4.08.005. Denial or revocation of permit.

(a) If the director denies the issuance of a permit; or revokes a permit, he shall send to the applicant or permit holder by certified mail, return receipt requested, written notice of his action setting forth the reason for such action and advising the applicant or permit holder of the right of an appeal.

(b) The applicant, or permit holder, may appeal the decision of the director to the appeal hearing official by filing a written request for a hearing, setting forth his objections to the action of the director; within ten days after receipt of the notice from the director.

(c) The filing of a request for an appeal hearing with the appeal hearing official shall stay the action of the director in denying the issuance of or revocation of a permit until a final decision on the appeal is made by the appeal hearing official.
(Code 1996, § 4.08.005; Ord. No. O-01-16, 1/11/16)

Sec. 4.08.006. Penalty for operation without a permit.

A person commits an offense if he operates any alarm system as defined in this article without having a valid permit in accordance with the provisions of this article and upon conviction in the municipal court of the city, shall be punished by a fine in accordance with the general penalty provision found in section 1.01.009 of this code. It shall be an affirmative defense to prosecution that, prior to any resultant court

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date for the violation, the violator obtains an alarm permit from the city.
(Code 1996, § 4.08.006; Ord. No. O-01-16, 1/11/16)

Sec. 4.08.007. Responsibilities of permit holder.

A permit holder must:

(1) Adjust or modify the sensory mechanism of his alarm system to suppress false indications of force so that the alarm system will not be activated by impulses due to:

(A) Transient pressure changes in water pipes;

(B) Flashes of light;

(C) Wind noise caused by the vibrating or rattling of doors or windows;

(D) Vehicular noise adjacent to the installation; and

(E) Other forces unrelated to actual emergencies.

(2) Maintain the premises containing an alarm system in a manner that ensures proper operation of the alarm system. It is the responsibility of the permit holder to properly maintain the alarm system to prevent false activations.

(3) Ensure that an alarm system that includes a local alarm, with an audible signaling device mounted on the exterior of a structure, is installed in such a manner whereby the audible signaling device may not be falsely activated or continuously reactivated for a period longer than a total of 30 minutes after initial activation. The occurrence of more than three such false activations in any 12-month period will result in revocation of the alarm permit until such time as the director has determined that the audible signaling device has either been rendered inoperable or repaired so as to comply with the provisions of this article. In the event the director suspends a permit under these circumstances, the permit holder may appeal the suspension as provided in section 4.08.005 of this article.
(Code 1996, § 4.08.007; Ord. No. O-01-16, 1/11/16)

Sec. 4.08.008. Responsibilities of alarm system companies.

(a) A person who is engaged in the business of relaying alarm notifications to the city shall:

(1) Send notification of an alarm to the city by an individual. The reporting of alarms by means of a recorded message is prohibited;

(2) Keep his business premises locked and secured at all times;

(3) Allow an inspection of his business premises by authorized agents of the director;

(4) Notify the city when:

(A) A permit holder has initiated, disconnected or transferred service; and

(B) A new person is listed as permit holder.

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(5) Report alarms only to a telephone number, or numbers, designated by the city;

(6) Send alarm notifications to the city in a manner and form determined by the city;

(7) Maintain a sufficient staff to ensure that valid alarms are relayed immediately to the city;

(8) Inform their customers of permit requirements; and

(9) Relay current permit numbers with all alarms.

(b) An alarm system company may be assessed a service fee in an amount set forth in appendix A of this code for each incorrect permit number relayed to the city with an alarm notification. Any service fee assessed under the provisions of this subsection must be paid within 30 days of receipt of notice that it has been assessed by the director. If the assessed fee becomes 90 days delinquent, a ten percent late charge will be added.
(Code 1996, § 4.08.008; Ord. No. O-01-16, 1/11/16)

Sec. 4.08.009. Service fees for excessive false alarm notifications.

(a) False burglar alarm notifications. If the permit holder has had five false burglar alarm notifications in the 12-month period immediately preceding any false burglar alarm, he shall be assessed a service fee in an amount set forth in appendix A this code for each subsequent false burglar alarm notification.

(b) False robbery alarm notifications. If the permit holder has had five false robbery alarm notifications in the 12-month period immediately preceding any false robbery alarm notification, he shall be assessed a service fee in an amount set forth in appendix A of this code for each subsequent false robbery alarm notification.

(c) Payment of fees. A permit holder shall pay assessed fees for any false alarm notification within ten days after notification from the director, by certified mail, that such fees have been assessed. Failure to pay fees may result in revocation of the alarm permit.

(d) Governmental unit. No service fee shall be assessed against a governmental unit.
(Code 1996, § 4.08.009; Ord. No. O-01-16, 1/11/16)

Sec. 4.08.010. Protection of financial institutions.

(a) A financial institution may install, with the permission of the director, a panel alarm in the police department for the purpose of reporting burglaries and robberies. If such installation is made, all other provisions of this article must be met. The financial institution shall execute a letter of agreement with the city permitting the installation of all necessary equipment on an indicator panel located in the communications section of the police department. The installation must be accomplished at the financial institution’s expense.

(b) The letter of agreement shall contain provisions granting a right of inspection to the director, requiring payment of an annual nonrefundable fee as provided for in the fee schedule in appendix A of this code for each indicator installed. The rights of a financial institution under such a letter of agreement with the city are not transferable. In addition to the matters set forth in this section, the letter of agreement

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shall include, but not be limited to, the following:

(1) The director annually may inspect the alarm system at the alarm site and shall require necessary repairs or improvements. If the director finds that the signaling device fails to comply with the requirements of this article, he may terminate the letter of agreement and require the removal of equipment and indicators from the police department. Such removal shall be at the expense of the financial institution;

(2) The financial institution shall, at its expense, provide service for the alarm system at the request of the financial institution or the director. In no event shall the city become liable for service charges for repairs and maintenance for any such alarm system; or

(3) The financial institution may cancel its letter of agreement with the city at any time by giving written notice to the director. Upon giving such notice thereof, the financial institution shall promptly remove its equipment and indicators from the monitoring panel in the police department. Such removal shall be at the expense of the financial institution.
(Code 1996, § 4.08.010; Ord. No. O-01-16, 1/11/16)

Sec. 4.08.011. Exclusion of certain alarm systems by owner.

(a) A property owner or agent of the property owner authorized to make decisions regarding the use of the property may elect to exclude the city from receiving an alarm signal by an alarm system located on the owner's property by filing such exclusion on a form provided by the city.

(b) If the police department response is requested to a signal from the alarm system in subsection (a) and such alarm signal is a false alarm, a fee shall be imposed on the property owner in an amount set forth in appendix A of this code for each response.
(Code 1996, § 4.08.011; Ord. No. O-01-16, 1/11/16)

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Chapter 10

ETHICS

ARTICLE I. IN GENERAL

Sec. 1.23.001. Policy.

(a) General policy statement. It is the policy of the city that all city officials shall conduct themselves both inside and outside the city's service so as to give no occasion for distrust of their integrity, impartiality or devotion to the best interest of the city and the public trust which the city holds.

(b) Appearance of impropriety. Public service is a public trust. All city officials are stewards of the public trust. They have a responsibility to the citizens of the city to administer and enforce the city charter and city ordinances. To ensure and enhance public confidence in city government, each city official must strive not only to maintain technical compliance with the principles of ethical conduct set forth in this article and in state law, but also to avoid the appearance of impropriety at all times.

(c) Purpose. This chapter has five purposes:

(1) To encourage ethical conduct on the part of city officials;

(2) To encourage public service with the city;

(3) To establish standards for ethical conduct for city officials by defining and prohibiting conduct that is incompatible with the interests of the city;

(4) To require disclosure by city officials of their economic interests that may conflict with the interests of the city; and

(5) To serve as a basis for disciplining those who fail to abide by its terms.

(d) Intention. This chapter is not intended to be used as a political weapon or to intimidate or embarrass affected persons. The officials charged with administration of this chapter shall administer it in a manner that avoids any such use of this chapter.
(Code 1996, § 1.23.001; Ord. No. O-12-19, 10/15/19)

Sec. 1.23.002. Application.

(a) This chapter applies to members of the city council, all city boards, committees or commissions.

(b) This chapter applies to the conduct or actions of public officers which occurs in whole or in part after October 15, 2019. This chapter applies to officers only while such persons hold their position or office.

(c) This chapter does not apply to employees, including those individuals employed on a full-time, part-time or internship basis nor to independent contractors of the city. The standards of conduct for employees are governed by the city's personnel policies.
(Code 1996, § 1.23.002; Ord. No. O-12-19, 10/15/19)

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Sec. 1.23.003. Definitions.[54]

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

Benefit. Anything reasonably regarded as pecuniary gain or pecuniary advantage, including any money, real or personal property, purchase, sale, lease, contract, option, credit, loan, discount, service or other tangible or intangible thing of value. Benefit includes a pecuniary gain or pecuniary advantage to any other person in whose welfare the beneficiary has a direct and substantial interest.

Board member. A member of a board or commission whose membership is wholly appointed by the city council.

Business entity. A sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, unincorporated association, or any other entity recognized by law, including a nonprofit organization or governmental entity.

Candidate. Every person who declares for or files for any city office to be filled by election.
Compensation. Any benefit received in return for labor, services, property or investment.

Economic interest. Includes a legal or equitable interest in real property, personal property, or intangible property, or a contractual right. Service by a city official as an officer, director, advisor, or other active participant in a nonprofit educational, religious, charitable, fraternal, or civic organization does not create for that city official an economic interest in the property of the organization. Ownership of an interest in a mutual or common investments fund that holds securities or other assets is not an economic interest in the securities or other assets unless the person in question participates in the management of the fund.

Employee. Any person employed by the city, whether under civil service regulations or not, including those individuals on a part-time basis, but not including any independent contractor.

Family member. The spouse and any dependent children of any official or candidate.

Gift. A benefit received other than as compensation but not including campaign contributions reported as required by state law.

Identification. For an individual, the person's name, street address, city and state. For any entity other than an individual, the term "identification" means the name, address, city and state of the entity's principal location or place of business; the type or nature of the entity's principal location or place of business; the type or nature of the entity; the date on which it came into existence; the state of incorporation, if any; and the names of the partners or officers of the entity.

Immediate family. The spouse, children, brothers, sisters and parents of an officer or employee.

Income. A benefit received.

Officer or official. The mayor or any member of the city council and any appointive member of a city

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[54] **Sec. 1.23.003. Definitions.** Definitions from throughout the chapter are combined in this section.

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board, commission or committee established by ordinance, charter or state law on a permanent basis.

Source of income. Any business entity, employment, investment or activity which earned or produced income, including interest, dividends, royalties or rents.
(Code 1996, §§ 1.23.003, 1.23.014; Ord. No. O-12-19, 10/15/19)

ARTICLE II. POLICY AND RULES

Sec. 1.23.004. Prohibition against involvement in actions affecting economic interests.

(a) General rule. It is unlawful for a city official to take any official action that he or she knows is likely to:

(1) Affect an economic interest of:

(A) The official;

(B) His or her immediate family member;

(C) A member of his or her household;

(D) An outside employer of the official or of his or her immediate family member;

(E) A business entity in which the official or his or her immediate family member holds an economic interest;

(F) A business entity for which the city official serves as an officer or director or in any other policy making position; or

(G) A person or business entity from whom the official or his or her immediate family member, has solicited, received and not rejected, or accepted an offer of employment within the past twelve months; or

(2) Confer a benefit on the official, or deprive the official of a benefit, where the effect of the action on the official is distinguishable from the effect of the action on members of the public in general or a substantial segment of the public.

(b) Meaning of "affect". In subsection (a)(1) above, an action is likely to affect an official's economic interest if it meets all of the following:

(A) The action is likely to have an effect on that interest, either positive or negative, that is distinguishable from its effect on members of the public in general or a substantial segment of the public.

(B) The effect of the action on that interest is direct, and not secondary or indirect. However, the action need not be the only producing cause of the effect in order for the effect to be direct.

(C) The effect on the interest must be more than insignificant or de minimis in nature or value.

In determining whether a person, entity or property is or was affected by vote or decision, it will not be necessary to prove the actual existence or occurrence of an economic effect or consequence if the effect or consequence would be reasonably expected to exist or occur.

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(c) Recusal and disclosure. A city official whose conduct would otherwise violate subsection (a), or a state conflict of interest law, if he or she took an action must abstain from participation in the action in accordance with the following:

(1) Immediately refrain from further participation in the matter, including discussions with any persons likely to consider the matter, from the time he or she discovers ore reasonably should have discovered the matter triggering the recusal;

(2) Promptly file a form for disclosing the nature and extent of the interest triggering the recusal with the city secretary; and

(3) Promptly disclose the interest triggering the recusal, if the person is a member of a city board or commission, to other members of the board or commission, and leave the room in which the board or commission is meeting during the board or commission's discussion of, or voting on, the matter.
(Code 1996, § 1.23.004; Ord. No. O-12-19, 10/15/19)

Sec. 1.23.005. Standards of conduct.

(a) Representation and appearance at meetings. No city officer shall knowingly:

(A) Appear before the body of which the officer is a member as a representative for any private person, including the officer or any immediate family member, or any group or interest;

(B) Represent, directly or indirectly, any private person, including the officer or any immediate family member, or any group or interest in any action or proceeding against the interests of the city or in any litigation in which the city or any department, agency, commission or board thereof is a party;

(C) Accept other employment or engage in outside activities incompatible with the full and proper discharge of city duties or that might impair independent judgment in the performance of city duties;

(D) make a false statement of material fact at a public meeting.

This subsection shall not be construed to deprive an officer of the right to due process under the law, including the right to represent himself/herself in a court proceeding.

(b) Representation by councilmembers. No city council member shall knowingly represent any private person, including the city council member or any immediate family member, or any group or interest in any matter before any department, agency, commission or board of the city, except that city council members may represent their interests in their owner-occupied homesteads before a board, agency, commission or department of the city other than the city council.

(c) Representation in municipal court. In any action or proceeding in the municipal court which is instituted by a city officer in the course of official duties:

(1) No city council member shall knowingly represent any private person other than himself or herself. If a city council member elects to have a trial in municipal court, the city council, without the participation of the affected city council member, will appoint a special judge to preside over the trial.

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(2) No city officer shall knowingly represent any private person other than himself or herself, including any immediate family member, or any group or interest.

(d) Representation in land use and development matters. A member of the planning and zoning commission shall not knowingly represent the member or any other person, group or interest in any matter before the development regulation variance board involving land use or development, and a member of the development regulation variance board shall not knowingly represent the member or any other person, group or interest in any matter before the planning and zoning commission involving land use or development. This subsection does not apply to members representing their interests in their owner-occupied homesteads.

(e) Prohibited use of city position. A city official shall not use his or her position to unfairly advance or impede private interests, or to grant or secure, or attempt to grant or secure, for any person (including himself or herself) any form of special consideration, treatment, exemption, or advantage beyond that which is lawfully available to other persons. A city official who represents to a person that the official may provide an advantage or impediment to the person based on the official's office or position violates this rule.
(Code 1996, § 1.23.005; Ord. No. O-12-19, 10/15/19)

Sec. 1.23.006. Contracts with city; eligibility for appointment or election to office.

(a) No member of the city council shall have a financial interest in the sale to the city of any land, materials, supplies or service, outside of the person's position with the city. Any person having an interest shall be ineligible for election as a city council member, and any city council member who acquires an interest shall forfeit the office. Any violation of this subsection with the actual or constructive knowledge of the city council member shall render the contract voidable by the city manager or the city council.

(b) In this section 1.23.006, the term "sale to the city" includes a sale to city-sponsored entities and organizations subject to substantial control by the city in one or more of the following respects:

(1) All or a majority of the governing body of the entity or organization is appointed by the city council;

(2) The city provides more than one-half of the operating funds of the entity or organization;

(3) The city has approval authority over purchasing decisions made by the entity or organization;

(4) The city has approval authority over bonds or other indebtedness issued by the entity or organization; or

(5) The city has approval authority over the budget of the organization.

(c) This article does not apply to acquisition of property by the city as a result of eminent domain proceedings or the threat of eminent domain proceedings
(Code 1996, § 1.23.006; Ord. No. O-12-19, 10/15/19)

Sec. 1.23.007. Restrictions on former officials.

No former city officer or official shall, for a period of one year from the date of leaving office knowingly

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represent, directly or indirectly, any private person or any group or interest in any action or proceeding against the interests of the city or in any litigation in which the city or any department, agency, commission, or board thereof is a party.
(Code 1996, § 1.23.007; Ord. No. O-12-19, 10/15/19)

Sec. 1.23.008. Ethics review commission; established, composition, terms of members.

An ethics review commission is established, to be composed of seven members, all of whom will reside in the city. Members of the commission will be appointed by a majority vote of the city council for staggered three-year terms and will serve until their respective successors are appointed.
(Code 1996, § 1.23.008; Ord. No. O-12-19, 10/15/19)

Sec. 1.23.009. Organization; rules and regulations.

The ethics review commission each year will elect from its membership its chairperson and will promulgate its own rules and regulations as to its forms and procedures and maintain proper records of its opinions and proceedings.
(Code 1996, § 1.23.009; Ord. No. O-12-19, 10/15/19)

Sec. 1.23.010. Authority and duties.

(a) Review and recommendations. The ethics review commission will meet at least once a year to review this article and may make recommendations to the city council.

(b) Hearings. The ethics review commission shall consider and conduct hearings on complaints of violations of this article and of state conflict of interest laws in accordance with section 1.23.011.

(c) Advisory opinions. The commission shall render advisory opinions on potential conflicts of interest or violation of this article at the request of a public official, subject to the terms of this article. The opinion must relate to an action proposed to be taken by the person requesting the opinion.

(d) Opinions binding. Any advisory opinion rendered by the commission to a person is binding on the commission in any subsequent complaint concerning the person about whom the opinion was requested and who acted in reliance on it in good faith, unless material facts were omitted or misstated by the person in connection with the opinion.
(Code 1996, § 1.23.010; Ord. No. O-12-19, 10/15/19)

Sec. 1.23.011. Complaints; review and hearing; sanctions for violations.

(a) Complaint procedure.

(1) Any officer, official, or employee of the city who believes an official has violated a provision of this article or a state conflict of interest law may file a written complaint with the city attorney. The complaint must:

(A) Identify the complainant and the person who allegedly committed the violation;

(B) Provide a sufficient statement of the facts which if true would constitute a prima facie violation of a provision of this article or a state conflict of interest law;

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(C) Specify the provision of this article or a state conflict of interest law which is alleged to have been violated;

(D) Identify sources of evidence, if any, that the complainant recommends should be considered by the commission; and

(E) Be filed on a form prescribed by the commission.

(2) The city attorney will acknowledge the receipt of the complainant and provide a copy of the complaint to the commission and to the person accused.

(b) Review of complaints by commission.

(1) The commission shall review each complaint prior to conducting a hearing to determine whether the complaint is in proper form and alleges sufficient facts to constitute a prima facie violation of a provision of this article or a state conflict of interest law.

(2) If the commission determines that the complaint is defective in form or does not allege sufficient facts to constitute a prima facie violation of a provision of this article or a state conflict of interest law, the commission shall dismiss the complaint, and provide notice, including the reasons for the dismissal, to the complainant and to the person accused.

(3) If the commission determines that the complaint is in proper form and alleges sufficient facts to constitute a prima facie violation of a provision of this article or a state conflict of interest law, the commission shall schedule a hearing on the complaint.

(c) Hearings.

(1) The commission will adopt rules of procedure to govern hearing on complaints. The rules will allow for the presentation of evidence by the complainant and the person accused, and cross examination of witnesses.

(2) The chair of the commission or any person acting in that capacity, and the recording secretary of the commission, are authorized to administer oaths to persons who testify at hearings conducted by the commission.

(d) Ex parte communications. It is unlawful for a person who has filed a complaint alleging a violation of this article or a state conflict of interest law by a city officer, or a person against whom such a complaint has been filed, to communicate verbally or in writing about the subject matter of the complaint with a member of the ethics review commission at any time other than during a public meeting of the commission. All such communications by such persons to the commission outside of a public meeting of the commission must be directed to the city attorney. The city attorney will collect all such communications and provide them to the commission with the agenda materials for the meeting at which the complaint is considered. The city attorney will make copies of these communications available to interested persons in accordance with state law.

(e) Sanctions. If the commission determines at the conclusion of a hearing that a violation has occurred, it may impose or recommend any of the following sanctions:

(1) A letter of notification, if the violation is clearly unintentional, or when the official’s action was

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made in reliance on a written opinion of the city attorney. A letter of notification shall advise the official of any steps to be taken to avoid future violations.

(2) A letter of admonition, if the commission finds that the violation is minor and may have been unintentional but calls for a more substantial response than a letter of notification.

(3) A reprimand, if the commission finds that the violation:

(A) was minor and was committed knowingly, intentionally or in disregard of this article or a state conflict of interest law; or

(B) was serious and may have been unintentional.

A copy of any reprimand directed to an official shall be sent to the city council.

(4) A recommendation of suspension from office, if the commission finds that the violation:

(A) was serious and that was committed knowingly, intentionally or in disregard of this article or a state conflict of interest law; or

(B) was minor but similar to a previous violation by the person, and was committed knowingly, intentionally or in disregard of this article or a state conflict of interest law.

A recommendation of suspension of an official appointed by the city council shall be transmitted to the city council, and the council will have final authority on whether to impose a suspension.

(5) A recommendation for recall or removal from office, if the commission finds that the violation was serious and was committed knowingly, intentionally or in disregard of this article or a state conflict of interest law. A recommendation for recall of a city council member or removal of an official appointed by the city council will be forwarded to the city council.

(6) In addition to a sanction under subsections (1) through (5) above, the commission may recommend to appropriate authorities that a person be prosecuted for a violation of this article or a state conflict of interest law.
(Code 1996, § 1.23.011; Ord. No. O-12-19, 10/15/19)

Sec. 1.23.012. Special counsel.

An independent outside attorney approved by the city council, who does not otherwise represent the city, shall be retained to serve as special counsel to the ethics review commission in the following situations:

(1) When a complaint is filed alleging that the mayor or a member of the city council, or the city manager or city secretary violated this article or a state conflict of interest law.

(2) When an advisory opinion is requested under section 1.23.010(c) by the mayor or a member of the city council, or by the city manager or the city secretary.
(Code 1996, § 1.23.012; Ord. No. O-12-19, 10/15/19)

Sec. 1.23.013. Discipline for violations.

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The penalties prescribed herein do not limit the power of the city council to discipline its members for violations of this article, the home rule charter, any ordinance of the city, or a state conflict of interest law.
(Code 1996, § 1.23.013; Ord. No. O-12-19, 10/15/19)

Sec. 1.23.015. Financial disclosure statement required.

(a) Between March 15 and April 30 of each year, every city council member, and the city manager and city secretary shall file a sworn financial disclosure statement with the city secretary reflecting the financial situation of the official as of December 31 of the previous year and the official's financial activity between January 1 to December 31 of the previous year.

(b) A newly elected city council member and a newly appointed city manager, or city secretary shall file a sworn financial disclosure statement with the city secretary within 30 days from the date the position is assumed. The statement shall reflect the financial condition as of the date and financial activity for the previous 12 months.

(c) A candidate for city council shall file a sworn statement with the city secretary not later than ten days from the date the candidate files with the city secretary an application to be placed on the official ballot. This statement shall include:

(1) A list of any financial interest the person has, direct or indirect, in real property located within the corporate limits or within the extraterritorial jurisdiction of the city.

(2) A list of any financial interest the person has, direct or indirect, in any business entity located in the city or its extraterritorial jurisdiction or any business entity doing business with the city.

(3) The financial interests listed by the person shall include those held at any time during the 12 months preceding the date of filing for office and shall include any interest held by the candidate or a family member of the candidate.

(d) All board members shall file a disclosure statement with the city secretary within 30 days after their initial appointment, and thereafter between October 1st and October 31st of each year, regarding their relevant substantial interests in business entities and real property during the 12-month period preceding the date of the statement. The statement shall be on a form provided by the city. For purposes of this section, the term "business entity" and the determination of substantial interests in business entities and real property shall be as defined and determined under V.T.C.A., Local Government Code, ch. 171.

(e) Any person filing a statement required by this section may include additional time periods.
(Code 1996, § 1.23.015; Ord. No. O-12-19, 10/15/19)

Sec. 1.23.016. Information required on financial disclosure statement.

(a) Every person required to file a financial disclosure statement under section 1.23.015(a) or (c) shall include in that statement the following information:

(1) The person's name, the name of each family member and all names under which the person or family members do business.

(2) Identification of each source of income amounting to more than $100.00 received in the reporting

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periods by the person or family members, stating the name, address, and nature of the source of income and stating the amount of income received; and identification of each option held, owned, acquired or sold during the reporting period, stating the nature of the option, the amount of transaction, and identification of the other parties to the transaction.

(3) Identification of each business entity, nonprofit entity or union in which the person or family member:

(A) Was a partner, manager, officer, member of the board of directors, proprietor or beneficiary, during the reporting period, stating the position held; or

(B) Had an ownership interest of more than $100.00 at the fair market value at any time during the reporting period, stating the value and a description of that ownership interest; provided that, where the ownership interest includes or consists of shares of stock, the number of shares owned shall be stated together with the number of outstanding shares; and if sold during the reporting period a statement of the net gain or loss realized from the sale.

(4) Identification by street address, legal or lot-and-block description of all real property located within the city and its extraterritorial jurisdiction, together with its fair market value and present use, in which the person or family member has an interest as:

(A) Fee simple owner;

(B) Beneficial owner;

(C) Partnership owner, naming the partners;

(D) Joint owner with an individual or corporation, naming them;

(E) Board member, officer or the owner of more than five per cent of a corporation that has title to the real property, naming the corporation; or

(F) A leaseholder, naming the person or corporation from whom the property is leased and the amounts of annual rental.

The form shall note whether the person claims a homestead exemption on any real property owned by the person.

(5) Identification of persons, business entities or guarantors to whom the person or a family member owed a debt of more than $100.00 during the reporting period, stating the amount, but not including debts owed to persons related within the second degree of consanguinity or affinity and excluding loans to a political campaign which were reported as required by law. If this debt was repaid during the reporting period, the date and amount of repayment shall also be stated.

(6) This information is not privileged by law, identification of persons, entities or guarantors who owed the person or a family member a debt of more than $100.00 during the reporting period, stating the amount, including all bonds, notes and other commercial paper held or owed by the person reporting or any family member during the reporting period, but not including debts owed by persons related within the second degree of consanguinity or affinity. If this debt was repaid during the reporting period, the date and amount of repayment shall also be stated.

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(7) Identification of the source of each gift or accumulation of gifts from one source of more than $100.00 in value received by the person or family member, or received by another person for the use and benefit of the person or family member, within the reporting period, stating the amount; but this requirement does not include:

(A) A gift received from a relative if given because of kinship; or

(B) A gift received by will, by intestate succession or as distribution from an inter vivos or testamentary trust established by a spouse or ancestor.

(8) Provided this information is not privileged by law, if the person filing the statement is the owner of five per cent or more of any business entity, the person shall list all customers from whom the entity received at least ten per cent of its gross income during the reporting period.

(9) Identification of any financial interest in or any transaction during the reporting period with any holder of any franchise issued by the city, other than as a utility or franchise customer or patron, stating the nature and amount of interest and transaction, including transactions by any family member and any business entity in which the person filing the statement has an ownership interest of five per cent or more.

(b) Except for the identification of transactions and amounts required by subsection (a)(9) of this section, any amount required to be reported under subsection (a) of this section may be reported by categories as follows:

(1) Category I. At least $100.00 but less than $10,000.00;

(2) Category II. At least $10,000.00 but less than $20,000.00; or

(3) Category III. At least 20,000.00 but less than $50,000.00.

(4) Category IV. At least $50,000.00 but less than $75,000.00;

(5) Category V. At least $75,000.00 but less than $100,000.00; and

(6) Category VI. $100,000.00 or more, report to nearest $100,000.
(Code 1996, § 1.23.016; Ord. No. O-12-19, 10/15/19)

Sec. 1.23.017. Retention of statements and inspection.

(a) The city secretary shall maintain all statements required to be filed with the city clerk under section 1.23.015 as public records and shall retain them for a period of three years, after which the statements will be returned to the person filing them or will be destroyed.

(b) The financial disclosure statement file maintained by the city secretary under this section shall be kept in alphabetical order for each year in which statements are filed. This file is open to public inspection during normal hours. The city secretary shall maintain a list of all persons requesting to inspect these files, identifying the files inspected.
(Code 1996, § 1.23.017; Ord. No. O-12-19, 10/15/19)

Sec. 1.23.018. Forms of statements.

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Financial disclosure statements shall be filed on the form promulgated by the city secretary. The city secretary will provide a form to any person requesting one and not less than ten days before the last day set for filing a statement by any person, shall send a form to the person.
(Code 1996, § 1.23.018; Ord. No. O-12-19, 10/15/19)

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Chapter 12

FIRE PREVENTION AND PROTECTION

ARTICLE I. IN GENERAL

Sec. 5.02.005. Authority of city manager to provide central management and oversight.

The city manager has the right to appoint and remove the fire chief or the police chief, or to combine the management and oversight duties of the fire department and police department into one position, which position may be created and staffed by the city manager.
(Code 1996, § 5.02.005; Ord. No. 696-00, 12/4/00)

Sec. 5.07.001. Arson reward.[55]

(a) *Established.* The city will pay out of the general fund of the city, the sum of $250.00 as a reward to any person or persons giving information or otherwise causing the arrest and conviction of any person or persons found guilty of committing the crime of arson within the corporate limits of the city. This reward is a standing offer. The city council shall be the sole and exclusive judge in determining whether a person is entitled to such reward and in determining the proration between persons where more than one person is entitled to such reward, and the conclusions of the city council in such cases shall be final.

(b) *Posting.* The city secretary is directed to cause placards measuring eight inches by 12 inches in size to be printed with the following language thereon: "Arson Reward. The City of Glenn Heights, Texas, offers a reward of $250.00 for the arrest and conviction of any person found guilty of committing the crime of arson within the corporate limits of the city. This reward is a standing offer and shall be paid out of the general fund of the city." ~~The city secretary shall post in public buildings within the corporate limits not less than six of such placards behind glass, to keep an additional supply of such placards on hand and replace any placards worn or defaced, and furnish to the state board of insurance a certified copy of this article, a copy of one such placard, and a list of the buildings where the placards have been posted in the corporate limits.~~
(Code 1996, §§ 5.07.001, 5.07.002)

ARTICLE II. FIRE DEPARTMENT

Sec. 5.02.001. Created and established; purpose.

The city has created and established a fire department in and for the city for the purpose of preservation of life and property from the ravages of fire, injury and sudden illness. The fire department, which shall be known as the Glenn Heights Fire Department ("GHFD") is and shall be a full, bona fide department of the city. The department head, entitled as "fire chief," shall be appointed by and immediately subordinate and accountable to the city manager or other person designated by the city manager.
(Code 1996, § 5.02.001; Ord. No. 696-00, 12/4/00)

Sec. 5.02.002. Officers, members and employees.

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[55] **Sec. 5.07.001. Arson reward.** Does the city wish to retain this section? Also, the details for posting and distribution are stricken in that I assume those acts have been accomplished.

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The GHFD shall be composed of volunteer members and paid employees, whether full time or part time. All members, whether volunteer or paid, shall obey all superior officers whether they are volunteer or paid and shall comply with all rules and regulations of the GHFD. All officers shall ensure fair and impartial direction, leadership and discipline as administered to paid employees/volunteer members alike according to the department's rules and procedures. All officers shall be selected for promotion in a manner consistent with the city's ordinances and policies.
(Code 1996, § 5.02.001; Ord. No. 696-00, 12/4/00)

Sec. 5.02.003. Fire chief's duties and powers generally.

(a) The fire chief, or other person designated by the city manager, shall be the chief executive officer of the GHFD and shall fulfill all responsibilities pertaining to his department including, but not limited to, personnel management, planning and organization, budget preparation and control, establishing policies and procedures, training of personnel, vehicle and facility maintenance, fire service communications, inventory control, emergency scene management/coordination, fire prevention and education activities, and submitting necessary records and reports pertaining to the fire department.

(b) The fire chief, or other person designated by the city manager, shall have full authority to reprimand or suspend any member, whether paid or volunteer, who fails to comply with the department rules, regulations or procedures. The fire chief shall have the authority to recommend the employment and discharge of any member to the city manager.
(Code 1996, § 5.02.003; Ord. No. 696-00, 12/4/00)

Sec. 5.02.004. Organization.

The fire chief, or other person designated by the city manager, shall organize the GHFD in a logical manner to facilitate the accomplishment of the department's goal and objectives in a safe, orderly and efficient manner. The fire chief, or other person designated by the city manager, may establish bureaus, divisions, sections, etc., as he deems appropriate, and shall designate officers to head each of those subunits and specify the chain of command of those officers as well as the duties of each. The fire chief, or other person designated by the city manager, shall designate the order of succession of the assistant fire chiefs, and shall establish a chain of command in case of an emergency.
(Code 1996, § 5.02.004; Ord. No. 696-00, 12/4/00)

ARTICLE III. FIRE REGULATIONS

DIVISION 1. GENERALLY

Sec. 5.03.001. Fire code and other publications adopted by reference.[56]

The city has adopted in section 3.04.001 of this Code the 2021 Edition of the International Fire Code, subject to amendments as provided in section 3.04.002 of this Code. In addition to the International Fire Code, the city adopts the most recent version of the National Fire Prevention Association 99C Standard on Gas and Vacuum Systems (NFPA 99C), including all appendices, except as modified or amended in

[56] **Sec. 5.03.001. Fire code and other publications adopted by reference.** A reference to the fire code adoption as part of the adoption of the ICC code family in the buildings chapter is inserted.

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this article. A copy of NFPA 99c shall be on file in the office of the city secretary.
(Code 1996, § 5.03.001; Ord. No. O-04-18, 2/20/18; Ord. No. O-13-24, § 7, 6-18-2024)

Sec. 5.03.004. Storage of certain flammable or combustible liquids prohibited.

The storage of flammable or combustible liquids in outside aboveground tanks is prohibited within the corporate city limits.
(Code 1996, § 5.03.004)

Sec. 5.03.005. Storage of liquefied petroleum gases restricted.

No bulk storage of liquefied petroleum gases and no storage of liquid petroleum gases for resale shall be allowed within the corporate city limits. Only that liquefied petroleum gas which is being consumed by the occupant for either personal or business needs will be allowed within the corporate city limits.
(Code 1996, § 5.03.005)

Sec. 5.03.006. Storage of explosives and blasting agents prohibited.[57]

The limits referred to in **Table 2703.1.1(1) of the adopted fire code** ~~**2006 International Fire Code**~~ in which storage of explosives and blasting agents is limited to certain amounts per control area, is amended to disallow all storage of explosives and blasting agents within the corporate city limits.
(Code 1996, § 5.03.006; Ord. No. O-847-07, § 3, 7/16/07)

Sec. 5.03.007. Appeals.

When the chief disapproves an application or refuses to grant a permit applied for, or when it is claimed that the provisions of the fire code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the chief to the city manager within 30 days from the date of the decision appealed.
(Code 1996, § 5.03.007)

Sec. 5.03.008. New materials, processes or occupancies which may require permits.

The city manager, the fire chief and the chief of the bureau of fire prevention shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies for which permits are required in addition to those now enumerated in the code. The chief of the bureau of fire prevention shall post such list in a conspicuous place in his office and distribute copies thereof to interested persons.
(Code 1996, § 5.03.008)

Sec. #. Outdoor burning.

Outdoor burning shall be done only in accordance with the rules and regulations of the state natural resource conservation commission.
(Code 1996, art. 5.05)

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[57] **Sec. 5.03.006. Storage of explosives and blasting agents prohibited.** Please update the table reference, if necessary, to that appearing in the 2021 code rather than the 2006 code.

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Sec. 5.03.009. Penalties.

(a) Any person who shall violate this article or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the city manager or by a court of competent jurisdiction, within the time fixed herein, shall severally for every such violation and noncompliance, respectively, be guilty of a misdemeanor, punishable by a fine as provided for in the general penalty provision found in section 1.01.009 of this code, or by imprisonment for not less than three days nor more than 30 days or by both such fine and imprisonment.

(b) The imposition of one penalty for any violation shall not excuse the violation or permit it to continue, and all such persons shall be required to correct or remedy such violations or defects within a reasonable time.

(c) When not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense.

(d) The application of the above penalty shall not be held to prevent the enforced removal of the prohibited conditions.
(Code 1996, § 5.03.009)

DIVISION 2. FIREWORKS

Sec. 5.06.001. Definitions.[58]

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

Fireworks means a composition or device designed for entertainment to produce a visible or audible effect by combustion, explosion, deflagration, or detonation and defined by 49 CFR. § 173.56(j) (1996). ~~any sparkler, squib, rocket, firecracker, Roman candle, torpedo, fire balloon, star shell, cannon cracker, garb, or any other substance in whatever combination by any designated name used to obtain a visible or audible pyrotechnic display, and shall include all articles or substances within the commonly accepted meaning of fireworks, whether herein specifically designated and defined or noted.~~

Fireworks 1.4G means a small fireworks device primarily designed to produce visible or audible effects by combustion, deflagration, or detonation, that complies with the construction, labeling, and chemical composition requirements of the United States Consumer Product Safety Commission in 16 CFR Part 1507, and that is classified by the department in 49 CFR Part 173.

~~Person. Any natural person, association of persons, partnership, corporation, agent, or officer; and shall include all warehousemen, common and private carriers, bailees, trustees, receivers,~~

[58] **Sec. 5.06.001. Definitions.** Definition of fireworks is conformed to V.T.C.A., Occupations Code, § 2154.001. A definition of 1.3G fireworks is added, and duplicative definition of "person" is stricken.

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~~executors, administrators, parents, and guardians.~~
(Code 1996, § 5.06.001)

Sec. 5.06.002. Fireworks prohibited.

It is unlawful except as otherwise provided in this division, for any person to have, keep, store, discharge, use, manufacture, assemble, sell, handle, transport, receive, offer for sale, or have in his possession with intent to sell, use, discharge, cause to be discharged, ignite, detonate, fire, or otherwise set in action any fireworks of any description, within the city limits and within an area immediately adjacent and contiguous to the city limits and extending for a distance of 5,000 feet.
(Code 1996, § 5.06.002)

Sec. 5.06.003. Exceptions.[59]

This article shall not apply to the retail sale of class "C" (1.4 G) common fireworks ~~(as defined by V.T.C.A., Insurance Code, art. 5.43-4)~~ and related activities, on certain properties within 5,000 feet of the city limits, provided that:

(1) No fireworks warehouse is permitted.

(2) The retail locations are adjacent to and fronting on Interstate 35E and were issued fireworks retail permits as of **June 1994**, or before.[60]

(3) Retail sales are permitted only from June 24 through July 4 and from December 20 through January 1 of each year ~~in accordance with the Texas Insurance Code, article 5.43-4, section 8(a)(1) and (2)~~.[61]

(4) Retail fireworks sales are only allowed from fireworks buildings constructed in accordance with 28 Tex. Adm. Code § 34.382 ~~37 Tex. Adm. Code § 591.17~~.[62]

(5) All retail fireworks sales must be strictly in accordance with the general requirements as set forth in 28 Tex. Adm. Code § 34.817 ~~37 Tex. Adm. Code section 591.17~~.

(6) No manufacturing or magazine facilities as defined by 28 Tex. Adm. Code §§ 34.801—34.832 ~~37 Tex. Admin. Code chapter 591~~ shall be permitted.
(Code 1996, § 5.06.003)

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[59] **Sec. 5.06.003. Exceptions.** Art. 5.43-4 was repealed in 1999. Class C (1.4G) fireworks are now defined in V.T.C.A., Occupations Code, § 2154.001 as shown in the definitions section.

[60] **Sec. 5.06.003. Exceptions—Contd.** In subsection (2), what is the complete date (June ?, 1994)? Also, is subsection (2) obsolete?

[61] **Sec. 5.06.003. Exceptions—Contd.** Art. 5.43-4 was repealed in 1999. V.T.C.A., Occupations Code, § 2154.202(g) provides the permissible time for retail sales and 2154.202(h) allows the county to establish additional permissible time frames. Does the city wish to conform to the cited statute? Does the city wish to authorize retail sales at all times that the county authorizes such sales?

[62] **Sec. 5.06.003. Exceptions—Contd.** Citations to TAC are corrected as shown.

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Sec. 5.06.004. Fireworks as a public nuisance.

(a) The presence of any fireworks within the jurisdiction of the city and within an area immediately adjacent and contiguous to the city limits and extending for a distance of 5,000 feet in violation of this division is declared to be a nuisance.

(b) The fire chief is directed and required to seize and cause to be destroyed any fireworks found in violation of this section, and any police officer of the city or any other peace officer is empowered to stop the transportation of and detain any fireworks found being transported illegally or to close any building where any fireworks are found stored illegally until the fire chief can be notified in order that the fireworks may be seized and destroyed in accordance with the terms of this section.

(c) Notwithstanding any penal provision of this section, the city attorney is authorized to file suit on behalf of the city and the fire chief, or both, for such injunctive relief as may be necessary to prevent unlawful storage, transportation, the keeping, or the using of fireworks as prohibited herein, and to aid the fire chief in the discharge of his duties and to particularly prevent any person from interfering or attempting to interfere with the seizure and destruction of such fireworks. It shall not be necessary to obtain any such injunctive relief as a prerequisite to such seizure and destruction.

(d) The fire chief is authorized to enter any building where the unlawful presence of fireworks is suspected in order to inspect the same for the presence of such fireworks. If the fire chief or his duly authorized assistant has probable cause to believe that fireworks are being stored in a building, he shall promptly enter the building for the purpose of inspection. It is the duty of the owner, lessee, their agents, or anyone else thereof to open and permit the entry of authorized inspectors to the building.
(Code 1996, § 5.06.005)

Sec. 5.06.005. Territorial applicability.

This article shall also be applicable and in force within the area immediately adjacent and contiguous to the city limits and extending for a distance outside the city limits for a total of 5,000 feet, and it is unlawful to do or perform any act in violation of this article within such area of 5,000 feet outside the city limits provided that this article shall not apply within any portion of such 5,000-foot area which is contained within the territory of any other municipal corporation.
(Code 1996, § 5.06.005)

Sec. 5.06.006. Not necessary to negative exceptions.

In any prosecution for any violation of this article, it shall not be necessary for the prosecution to negate any provisions of exception, but the same may be raised by the defendant by way of defense.
(Code 1996, § 5.06.006)

DIVISION 3. SMOKE DETECTORS

Sec. 5.08.001. Definitions.[63]

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

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[63] **Sec. 5.08.001. Definitions.** A standardized introduction is substituted for consistency.

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Bedroom. Any room which is designed with the intent that it be used for sleeping purposes. Corridor. A passage which connects parts of the dwelling unit.

Dwelling unit. A home, mobile home, duplex unit, apartment unit, condominium unit, or any dwelling unit in a multi-unit residential structure, which is not owner occupied. It also shall mean one or more rooms which are subject to a single rental agreement and which are rented to a tenant or tenants for use by persons as a permanent residence.

Landlord. The owner, lessor, or sublessor of a dwelling unit. A managing agent or leasing agent, whether residing or officing on-site or off-site, shall be considered the agent of the landlord for purposes of notice and other communications required or allowed under this article. Otherwise, a manager or agent of the landlord shall be considered a landlord only if the manager or agent purports to be the owner, lessor, or sublessor in the rental agreement.

Smoke detector. A device which is:

(1) Designed to detect visible or invisible products of combustion;

(2) Designed with an alarm audible to the bedrooms it serves;

(3) Powered by either battery, alternating current, or other power source;

(4) Tested and listed for use as a smoke detector by Underwriters' Laboratories, Inc., Factory Mutual Research Corporation, or United States Testing Company, Inc.; and

(5) In good working order.

Tenant. Any person who is entitled to occupy a dwelling unit to the exclusion of others and who is obligated to pay rent for the dwelling unit under a written or oral rental agreement.

Test of smoke detector. The performance of the act or acts which the manufacturer of a smoke detector recommends for that particular model of smoke detector as a simple test of whether or not the smoke detector is in good working order.
(Code 1996, § 5.08.001)

Sec. 5.08.002. Location and installation standards.

(a) For all dwelling units, at least one smoke detector shall be installed by the landlord outside of each separate bedroom in the immediate vicinity of the bedroom, except that:

(1) Where the dwelling unit is designed with the intent that a single multi purpose room be used for dining, living, and sleeping purposes, the smoke detector shall be located inside the room rather than outside;

(2) Where the bedrooms are served by the same corridor, at least one smoke detector shall be installed in the corridor in the immediate vicinity of the bedrooms; and

(3) Where one or more bedrooms are located on a level above the cooking and living area the smoke detector shall be placed at the center of the ceiling directly above the top of the stairway.

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(b) A smoke detector required by this article shall be installed prior to commencement of possession of the dwelling unit by the tenant in accordance with the manufacturer's recommended procedures, subject to the following:

(1) A smoke detector shall be installed on a ceiling or wall;

(2) If installed on a ceiling, the smoke detector shall be installed no closer than six inches to a wall;

(3) If installed on a wall, the smoke detector shall be installed no closer than six inches to the ceiling and no further than 12 inches from the ceiling;

(4) A smoke detector may be located elsewhere if permitted by ordinance or by written authority of a city, county, or state fire marshal; and

(5) If a smoke detector is electrically operated rather than battery operated, the power system and installation procedures for the smoke detector shall comply with applicable provisions of this Code.

(Code 1996, § 5.08.002)

Sec. 5.08.003. Duty to install in existing units.[64]

For all dwelling units constructed **before the adoption of this division**, at least one smoke detector shall be installed by the landlord in accordance with section 5.08.002 above. A smoke detector required by this section shall be installed in accordance with the location and installation procedure requirements of section 5.08.002(b) above.

~~Prior to January 1, 1984, a tenant may install a battery-operated smoke detector in a unit covered by section 5.08.004(a) of this article without prior consent of the landlord, provided the smoke detector is installed in accordance with the location and installation procedure requirements of section 5.08.002 above. At the end of the rental period or the renewal or extension of the rental period, the tenant may remove a smoke detector installed by the tenant; but the tenant shall be liable to the landlord for any unnecessary damages to the dwelling unit in removing the smoke detector.~~

(Code 1996, § 5.08.003)

Sec. 5.08.004. Duty to inspect and repair.

(a) Upon commencement of a tenant's possession of a dwelling unit containing a smoke detector, the landlord shall have a duty to test the smoke detector to verify that it is in good working order. Upon installation of a smoke detector by a landlord after commencement of the tenant's possession of a dwelling unit, the landlord shall have a duty to test the smoke detector at that time to verify that it is in good working order.

(b) During the term of the rental agreement or any renewal or extension thereof, the landlord shall have a duty to inspect and repair a smoke detector only if the tenant has given notice to the landlord of malfunction or made a request to the landlord for inspection or repair. The notice to the landlord need not

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[64] **Sec. 5.08.003. Duty to install in existing units.** Do we have the actual date of adoption of this section? Also, obsolete text is stricken as shown.

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be in writing unless written notice is required in the written rental agreement. The landlord shall comply with the tenant's request for inspection and repair within a reasonable time, considering the availability of material, labor, and utilities.

(c) A landlord shall not have a duty to inspect or repair a smoke detector if the damage or malfunction is caused by the tenant or the tenant's family, guests, or invitees during the term of the rental agreement or any renewal or extension period of the rental agreement; provided, however, a landlord shall have a duty to repair or replace a smoke detector covered by this subsection if the tenant pays in advance for the reasonable cost of the repair or replacement, including labor, materials, taxes, and overhead.

(d) A landlord shall have satisfied his duty to inspect or repair a damaged or malfunctioning smoke detector if, after a test of the smoke detector, the test indicates that the smoke detector is in good working order.
(Code 1996, § 5.08.004)

Sec. 5.08.005. Duty to replace batteries.

After commencement of possession by the tenant of a dwelling unit, the landlord shall have no duty to provide replacement batteries for a battery-operated smoke detector which was in good working order according to a test of the smoke detector at the time of commencement of possession by the tenant.
(Code 1996, § 5.08.005)

Sec. 5.08.006. Exemptions.

This article shall not apply to dwelling units which are owner-occupied and not rented or leased to a tenant, in whole or in part, or nursing and convalescent homes licensed by the state department of health and certified to meet the life safety code under federal law.
(Code 1996, § 5.08.006)

Sec. 5.08.007. Waiver not permitted.

The landlord's duty of installation of smoke detectors under this division may not be waived.
(Code 1996, § 5.08.007)

Sec. 5.08.008. Required in hotels and motels.

Every guest room in an existing hotel or lodging house used for sleeping purposes shall be provided with smoke detectors conforming to building code standards.
(Code 1996, § 5.08.008)

ARTICLE 5.04 FIRE MARSHAL

Sec. 5.04.001. Office created.

The city has established the office of fire marshal which is independent of other city departments. The office shall be filled by appointment by the city manager.
(Code 1996, § 5.04.001)

Sec. 5.04.002. Investigation.

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(a) The fire marshal shall investigate the cause, origin, and circumstances of every fire occurring within the city by which property has been destroyed or damaged and shall especially make investigation as to whether such fire was the result of carelessness or design. Such investigation shall be begun within 24 hours, not including Sunday, of the occurrence of such fire. The fire marshal shall keep in his office a record of all fires, together with all facts, statistics, and circumstances, including the origin of the fires and the amount of the loss, which may be determined by the investigation required by this article.

(b) 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. 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.

(c) 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 section, a subject of inquiry and investigation and may require the production of any book, paper, or document deemed pertinent thereto. The fire marshal is authorized and empowered to administer oaths and affirmations to any persons appearing as witnesses before him.

(d) Any witness who refuses to be sworn or who refuses to appear or testify, or who disobeys any lawful order of the fire marshal, or who fails or refuses to produce any book, paper, or document touching any matter under examination, or who is guilty of any contemptuous conduct during any of the proceedings of the fire marshal in the matter of the investigation or inquiry, after being summoned to give testimony in relation to any matter under investigation as 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 as provided for in the general penalty provision found in section 1.01.009 of this code; provided, however, that any person so convicted shall have the right of appeal.

(e) All investigations held by or under the direction of the fire marshal may, in his discretion, be private, and persons other than those required to be present may be excluded from the place where such investigation is held, and witnesses may be kept separate and apart from each other and not allowed to communicate with each other until they have been examined.
(Code 1996, § 5.04.002)

Sec. 5.04.003. Inspections.

(a) The fire marshal shall have the authority at all times of day or night, when necessary, in the performance of the duties imposed upon him by the provisions of this article, to enter upon and examine any building or premises where any fire has occurred, and other buildings and premises adjoining or near the same, which authority shall be exercised only with reason and good discretion. Should entry be denied, the fire marshal shall obtain a search warrant in order to attain entry.

(b) 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.

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(c) It shall be his duty, monthly or more often, to enter upon and make or cause to be entered and made a thorough examination of all mercantile, manufacturing, and public buildings, together with the premises belonging thereto. When he shall find any building or other structure which, for want of repair, or by reason of age or dilapidated condition, or for any cause, is especially liable to fire, and which is so situated as to endanger other buildings or property, or so occupied that fire would endanger persons or property therein, and when he shall find an improper or dangerous arrangement of stoves, ranges, furnaces, or other heating appliances of any kind, including chimneys, flues, and pipes with which the same may be connected, or a dangerous arrangement of lighting devices or systems, or a dangerous or unlawful storage of explosives, compounds, petroleum, gasoline, kerosene, dangerous chemicals, vegetable products, ashes, combustibles, 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 the building or premises.

(d) If the owner or occupant deems himself aggrieved by an order of the fire marshal, he may, within five 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 the owner or occupant.

(e) At the end of each month the fire marshal shall report to the state fire marshal all existing hazardous conditions, together with separate reports on each fire in the city during the month.
(Code 1996, § 5.04.003)

Sec. 5.04.004. Responsibility of owner and occupant.

(a) 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 situated as to endanger buildings or property of others, or is especially liable to fire and which is so occupied that fire would endanger other persons or their property therein, shall be punished by a fine as provided for in the general penalty provision found in section 1.01.009 of this code.

(b) Any owner or occupant of any building or other structure or premises, who shall keep or maintain the same with an improper arrangement of a stove, range, furnace, or other heating appliance of any kind whatever, including chimneys, flues, and pipes with which the same may be connected, so as to be dangerous in the matter of fire, 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, refuse, or with any other condition which shall be dangerous in character to the person, 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 maintenance thereof, shall be punished by a fine as provided for in the general penalty provision found in section 1.01.009 of this code.
(Code 1996, § 5.04.004)

Sec. 5.04.005. Notice required.

No prosecution shall be brought under section 5.04.004 until the order provided for in section 5.04.003(b)

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be given, and the party notified shall fail or refuse to comply with the same.
(Code 1996, § 5.04.005)

Sec. 5.04.006. Penalties.

The penalties provided for herein shall be recovered by the city in the same manner as provided by law for the enforcement of fines, forfeitures, and punishments for offenses against the city.
(Code 1996, § 5.04.006)

ARTICLE IV. FIRE PROTECTION AND EMERGENCY SERVICES FEES

Sec. 5.09.001. Collection of fees.

(a) The chief of the fire department, or his designee, shall collect all fees for fire prevention and protection services and for other public safety and emergency services rendered by the department. Such fees include but are not limited to the use of equipment, materials, maintenance and overhead expenses and costs of whatever nature which constitute full reimbursement to the fire department for services actually rendered and as hereinafter authorized.

(b) Within 30 days of the date of providing fire prevention and protection services or other public safety and emergency services, the chief of the fire department, or his designee, shall submit an invoice for all costs, fees, charges and expenses related to providing such services, in the minimum amount found in the appendix of this code, to the customer, client, owner, designated agent, representative or insurance company who received, covered or otherwise benefited from these services.

(c) Any bills, fines or penalties, including but not limited to clean up costs, fees or expenses that are imposed upon the city or the fire department by any local, state or federal agency, related to the rendering of fire protection or prevention services or for other public safety and emergency services, may be included in the billing or billed separately within 30 days of receipt.

(d) Any fees or expenses billed by the chief, or his designee, shall be payable in full within 60 days of the date of the invoice. Failure to timely make payment may result in the accumulation of interest on any unpaid balances at the rate of 10 percent per annum for any unpaid balances.
(Code 1996, § 5.09.001)

Sec. 5.09.002. Fee schedule.

Fees and expenses shall be billed in accordance with the city fee schedule ~~found in the appendix of this code and incorporated herein by reference as if fully set forth herein~~.
(Code 1996, § 5.09.002)

Sec. 5.09.003. Enforcement.

The city may enforce the provisions of this article by any action allowed by law for the collection of any amounts due hereunder, including reasonable and necessary attorney's fees, costs and expenses, in a court of competent jurisdiction.
(Code 1996, § 5.09.003)

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Chapter 14[65]

HEALTH AND PUBLIC WELFARE

ARTICLE I. IN GENERAL

Sec. #. Standards of care for city youth programs adopted.[66]

Pursuant to V.T.C.A., Human Resources Code, § 42.041(b)(14), the city council has adopted minimum standards of care for the city parks and recreation department's youth programs. The programs operated by the city are recreational in nature and are not licensed by the state as certified day-care programs. A copy of the standards is on file in the office of the city secretary and provided by the parks and recreation department to the parents of each program participant. Parents of each program participant shall be informed that the program is not licensed by the state and is not advertised as a child-care facility.
(Ord. No. O-09-24, att.(intro. ¶), 5-21-2004)

ARTICLE II. SMOKING IN PUBLIC PLACES

Sec. 8.06.001. Definitions.[67]

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:

Administrative area. The area of an establishment not generally accessible to the public, including but not limited to individual offices, stockrooms, employee lounges, or meeting rooms.

Bar. An establishment which has more than fifty-one (51) percent of its annual gross sales from alcoholic beverages and which is devoted to the serving of alcoholic beverages pursuant to state law for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of such beverages and where minors are not allowed admittance unless accompanied by a parent or legal guardian. Food establishments that contain a bar are not considered a "bar."

Business. A sole proprietorship, partnership, joint venture, corporation, or other business entity, either for-profit or not-for-profit, including retail establishments where goods or services are sold; professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered; and private clubs.

Conspicuous. Of a size and contrast that is clearly visible and legible to the general public and

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[65] **Chapter 14. Health and Public Welfare.** The nuisance provisions formerly in this chapter have been moved to the offenses and nuisances chapter and grouped with other nuisance regulations with the exception of the smoking article which is moved here from the offenses chapter.

[66] **Sec. #. Standards of care for city youth programs adopted.** I suggest that the standards be omitted from codification and replaced with this acknowledgment of their adoption.

[67] **Sec. 8.06.001. Definitions.** A standardized introduction is substituted for consistency and definition duplicative of chapter 1 stricken as shown. .

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unobstructed from view.

Director. The director of the department designated by the city manager to enforce and administer this article, or the director's designated representative.

Electronic cigarette or e-cigarette. Any electronic or mechanical device usually composed of a mouthpiece, heating element or atomizer, battery, and electronic circuits that provides, or is manufactured to provide, a vapor or gas derived from liquid nicotine or other substances delivered or deliverable to the user to inhale in simulation of smoking. The term includes every version and type of such devices whether they are manufactured or marketed as electronic cigarettes, e-cigarettes, electronic cigars, e-cigars, electronic pipes, e-pipes, electronic vaping device, mechanical PV's, electronic nicotine delivery system, or other similar device under any other product name or description.

Employee. A person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and a person who volunteers his or her services for a nonprofit entity.

Employer. A person, business, partnership, association, corporation, including a municipal corporation, trust, or nonprofit entity that employs the services of one or more individual persons.

Enclosed area. All space between a floor and a ceiling that is bounded on at least two sides by walls, doorways, or windows, whether open or closed. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent and whether or not containing openings of any kind.

Food service establishment or restaurant. An eating establishment, including but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term "restaurant" shall include a bar area within the restaurant.

Health-care facility. An office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, long-term care facilities, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, psychiatrists, dentists, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health-care facilities.

Hospital. An institution that provides medical, surgical and overnight facilities for patients.

Liquid nicotine. Any liquid product composed either in whole or in part of nicotine, propylene glycol or any other substance and manufactured for use with electronic cigarettes or e-cigarettes.

Motion picture theater. Any theater engaged in the business of exhibiting motion pictures to the public.

~~Person. Any individual, firm, partnership, association, or other legal entity.~~

Place of employment. An area under the control of a public or private employer, including, but

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not limited to, work areas, private offices, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways, construction sites, temporary offices, and vehicles. A private residence is not a “place of employment” unless it is used as a child-care, adult day-care, or health-care facility.

Playground. Any park or recreational area designed in part to be used by children that has play or sports equipment installed or that has been designated or landscaped for play or sports activities, or any similar facility located on public or private school grounds or on city grounds.

Private club. An organization, whether incorporated or not, which is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain, and which only sells alcoholic beverages incidental to its operation. The affairs and management of the organization are conducted by a board of directors, executive committee, or similar body chosen by the members at an annual meeting. The organization has established bylaws or a constitution to govern its activities. The organization has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C. § 501.

Public business. Any deliberation between a quorum of members of any board, commission, department, committee, or agency within the executive or legislative department of the state, or the city council, or any board or commission of the city council, or any board or commission of the city, at which any public business or public policy is discussed or considered, or at which any formal action is taken.

Public place or area. An area to which the public is invited or in which the public is permitted, including but not limited to, bars, educational facilities, financial institutions, gaming facilities, health- care facilities, hotels and motels, laundromats, parking structures, public transportation vehicles and facilities to include all ticketing, boarding, and waiting area, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports arenas, theaters, and waiting rooms. A private residence is not a “public place” unless it is used as a child-care, adult day-care, or health-care facility.

Public service area. Any area to which the general public routinely has access for municipal services or which is designated a public service area in a written policy prepared in compliance with this article.

Retail or service establishment. Any establishment which sells goods or services to the general public, including but not limited to, department stores, grocery stores, liquor stores, banks, gasoline service stations, drugstores, theaters, stadiums, auditoriums and movie houses.

Retail tobacco store or tobacco store. A retail store where 75% of quarterly sales are from tobacco products and accessories, to include electronic or digital cigarettes, and in which the sale of other products is merely incidental.

Service line. An indoor or outdoor line in which one or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money, including but not limited to, ATM lines, concert lines, food vendor lines, movie ticket lines, and sporting event lines.

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Shopping mall. An enclosed or unenclosed public walkway or hall area that serves to connect retail or professional establishments.

Smoking. Inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, including hookahs and marijuana, whether natural or synthetic, in any manner or in any form. "Smoking" also includes the use of an electronic cigarette or electronic smoking device of any kind which creates an aerosol or vapor from the lighting, heating or burning of a tobacco product, liquid nicotine or any tobacco substitute, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this article.

Sports arena. A place where people assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events, including sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, and bowling alleys.

Vapor shop. For the purposes of this article shall mean a store used primarily for the sale of electronic or digital cigarettes or substances used in those or similar devices to produce inhalable vapors and in which the sale of other products is incidental and where 80% of quarterly sales are from the sale of these devices or substances.

Workplace. Any enclosed area of a structure, or portion thereof, intended for occupancy by employees who provide primarily clerical, professional, or business services of a business entity, or which provide primarily clerical, professional or business services to other business entities, or to the public at that location.

(Code 1996, § 8.069.001; Ord. No. O-18-15, 12-8-2015)

Sec. 8.06.005. Application of article to city-owned facilities and property.

All enclosed areas, including buildings and vehicles owned, leased, or operated by the city, as well as all outdoor property adjacent to such buildings and under the control of the city, shall be subject to the provisions of this article.
(Code 1996, § 8.06.005; Ord. No. O-18-15, 12-8-2015)

Sec. 8.06.002. Smoking prohibited in enclosed public places.[68]

Smoking shall be prohibited in all enclosed public places within the city, including but not limited to, the following places:

(1) Galleries, libraries, and museums;

(2) Areas available to the general public in businesses and nonprofit entities patronized by the public, including but not limited to, financial institutions, Laundromats, professional offices, and retail service establishments;

(3) Child-care and adult day-care facilities;

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[68] **Sec. 8.06.002. Smoking prohibited in enclosed public places.** References to food establishment and workplace restrictions are added for clarity.

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(4) Convention facilities and meeting areas;

(5) Educational facilities, both public and private;

(6) Elevators and escalators;

(7) Gaming facilities, including but not limited to bowling and billiard facilities;

(8) Health-care facilities and hospitals;

(9) Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, nursing homes, assisted living and independent living facilities, and other multiple- unit residential facilities;

(10) Parking structures;

(11) Polling places;

(12) Private and semi-private rooms in nursing homes;

(13) Public transportation vehicles, including buses and taxicabs, under the authority of the city, and ticket, boarding, and waiting areas of public transportation facilities, including bus, train, and airport facilities;

(14) Restrooms, lobbies, reception areas, hallways, and other common-use areas;

(15) Retail stores, except as provided in section 8.06.003(3);

(16) Rooms, chambers, places of meeting or public assembly, including school buildings, under the control of an agency, board, commission, committee or council of the city or a political subdivision of the state, to the extent the place is subject to the jurisdiction of the city;

(17) Service lines;

(18) Shopping malls;

(19) Sports arenas, including enclosed places in outdoor arenas;

(20) Theaters and other facilities primarily used for exhibiting motion pictures, stage dramas, lectures, musical recitals, or other similar performances;

(21) Enclosed areas in food establishments as provided in section 8.06.006; and

(22) Enclosed areas of workplaces as provided in section 8.07.001.

(Code 1996, § 8.06.002(a); Ord. No. O-18-15, 12-8-2015)

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Sec. 8.06.002. Prohibited in certain outdoor public places.[69]

Smoking shall be prohibited in the following outdoor public places within the city:

(1) Within a reasonable distance of 50 feet outside entrances, operable windows, and ventilation systems of enclosed areas where smoking is prohibited, so as to prevent tobacco smoke from entering those areas;

(2) On all outdoor property that is adjacent to buildings owned, leased, or operated by the city, and that is under the control of the city;

(3) In outdoor shopping malls, including parking structures;

(4) In all outdoor arenas, stadiums, and amphitheaters. Smoking shall also be prohibited in, and within 50 feet of, bleachers and grandstands for use by spectators at sporting and other public events;

(5) In outdoor recreational areas, including parking lots;

(6) City-owned public parks, including parking lots;

(7) In, and within 50 feet of, all outdoor playgrounds;

(8) In, and within 50 feet of, all outdoor public events;

(9) In, and within 50 feet of, all outdoor public transportation stations, platforms, and shelters under the authority of the city;

(10) In all outdoor service lines, including lines in which service is obtained by persons in vehicles, such as service that is provided by bank tellers, parking lot attendants, and toll takers. In lines in which service is obtained by persons in vehicles, smoking is prohibited by both pedestrians and persons in vehicles, but only within 50 feet of the point of service;

(11) In outdoor common areas of apartment buildings, condominiums, manufactured home/ trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities, except in designated smoking areas, not to exceed twenty-five percent (25%) of the total outdoor common area, which must be located at least 50 feet outside entrances, operable windows, and ventilation systems of enclosed areas where smoking is prohibited.

(12) Outdoor areas of food establishments as provided in section 8.06.006; and

(13) Outdoor areas of workplaces as provided in section 8.07.001.

(Code 1996, § 8.06.002(b); Ord. No. O-18-15, 12-8-2015)

Sec. 8.07.001. Employer may restrict smoking in workplaces.

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[69] **Sec. 8.06.002. Prohibited in certain outdoor public places.** References to food establishment and workplace restrictions are added for clarity.

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(a) An employer who owns, occupies, or controls workplace may:

(1) Designate the workplace or portions thereof as non-smoking areas;

(2) Have and implement a written policy on smoking which conforms to this article;

(3) Make the policy available for inspection by employees and communicate the policy to all employees at least three weeks prior to its adoption;

(4) Prominently display reasonably sized signs that smoking is prohibited; and

(5) Provide facilities in sufficient numbers and in such locations as to be readily accessible for the extinguishment of smoking materials.

(b) An employer may not discharge, retaliate or discriminate against an employee who files a complaint or causes a proceeding to be instituted under or related to this article; testifies or will testify in a proceeding instituted under this article, or exercises on his own behalf or the behalf of others any right afforded by this article.

(c) A person commits an offense if he smokes a cigarette, cigar, cigarillo, pipe, or electronic cigarette or possesses a burning tobacco, weed, or other plant product in any portion of the workplace which has been designated as a nonsmoking area or if he violates any other provisions of an employer's written policy adopted, implemented, and maintained in accordance with this article.
(Code 1996, § 8.07.001; Ord. No. O-18-15, 12-8-2015)

Sec. 8.06.006. Smoking in food service establishments restricted.

(a) The owner or manager of any publicly or privately owned food service establishment, including but not limited to a coffee shop, cafeteria, short order cafe, luncheonette, sandwich shop, soda fountain, restaurant, or other similar eating establishment serving food, which has indoor or enclosed dining areas must provide separate indoor or enclosed dining areas for non-smoking and smoking patrons. A non-smoking area must:

(1) Be separated, where feasible, from smoking areas by a minimum of four feet of contiguous floor space;

(2) Be ventilated, where feasible, and situated so that air from the smoking area is not drawn into or across the non-smoking area;

(3) Be clearly designated by appropriate signs visible to patrons within the dining area indicating that the area is designated non-smoking area;

(4) Have ashtrays or other suitable containers for extinguishing smoking materials at the perimeter of the non-smoking area.

(b) Each food service establishment's entrance indicating that smoking is permitted in designated areas only.

(1) Have and implement a written policy on smoking which conforms to this article;

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(2) Make the policy available for inspection by employees and the director or his authorized representative; and

(3) Have a sign at the establishment's entrance indicating that smoking is permitted in designated areas only.

(c) Any non-dining areas of any food service establishment affected by this article to which patrons have general access, including, but not limited to, food order areas, food service areas, waiting areas, restrooms, and cashier areas, shall be designated as non-smoking areas.

(d) It shall be a defense to prosecution under this section that the smoking took place in a physically separated bar area of a food service establishment otherwise regulated by this section.

(e) A person commits an offenses if he smokes a cigarette, cigar, cigarillo or pipe or possesses a burning tobacco, weed, or other plant product in an area of a food service establishment designated as non-smoking.
(Code 1996, § 8.06.006)

Sec. 8.06.003. Places smoking not prohibited.

Notwithstanding any other provision of this article to the contrary, the following areas shall be exempt from provisions of this article:

(1) Private residences, unless used as a childcare, adult day-care, or health-care facility;

(2) Private automobiles; and

(3) Retail tobacco stores and vapor shops for sampling of the products sold in such stores, so long as such smoking does not cause smoke or aerosol/"vapor" to cross into other areas where smoking is not allowed.

(Code 1996, § 8.06.003; Ord. No. O-18-15, 12-8-2015)

Sec. 8.06.004. Posting of signs and removal of ashtrays.[70]

The owner, operator, manager, or other person in control of a public place where smoking is prohibited by this article shall:

(1) Clearly and conspicuously post "no smoking" signs or the international "no smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) in that place;

(2) Clearly and conspicuously post at every entrance to that place a sign stating that smoking is prohibited or, in the case of outdoor places, clearly and conspicuously post "no smoking" signs in appropriate locations as determined by the director or an authorized designee;

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[70] **Sec. 8.06.004. Posting of signs and removal of ashtrays.** Obsolete provision is stricken as shown.

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(3) Clearly and conspicuously post on every vehicle that constitutes a place of employment under this article at least one sign, visible from the exterior of the vehicle, stating that smoking is prohibited; and

(4) Remove all ashtrays from any area where smoking is prohibited by this article, except for ashtrays displayed for sale and not for use on the premises.

~~(b) The owner, operator, manager, or other person in control of a public place where smoking is prohibited by this article shall have until February 1, 2016 to erect and install the sign(s) required in this section.~~

(b) It shall be a defense to prosecution under this article that the place where the offense takes place does not have a sign displayed in accordance with this section.
(Code 1996, § 8.06.003; Ord. No. O-18-15, 12-8-2015)

Sec. 8.06.007. Enforcement.

(a) This article shall be enforced by the director.

(b) Notice of the provisions of this article shall be given to all applicants for a certificate of occupancy in the city.

(c) Any citizen who desires to register a complaint under this article may initiate enforcement with the director.

(d) An owner, manager, operator, or employee of place regulated by this article shall direct a person who is smoking in violation of this article to extinguish or turn off the product being smoked. If the person does not stop smoking, the owner, manager, operator, or employee shall refuse service and shall immediately ask the person to leave the premises. If the person in violation refuses to leave the premises, the owner, manager, operator, or employee shall contact a law enforcement agency.

(e) Notwithstanding any other provision of this article, an employee or private citizen may bring legal action to enforce this article.

(f) In addition to the remedies provided by the provisions of this section, the director or any person aggrieved by the failure of the owner, operator, manager, or other person in control of a public place to comply with the provisions of this article may apply for injunctive relief to enforce those provisions in any court of competent jurisdiction.
(Code 1996, § 8.06.007; Ord. No. O-18-15, 12-8-2015)

Sec. 8.06.008. Violations and penalties.

(a) A person who smokes in an area where smoking is prohibited by the provisions of this article shall be guilty of an infraction, punishable by a fine not to exceed $2,000.00 for each violation.

(b) Violation of this article is declared to be a public nuisance, which may be abated by the city director or authorized designee by restraining order, preliminary and permanent injunction, or other means provided for by law, and the city may take action to recover the costs of the nuisance abatement.

(c) Each day on which a violation of this article occurs shall be considered a separate and distinct

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violation.
(Code 1996, § 8.06.008; Ord. No. O-18-15, 12-8-2015)

ARTICLE III. FOOD SERVICE REGULATIONS

DIVISION 1. GENERALLY

Sec. 6.03.004. State rules adopted.[71]

The enforcement of this article shall be in accordance with "Texas Retail Food Rules," 25 Tex. Adm. Code, §§ 228.1—228.278 which are adopted by reference as though fully set forth herein to the extent applicable within the city. All establishments subject to this article shall comply with the requirements of the adopted rules unless specifically exempt in this article.

~~Definitions.~~
~~City. The City of Glenn Heights, Texas or its designee.~~
~~Person. Any natural person, firm, company, corporation, partnership, or other business or legal entity.~~
~~Texas Retail Food Rules or food code. The Texas Retail Food Establishment Rules, 25 TAC sections 228.1 through 228.278.~~
(Code 1996, § 6.03.004; Ord. No. O-11-23, 9-19-2023)

Sec. 6.03.011. Review of plans.

(a) Submission. When a food service establishment is constructed or extensively remodeled and when an existing structure is converted to use as a food service establishment, properly prepared plans and specifications for such construction, remodeling, or conversion shall be submitted to the city for review and approval before construction, remodeling or conversion is begun. The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans, and construction materials of work areas, and the type and model of proposed fixed equipment and facilities. The city shall approve the plans and specifications if they meet the requirements of this article. No food service establishment shall be constructed, extensively remodeled, or converted except in accordance with plans and specifications approved by the city.

(b) Preoperational inspection. When plans and specifications are required by subsection (a) of this section to be submitted to the city, the city shall inspect the food service establishment prior to the start of operations, to determine compliance with the approved plans and specifications and with the requirements of this article.
(Code 1996, § 6.03.011; Ord. No. O-11-23, 9-19-2023)

Sec. 6.03.001. Permit, license, or certificate required; display; transfer.

No person shall operate a food service establishment or temporary food establishment who does not have a valid permit, license, or certificate issued to him by the city in accordance with this article. Only a person who complies with the requirements of this article shall be entitled to receive or retain such permit, license, or certificate. The fee for issuance of a permit, license, or certificate shall be in the amount

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[71] **Sec. 6.03.004. State rules adopted.** Definitions are replaced with an adoption by reference of the state rules. The remaining two definitions are duplicative of chapter 1.

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provided in the city fee schedule. Permits, licenses, or certificates are not transferable. A valid permit, license, or certificate shall be posted in every food service establishment.
(Code 1996, § 6.03.001; Ord. No. O-11-23, 9-19-2023)

Sec. 6.03.014. Issuance.

(a) Any person desiring to operate a food service establishment, food sales, temporary vending of food shall make written application for a permit on forms provided by the city. Such application shall include the name and address of each applicant, the location and type of the proposed food being served or sold and the signature of the applicant.

(b) Prior to approval of an application for a permit, license, or certificate, the city shall inspect the proposed temporary food establishment to determine compliance with the requirements of this article. If the applicant has been convicted of a felony or misdemeanor, the application shall be considered in accordance with Vernon's Ann. C.C.P. art. 62.

(c) The city shall issue a permit, license, or certificate to the applicant if its inspection reveals that the proposed temporary food establishment complies with the requirements of this article and the state regulations adopted herein.
(Code 1996, § 6.03.014; Ord. No. O-11-23, 9-19-2023)

Sec. 6.03.015. Suspension of permit, license, or certificate; notice and hearing.[72]

(a) The city may, without warning, notice, or hearing, suspend any permit, license, or certificate to operate a food service establishment if the holder of the permit, license, or certificate does not comply with the requirements of this article, or if the operation of the establishment does not comply with the requirements of this article, or if the operation of the food service establishment otherwise constitutes a substantial hazard to public health, or if the holder has been convicted of a misdemeanor or felony, as provided in Vernon's Ann. C.C.P. art. 62. Suspension is effective upon service of the notice required by this section. When a permit, license, or certificate is suspended, food service operations shall immediately cease.

(b) ~~Whenever a permit, license, or certificate is suspended the holder of the permit, license, or certificate shall be afforded an opportunity for hearing within 20 days of receipt of a request for hearing.~~ When a permit, license, or certificate is suspended, the holder of the permit, license, or certificate, or the person in charge shall be notified in writing that the permit, license, or certificate is, upon service of the notice, immediately suspended and that an opportunity for hearing will be provided if a written request for hearing is filed with the city by the holder of the permit, license or certificate within ten days. If no written request for hearing is filed within ten days, the suspension is sustained. The city may end the suspension at any time if reasons for suspension no longer exist.

(c) The hearing provided for in this article shall be conducted by the city at a time and place designated by it. Any oral testimony given at a hearing shall be reported verbatim, and the presiding

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[72] **Sec. 6.03.015. Suspension; notice and hearing.** Duplicative and conflicting sentence is stricken. Please clarify 10 vs. 20 days in this section. The time within which a hearing must be requested is 10 days or 20 days? Does the stricken sentence intend to state that the hearing must be held within 20 days? If so, 20 days of what—the suspension or the request for hearing?

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officer shall make provision for sufficient copies of the transcript. The city shall make a final finding based upon the complete hearing record and shall sustain, modify or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the holder of the permit, license, or certificate by the city.
(Code 1996, § 6.03.015; Ord. No. O-11-23, 9-19-2023)

Sec. 6.03.016. Revocation of permit, license, or certificate; notice and hearing.

(a) The city may, after providing opportunity for hearing, revoke a permit, license, or certificate for serious or repeated violations of any of the requirements of this article or for interference with the city in the performance of duty, or upon conviction of a felony or misdemeanor, as provided in Vernon's Ann. C.C.P. art. 62.

(b) Prior to revocation, the city shall notify the holder in writing of the permit, license, or certificate, or the person in charge, of the specific reasons for which the permit, license, or certificate is to be revoked and that the permit, license, or certificate shall be revoked at the end of the ten days following service of such notice unless a written request for hearing in filed with the city by the holder of the permit, license, or certificate within such ten-day period.

(c) If no request for hearing is filed within the ten-day period, the revocation of the permit, license, or certificate becomes final.
(Code 1996, § 6.03.016; Ord. No. O-11-23, 9-19-2023)

Sec. 6.03.017. Application after revocation.

When a revocation of a permit, license, or certificate has become final, the holder of the revoked permit, license, or certificate may make written application for a new permit, license, or certificate.
(Code 1996, § 6.03.001; Ord. No. O-11-23, 9-19-2023)

DIVISION 2. OPERATION STANDARDS AND SPECIFICATIONS

Sec. 6.03.009. Food manager certification requirements.

(a) No person or company shall operate a food establishment unless the establishment has a person on duty who has completed an approved state department of health food protection management class.

(b) A food establishment with multiple shifts shall ensure that a person in charge of each shift has completed an approved food protection management class.

(c) The person on duty and in charge shall make available to the city personnel their food manager certificate when inspections are conducted or when proof of class completion is required.

(d) The food manager certificate shall be valid for not less than five years at which time an approved food protection recertification class must be completed within 45 days after the expiration of the original certificate, and every five years thereafter.

(e) Temporary food vendors, mobile food vendors who sell only prepackaged foods, and small retail vendors who sell only prepackaged foods shall be exempt from the requirements of this section.
(Code 1996, § 6.03.009(a); Ord. No. O-11-23, 9-19-2023)

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Sec. 6.03.009. Food employee requirements.

(a) All food employees shall complete a state-approved food handler class within 30 days of employment at a local food establishment. A food employee is any person employed in a food premises, who at any time may be involved in the manufacturing, preparation, serving or packing of food for sale.

(b) Food handler cards shall be made available to city personnel when inspections are conducted or when proof of course completion is requested.

(c) Food handler cards shall be valid for not less than two years, at which time the card must be renewed. Employees must renew the card within 45 days of the expiration of the original card and every two years thereafter.

(d) Any person not completing a food protection management class must complete an approved food handler class.

(e) A food handler class may not be taken in place of a required food protection management class.

(f) Mobile food vendors who sell only prepackaged foods shall be exempt from this subsection.

(g) Temporary food vendors shall be exempt from this subsection.
(Code 1996, § 6.03.009(b); Ord. No. O-11-23, 9-19-2023)

Sec. 6.03.018. Mobile vending unit requirements.

(a) A health permit is required for all mobile vending units. All mobile vending units will be inspected before a permit is issued and one time each six months. The applicant must provide proof of automobile insurance with the permit application.

(b) The hours of operation for mobile vending units shall be 7:00 a.m. until sunset.

(c) Operation of mobile vending units is prohibited in all city parks, within one block of a school one hour before or after school hours, or within 100 feet of a street intersection. No vendor shall remain stationary at one location for more than 15 minutes.

(d) Ice cream trucks shall have the following equipment:

(1) Sign on front and back of truck that states in three-inch lettering "watch for children."

(2) Company's name and phone number on the vehicle.

(3) Serving window shall be located on curbside only.

(4) Mirrors shall be provided on the truck with capability to see around the entire truck.

(5) Operable yellow/amber flashing lights on front and rear of truck.

(6) A truck rear bumper cover required to prevent children from jumping on the rear of the vehicle.

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(e) Sound equipment shall be limited to music or human speech which is not audible more than 100 yards from the truck. Sound shall be no louder than 80 dBA and shall be turned off while the vehicle is stopped for vending.

(f) All drivers of ~~ice cream trucks and~~ vehicles vending products to children shall submit a copy of their driver's license to the city and obtain the permit described in this article before operating such vehicle.
(Code 1996, § 6.03.018; Ord. No. O-11-23, 9-19-2023)

DIVISION 3. ADMINISTRATION AND ENFORCEMENT

Sec. 6.03.013. Service of notices.

A notice provided for in this article is properly served when it is delivered to the holder of the permit, license, or certificate, or the person in charge, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the holder of the permit, license, or certificate. A copy of the notice shall be filed in the records of the city.
(Code 1996, § 6.03.013; Ord. No. O-11-23, 9-19-2023)

Sec. 6.03.010. Examination and condemnation of food.

(a) Food may be examined or sampled by the city as often as necessary for enforcement of this article. The city may, upon written notice to the owner or person in charge, specifying with particularity the reasons therefor, place a hold order on any food which it believes is in violation of 25 Tex. Adm. Code, §§ 228.1—228.278 or any section of this article.

(b) The city shall tag, label, or otherwise identify any food subject to the hold order. No food subject to a hold order shall be used, served, or moved from the establishment. The city shall permit storage of food under conditions specified in the hold order, unless storage is not possible without risk to the public health, in which case immediate destruction shall be ordered and accomplished.

(c) The hold order shall state that a request for hearing may be filed within ten days and that if no hearing is requested, the food shall be destroyed. If a request for hearing is received, the hearing shall be held within 20 days after receipt of this request.

(d) On the basis of evidence produced at that hearing, the hold order may be vacated or the owner or person in charge of the food may be directed by written order to denature or destroy such food or to bring it into compliance with the provisions of this article.
(Code 1996, § 6.03.010; Ord. No. O-11-23, 9-19-2023)

Sec. 6.03.003. Inspections.

(a) An inspection of each food service establishment shall be performed at least once every six months by the city. Additional inspections of each food service establishment shall be performed as often as necessary for the enforcement of this article.

(b) Representatives of city, including any sanitarian employed by the health department of Dallas or Ellis County, after proper identification, shall be permitted to enter any food service establishment at any reasonable time for the purpose of making inspections to determine compliance with this article. The representatives shall be permitted to examine the records of the establishment to obtain information

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pertaining to food and supplies purchased, received, or used.

(c) All food service establishments, mobile food establishments and temporary food establishments shall be subject to an inspection of the establishment and vehicle as application; compliance with requirements for the issuance, suspension and revocation of any permits to operate; and compliance with the prohibition of the sale of unsound or mislabeled food or drink.
(Code 1996, §§ 6.03.002, 6.03.003, 6.03.005, 6.03.006; Ord. No. O-11-23, 9-19-2023)

Sec. 6.03.007. Inspection report.

(a) When an inspection of a food establishment is made, the findings shall be recorded on the inspection report form set out in 25 Tex. Adm. Code, §§ 228.1—228.278. The inspection report form shall summarize the requirements of this article and shall set forth a weighted point value for each requirement. Inspectional remarks shall be written to reference, by section number, the section violated and shall state the correction to be made.

(b) The rating of the establishment shall be the total of the weighted point values for all violations, subtracted from 100. A copy of the completed inspection report form shall be furnished to the person in charge of the establishment at the conclusion of the inspection.

(c) The completed inspection report form is a public document that shall be made available for public disclosure to any person who requests it according to law.
(Code 1996, § 6.03.007; Ord. No. O-11-23, 9-19-2023)

Sec. 6.03.008. Correction of violations.

(a) The completed inspection report form shall specify a reasonable period of time for the corrections of the violations found, which shall not be later than 90 days from the date of inspection; and correction of the violations shall be accomplished within the period specified, in accordance with the following:

(1) If an imminent health hazard exists, such as complete lack of refrigeration or sewage backup into the establishment, the establishment shall immediately cease food service operations. Operations shall not be resumed until authorized by the city;

(2) All violations of four- or five-point weighted items shall be corrected as soon as possible, but in any event, within ten days following inspection. Within 15 days after the inspection, the holder of the permit, license, or certificate shall submit a written report to the city stating that the four- or five-point weighted violations have been corrected. A follow-up inspection shall be conducted to confirm correction;

(3) All one- or two-point weighted items shall be corrected as soon as possible, but in any event, by the time of the next routine inspection;

(4) When the rating score of the establishment exceeds 30 demerits, the establishment shall initiate corrective action on all identified violations within 48 hours. One or more reinspections will be conducted at reasonable time intervals to ensure correction;

(5) In the case of temporary food service establishments all violations shall be corrected within 24 hours. If violations are not corrected within 24 hours, the establishment shall immediately cease food service operations until authorized to resume by the city.

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(b) The inspection report shall state that failure to comply with any time limits for corrections may result in cessation of food service operations. An opportunity for hearing on the inspection findings or the time limitations or both will be provided if a written request is filed with the city within ten days following cessation of operations. If a request for hearing is received, a hearing shall be held within 20 days of receipt of the request.

(c) When a food service establishment is required under the provisions of this section to cease operations, it shall not resume operations until it is shown on reinspection that conditions responsible for the order to cease operations no longer exist. Opportunity for reinspection shall be offered within a reasonable time.
(Code 1996, § 6.03.001; Ord. No. O-11-23, 9-19-2023)

Sec. 6.03.012. Procedure when infection is suspected.[73]

When the city has reasonable cause to suspect possible disease transmission by an employee of a food service establishment, it may secure a morbidity history of the suspected employee or make any other investigation as indicated and shall take appropriate action. The city may require any or all of the following measures:

(1) The immediate exclusion of the employee from employment in food establishments.

(2) The immediate closing of the food service establishment concerned until, in the opinion of the city, no further danger of disease outbreak exists.

(3) Restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease.

(4) Adequate medical and laboratory examination of the employee and of other employees and of his and their body discharges.

~~Fees for inspection services. Fees for inspection services shall be as provided in the city fee schedule.~~
(Code 1996, § 6.03.012; Ord. No. O-11-23, 9-19-2023)

Sec. 6.03.019. Penalties; injunctive relief.

(a) Violations of this article constitute misdemeanors that, upon conviction, are subject to a fine not to exceed the sum of $2,000.00 for each offense. Every day the violation is continued shall constitute a separate offense. Allegation and evidence of culpable mental state is not required for proof of an offense.

(b) In addition to the penalties specified, the city may seek equitable relief to enjoin violations of this article in addition to other forms of relief under law.
(Code 1996, § 6.03.019; Ord. No. O-11-23, 9-19-2023)

ARTICLE #. DONATION BOXES

[73] **Sec. 6.03.012. Procedure when infection is suspected.** Duplicative sentence is stricken as shown.

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Sec. 6.04.001. Purpose.

The purpose of this article is to protect the public health, safety and welfare of city residents by requiring the permitting, regulation, and maintenance of donation boxes within the city limits. This article further serves to protect the aesthetic quality of the community and promote the tidy and ordered appearance of developed property by regulating donation boxes and ensuring that material is not allowed to accumulate outside of donation boxes. The article additionally serves to ensure that donation boxes do not pose a hazard to pedestrian and vehicular traffic. The provisions included herein are intended to provide efficient legal remedies for unpermitted or poorly maintained donation boxes that threaten the orderly development of the city.
(Code 1996, § 6.04.001; Ord. No. O-13-17, 9/12/17)

Sec. 6.04.002. Definitions.[74]

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:

Administrator means the director of the department designated by the city manager to enforce and administer this article and the director's designees.

Donation box means a box, trailer, receptacle, container, accessory structure or other similar structure located outside of an enclosed building in a place accessible to the public and designed or intended for the collection and temporary storage of donated personal property.

Operator means a person who owns, operates or is otherwise in control of a donation box.

~~Person. An individual, partnership, association, firm, company, organization, corporation, or entity of any kind.~~

Property owner means the person or entity that is the owner of the real property upon which the donation box is located.
(Code 1996, § 6.04.002; Ord. No. O-13-17, 9/12/17)

Sec. 6.04.003. Permit required; issuance.

Notwithstanding any other provision of law to the contrary, no person shall place, use or employ a donation box within the city limits unless they have a current permit for a period of one year issued under this article by the city upon application filed with the administrator. The city shall issue a permit to the operator of a donation box upon payment of the nonrefundable annual permit fee and submission of an annual permit application establishing that the donation box is in compliance with all requirements of this article and not in violation of or conflict with any other law.
(Code 1996, § 6.04.003; Ord. No. O-13-17, 9/12/17)

Sec. 6.04.004. Permit fee.

A non-refundable annual permit fee in the amount provided in the city fee schedule ~~is as provided for in~~

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[74] **Sec. 6.04.002. Definitions.** A standardized introduction is substituted for consistency and definitions duplicative of chapter 1 are stricken as shown.

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~~the fee schedule found in appendix A of this code. The fee~~ must be paid at the time of submission of the annual permit application. To the extent that any person may be exempt from paying this annual permit fee pursuant to any other law, that person must still annually apply for and secure a permit.
(Code 1996, § 6.04.004; Ord. No. O-13-17, 9/12/17)

~~Sec. 6.04.005. Application to existing donation boxes.~~[75]
~~(a) The operator of a donation box in existence within the city limits at the time of adoption of this article and the owner of the property on which the existing box is located shall be given written notice by the city that they have 30 days to either obtain an annual permit for the existing donation box or remove the donation box from the property. The operator of an existing donation box or the owner of the property on which the box is located may, alternatively, within this 30 day time period, give the city written permission to remove and dispose of the existing donation box.~~
~~(b) The notice required by this section shall be mailed to the address of the property owner listed on the appraisal district records and the address posted on the donation box, if any. The notice shall also be posted on the donation box itself. The operator and property owner shall have 30 days from the day the notice is placed in the U.S. mail or posted on the box, whichever is later, to obtain a permit or otherwise comply with the requirements of this article.~~
~~(c) If the city removes and disposes of a donation box under this section, the property owner and donation box operator shall be responsible, jointly and severally, for payment to the city for the reasonable and necessary costs of removal and disposal.~~
~~(Code 1996, § 6.04.005; Ord. No. O-13-17, 9/12/17)~~

Sec. 6.04.006. Permit application requirements.

An application for a donation box permit under this article shall be submitted annually upon a form provided by the city and shall include:

(1) The address or other identification of the property where the donation box would be situated;

(2) A site plan showing where on the property the donation box will be located and specifically containing:

(A) Location and dimensions of all parcel boundaries;

(B) Location of all buildings;

(C) Proposed donation box location;

(D) Distance between the proposed donation box and parcel lines and buildings; and

(E) Location and dimensions of all existing and proposed driveways, garages, carports, parking spaces, maneuvering aisles, pavement and striping/marking.

(3) An elevation of the donation box showing the appearance, materials, and dimensions of all sides of the donation box;

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[75] **Sec. 6.04.005. Application to existing donation boxes.** Obsolete grandfather provision is stricken.

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(4) A description or diagram of the proposed locking mechanism of the donation box;

(5) The name, physical address, mailing address, and telephone number of the applicant and all owners of the donation box as well as all persons which may share in or profit from any donations collected via the donation box;

(6) Written consent from the property owner to place the donation box on the property;

(7) A detailed maintenance and collection schedule for the donation box which collection will include removal of items and debris on and around the donation box; and

(8) Evidence of compliance with section 6.04.007 of this article.
(Code 1996, § 6.04.006; Ord. No. O-13-17, 9/12/17)

Sec. 6.04.007. Donation box requirements.

All donation boxes located within the city limits must meet the following requirements:

(1) A donation box shall only be placed on a lot which contains a building that is occupied.

(2) A donation box shall only be placed on a lot within a retail or commercial zoning district.

(3) No more than one donation box may be permitted for placement on any one lot. In the case of shopping center or office development that consists of multiple platted lots, the administrator shall treat the shopping center or office development as if it is one contiguous lot.

(4) A donation box shall be located so as not to interfere with visibility triangles, on-site vehicle or pedestrian circulation, landscaping, and required parking.

(5) A donation box shall be placed on a concrete or asphalt surface.

(6) A donation box shall not be placed in a required building setback, buffer yard, access easement, drainage easement, floodplain, utility easement or fire lane.

(7) No donation box shall be located in or impede access to any required parking or driveways, pedestrian routes, emergency vehicle routes, building ingress or egress, required disabled access routes, required easements, trash enclosure areas or access to trash bins or trash enclosures, or any place that would impede the functioning of exhaust, ventilation or fire extinguishing systems.

(8) A donation box shall not be placed within two hundred (200) feet of any residentially zoned property, said distance to be measured from lot line to lot line.

(9) No donation box shall be located closer than 200 feet from any other box even if located on different tracts of land or lots.

(10) At least one parking space shall be required for use of persons accessing the donation box.

(11) A donation box shall be enclosed by use of a receiving door and locked so that the contents of the donation box may not be accessed by anyone other than those responsible for the retrieval of the contents.

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(12) A donation box shall not cover a ground surface area of more than fifty square feet, nor be more than seven feet in height.

(13) Each donation box shall be screened from the nearest public street or right-of-way. If a donation box is located on a corner of a lot, then the box shall be screened on a minimum of two sides. Minimum screening shall consist of a seven foot masonry wall. All screening shall be constructed to prevent the storage or placement of donations outside the donation box, with the screening wall itself being no more than two feet from the screened donation box.

(14) A donation box shall be constructed from metal material and be painted a solid color. No high-intensity or fluorescent colors shall be used for the box or associated signage.

(15) Each donation box shall clearly indicate in writing on the side of each box that all donations must fit into and be placed within the box.
(Code 1996, § 6.04.007; Ord. No. O-13-17, 9/12/17)

Sec. 6.04.008. Maintenance and upkeep.

(a) The operator and the property owner shall be held jointly and severally liable and responsible for compliance with this section, for the maintenance, upkeep and servicing of the donation box, and for clean-up and removal of any donations left on the property outside.

(b) Each donation box shall be maintained in good working order and free from graffiti, damaged signs and notifications, peeling paint, rust, and broken parts or operating mechanisms.

(c) Donation boxes shall be serviced not less than weekly between 7:00 a.m. and 7:00 p.m. on weekdays and 10:00 a.m. and 6:00 p.m. on weekends. This service includes the maintenance of the donation box, the removal of collected material, and the abatement of any graffiti, litter, or nuisance condition in, on and around the donation box.

(d) The operator and property owner of each donation box shall ensure that each box is emptied of its contents periodically, in accordance with the maintenance and collection schedule submitted with the permit application for the donation box and more frequently if necessary, to prevent overflow of donated items into the area surrounding the donation box. In cases where items are found outside the donation box, whether on the ground around the donation box or on top of the donation box, the operator and property owner shall be found to be in violation of this article.

(e) The operator and property owner shall maintain, or cause to be maintained, the area within 20 feet of the donation box free from any junk, debris, overflow items, dumped materials, or other materials. The property owner and operator shall be responsible to the extent provided by law for the city's cost to abate any nuisance.

(f) The visual and structural integrity of the donation box must be maintained continuously.

(g) Each donation box shall at all times clearly and conspicuously display on the exterior of the donation box the name, address, and telephone number of the operator of the donation box and the permit number and its date of expiration as well as a statement that a copy of the permit application is on file with the city secretary.

(h) The operator shall maintain on file with the city an active email address and a 24-hour telephone

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service with recording capability for the public to register complaints.

(i) Any conditions that are in violation of this section must be remedied or abated within 48 hours of being reported to the operator or property owner.
(Code 1996, § 6.04.008; Ord. No. O-13-17, 9/12/17)

Sec. 6.04.009. Violations; revocation of permit; removal of donation boxes.

(a) In addition to any other penalties and remedies available under local, state, or federal law, the following penalties and remedies shall apply to violations of this article:

(b) The operator and property owner shall be given written notice of any conditions constituting a violation of this article. Any conditions that are in violation of this article and not remedied within 48 hours of receipt of written notice thereof shall result in revocation of the permit for the donation box at issue.

(c) The administrator shall have the right to revoke any permit issued hereunder if any of the grounds upon which the administrator may refuse to issue a permit is found by the administrator to exist. In addition, the failure of the operator or property owner to comply with the provisions of this article or other provisions of this code or other law shall also constitute grounds for revocation of the permit. The administrator shall provide written notice to the operator, and property owner stating the specific grounds for revocation.

(d) Upon revocation, the donation box shall be removed from the property within 30 calendar days and if not removed within this time period, the city may remove and dispose of the donation box and the operator and property owner will be jointly and severally liable for payment to the city of the reasonable and necessary costs of such removal and disposal. Upon revocation, the affected operator and property owner shall be prohibited from applying for a permit for a period of two years.

(e) In addition, any operator, property owner, or other person violating this article shall be punished by a fine not to exceed $500.00 for each offense. Every day a violation shall continue shall be deemed to constitute a separate offense.
(Code 1996, § 6.04.009; Ord. No. O-13-17, 9/12/17)

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Chapter 16

HUMAN RELATIONS AND SOCIAL SERVICES

ARTICLE I. IN GENERAL

ARTICLE II. FAIR HOUSING[76]

Sec. 4.07.001. Definitions.

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

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

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

Discriminatory housing practice. An act that is unlawful this article.

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

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

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

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

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

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

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

(1) Any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one

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[76] **Art. II. Fair Housing.** Has the city been certified by the federal department of housing and urban development as a substantially equivalent fair housing agency? Also, is this article needed? Both federal and state law prohibit housing discrimination and provide mechanisms to address it. Should this article be replaced with a reference to the Texas Workforce Commission which is responsible for enforcement of the state Fair Housing Act.

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or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

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

Senior adult. A person 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.
(Code 1996, § 4.07.001; Ord. No. 698-01, 3/19/01)

Sec. 4.07.002. Interpretation and effect.

This article shall in no way be interpreted as creating a judicial right or remedy which is the same or substantially equivalent to the remedies provided under title VIII of the Civil Rights Act of 1968, as amended, or the federal Equal Credit Opportunity Act (15 U.S.C. 1691). All aggrieved parties shall retain the rights granted to them by title VIII of the Civil Rights Act of 1968, as amended, and the federal Equal Credit Opportunity Act. In construing this article, 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.
(Code 1996, § 4.07.001; Ord. No. 698-01, 3/19/01)

Sec. 4.07.007. Fair housing administrator.

The mayor shall appoint and the council shall confirm a fair housing administrator (hereinafter referred to as “administrator”), who shall have the responsibility for implementing this article. The administrator may delegate his authority to investigate and conciliate complaints to other city employees under his direction.
(Code 1996, § 4.07.007; Ord. No. 698-01, 3/19/01)

Sec. 4.07.003. Discrimination in the sale or rental of housing.

Except as exempted it is unlawful for any person to:

(1) Refuse to sell or rent, after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, creed, sex, religion or national origin, physical or mental disability, marital status, parenthood or age.

(2) Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, creed, sex, religion or national origin, physical or mental disability, marital status, parenthood or age.

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

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(4) Represent to any person because of race, color, creed, sex, religion or national origin, physical or mental disability, marital status, parenthood or age that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.

(5) Induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, creed, sex, religion or national origin, physical or mental disability, marital status, parenthood or age.
(Code 1996, § 4.07.003; Ord. No. 698-01, 3/19/01)

Sec. 4.07.004. Discrimination in the financing of housing.

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

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

(2) The race, color, creed, sex, religion or national origin, physical or mental disability, marital status, parenthood or age of the present or prospective owner, lessees, tenants, or occupants of the dwelling or dwellings for which such a loan or other financial assistance is to be made or given.
(Code 1996, § 4.07.004; Ord. No. 698-01, 3/19/01)

Sec. 4.07.005. Discrimination in the provision of brokerage services.

It is unlawful for any person to deny access to or membership or participation in any multiple listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate in the terms or conditions of such access, membership or participation, on account of race, color, creed, sex, religion or national origin, physical or mental disability, marital status, parenthood or age.
(Code 1996, § 4.07.005; Ord. No. 698-01, 3/19/01)

Sec. 4.07.006. Exemptions and exclusions.

(a) Nothing in this article shall apply to:

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

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

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

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

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

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

(D) (Reserved)

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

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

(b) Nothing in this article shall prohibit a religious organization, association, or society or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious association or society from limiting the sale, rental, or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, national origin, sex, mental or physical disability, marital status, parenthood or age.

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

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

(e) Nothing in this article 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 or marital status.

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

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set forth in this article.
(Code 1996, § 4.07.006; Ord. No. 698-01, 3/19/01)

Sec. 4.07.008. Complaints.

(a) Any person who claims to have been injured by a discriminatory housing practice who believes he will be irrevocably injured by a discriminatory housing practice that has occurred or is occurring (hereinafter referred to as person charging party) may file a complaint with the administrator. Such complaints shall be in writing and shall identify the person alleged to have committed or alleged to be committing a discriminatory housing practice and shall state the facts upon which the allegations of a discriminatory housing practice are based. The administrator shall prepare complaint forms and furnish them without charge to any person, upon request.

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

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

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

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

(f) All complaints shall be filed within 180 days following the occurrence of an alleged discriminatory housing practice. Upon the filing or referral of any complaint, the administrator shall provide notice of the complaint by furnishing a copy of such complaint to the persons named therein who allegedly committed or were threatening to commit an alleged discriminatory housing practice. The accused may file an answer to the complaint within 15 days of receipt of the written complaint.

(g) All complaints and answers shall be subscribed and sworn to before an officer authorized to administer oaths.
(Code 1996, § 4.07.008; Ord. No. 698-01, 3/19/01)

Sec. 4.07.009. Investigation.

(a) Upon the filing or referral of a complaint as herein provided, the administrator shall cause to be made a prompt and full investigation of the matter stated in the complaint.

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

(c) During or after the investigation, but subsequent to the mailing of the notice of complaints, the

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administrator shall, if it appears that a discriminatory housing practice has occurred or is threatening to occur, attempt by informal endeavors to effect conciliation, including voluntary discontinuance of the discriminatory housing practice and adequate assurance of future voluntary compliance with the provisions of this article. Nothing said or done in the course of such informal endeavors may be made public by the administrator, by the complainant or by any other party to the proceedings without the written consent of all persons concerned.

(d) Upon completion of the investigation and informal endeavors at conciliation by the administrator, but within 30 days of the filing of the complaint with the administrator, if the efforts of the administrator to secure voluntary compliance have been unsuccessful, and if the administrator has made a determination that a discriminatory housing practice has in fact occurred, the administrator shall recommend to the city attorney that such violations be prosecuted in the municipal court. With such recommendations, the administrator shall refer his entire file to the city attorney. The city attorney shall, within 30 days after such referral, make a determination as to whether to proceed with prosecution of such complaint in municipal court. If the city attorney determines to prosecute, he shall institute a complaint and prosecute same to conclusion within 30 days after such determination or as soon thereafter as practicable.
(Code 1996, § 4.07.009; Ord. No. 698-01, 3/19/01)

Sec. 4.07.010. Cumulative legal effect.

This article is cumulative in its legal effect and is not in lieu of any and all other legal remedies which the person aggrieved may pursue.
(Code 1996, § 4.07.010; Ord. No. 698-01, 3/19/01)

Sec. 4.07.011. Unlawful intimidation.

It is unlawful for any person to harass, threaten, harm, damage or otherwise penalize any individual, group or business because he or they have complied with the provisions of this article, because he or they have exercised his or their rights under this article, or enjoyed the benefits of this article, or because he or they have made a charge, testified or assisted in any investigation or in any proceeding hereunder or have made any report to the administrator.
(Code 1996, § 4.07.011; Ord. No. 698-01, 3/19/01)

Sec. 4.07.012. Cooperation with the secretary of housing and urban development.

The administrator and the city attorney are authorized to cooperate with the Secretary of Housing and Urban Development and the U.S. Attorney General pursuant to the provisions of title VII, Fair Housing Act of 1968, Public Law 90-284, and may render such service to the secretary as they shall deem appropriate to further the policies of this article.
(Code 1996, § 4.07.012; Ord. No. 698-01, 3/19/01)

Sec. 4.07.013. Education and public information.

In order to further the objectives of this article, the administrator may conduct educational and public information programs.
(Code 1996, § 4.07.013; Ord. No. 698-01, 3/19/01)

Sec. 4.07.014. Penalties and other remedies.

(a) Any person, firm, or corporation violating any provision of this article shall be guilty of a

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misdemeanor, and upon conviction, shall be fined a sum not to exceed $300.00 for each violation. Each day a violation continues after passage of 75 days from date of the filing of the initial complaint with the administrator shall constitute a separate and distinct offense.

(b) Any person, firm, or corporation violating any provision of this article may be enjoined by order of a court of competent jurisdiction, and this remedy is in addition to any other penalty provision.
(Code 1996, § 4.07.014; Ord. No. 698-01, 3/19/01)

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Chapter 18

LAW ENFORCEMENT

ARTICLE I. IN GENERAL

ARTICLE II. POLICE DEPARTMENT

Sec. 9.05.001. Established.

~~The office of town marshal is hereby abolished.~~ The city has established a police department for the city known as the Glenn Heights Police department and referred to as GHPD in this chapter. ~~The police department as previously established is ratified and reestablished as the police department of the city.~~
(Code 1996, § 9.05.001; Ord. No. 696-00, 12-4-2000)

Sec. 9.05.002. Department staffing and management.

(a) As provided by section 5.08 of the charter, the city manager has authority to appoint and remove the fire chief or the police chief, or to combine the management and oversight duties of the fire department and police department into one position, which position may be created and staffed by the city manager.

(b) The police chief or other person designated by the city manager, shall have the authority to recommend the employment and discharge of personnel of the GHPD to the city manager. It shall be the responsibility and duty of the police chief, or other person designated by the city manager, to establish department policies, and he shall have full authority to discipline and direct all members of the GHPD.
(Code 1996, §§ 9.05.002, 9.05.004; Ord. No. 696-00, 12/4/00)

Sec. 9.05.003. Authority of department personnel.

The police chief, and the GHPD and its personnel, shall have all such powers, duties, immunities, and authority as are provided by state and federal law and the city council.
(Code 1996, § 9.05.003; Ord. No. 696-00, 12/4/00)

Sec. 9.06.001. Police code of conduct.

(a) The city adopted a code of conduct for the police department dated June 1, 1987. The code, as amended from time to time, is maintained on file in the office of the city secretary and governs the conduct of every sworn member of the police department.

(b) The police chief is authorized to make such deletions, changes, and additions to the code of conduct as he shall deem appropriate and necessary. The police chief is directed to make the code of conduct and any amendments thereto available to every member of the police department.
(Code 1996, § 9.06.001)

ARTICLE III. POLICE RESERVE FORCE

Sec. 9.07.001. Establishment; composition; compensation.

(a) The city has established the police reserves for the city police department, which shall be a

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voluntary force of reserve police officers referred to as the "police reserves." The police reserves shall be composed of personnel who have volunteered to join the organization and serve without compensation, whose applications for membership have been accepted, and who have complied with all the rules, regulations and orders provided for the conduct and the control of the members thereof.

(b) Appointments to the police reserve shall be made by the police chief. The police chief shall establish the size, composition and organization of the police reserves, which shall be determined by the need of the police department.
(Code 1996, § 9.07.001)

Sec. 9.07.002. Force to be supplementary.

Reserve police officers shall act only in a supplementary capacity to the regular police force and shall in no case assume full-time duties of regular police officers.
(Code 1996, § 9.07.002)

Sec. 9.07.003. Police chief to control reserves.

The police reserves shall function under the general direction and control of the police chief, subject to the supervision of the city manager, and subject to such rules, regulations and orders as may be promulgated from time to time by the police chief in accordance with the authority vested by the city charter and this Code.
(Code 1996, § 9.07.003)

Sec. 9.07.004. Training requirements.

(a) No person shall serve as a police reserve officer prior to receiving training in accordance with the requirements of the state commission on law enforcement officer standards and education and without receiving certification by the commission as a certified peace officer or reserve police officer. Such initial training and certification will be at the applicant's expense and time.

(b) The police chief may authorize the payment of any appropriate schooling for the police reserves at an authorized training school to enhance the skills that are deemed necessary in the performance of their duties. All appointments to said schools will be at the direction and discretion of the police chief.
(Code 1996, §§ 9.07.004, 9.07.008)

Sec. 9.07.005. Political campaigning restricted; reserve officers not to hold public office.

While in uniform or on active duty, a reserve officer may not take an active part in another person's political campaign for an elective position of the municipality. Reserve officers may not hold publicly elected office and must resign immediately from the reserves if they have filed to run for an elected office.
(Code 1996, § 9.07.005)

Sec. 9.07.006. Termination of membership.

Members of the police reserve shall serve at the discretion of the police chief. Any reserve officer may be terminated by the police chief at any time for any cause deemed sufficient by the police chief, and any reserve officer may resign from the police reserve at any time, but it shall be the duty of such member to notify the police chief of his resignation and surrender his badge and identification card to him.

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(Code 1996, § 9.07.006)

Sec. 9.07.007. Uniforms and badges.

The police chief shall prescribe the uniform and badge for members of the police reserves and direct the manner in which the same shall be worn. All reserve officers will be responsible for the purchase of the uniform and its upkeep, to include all leather goods and sidearms.
(Code 1996, § 9.07.007)

Sec. 9.07.009. Weapons.

No person appointed to the police reserves may carry a weapon while serving as a police reserve officer except at the expressed direction of the police chief. Off-duty carrying of weapons shall be at the discretion of the police chief. No reserve officer shall carry any weapon that is in direct conflict with general orders set out by the department and shall not carry authorized weapons until such time as they have qualified with that weapon.
(Code 1996, § 9.07.009)

Sec. 9.07.010. Worker's compensation benefits.

Worker's compensation benefits will be provided for reserves; therefore, a police reserve officer who sustains injury in the course of performing official duties may receive hospital and medical assistance in the same manner as provided for full-time police officers; provided, however, that nothing in this article shall be construed to authorize or permit a member of the police reserves to become eligible for participation in any pension fund created pursuant to state statute, of which regular officers may become members by payroll deductions or otherwise.
(Code 1996, § 9.07.010)

Sec. 9.07.011. Disciplinary actions.

In addition to the penalties provided by law, any violation of law under color of performance of their duties as a member of the police reserves, and any breach of the rules and regulations as established by the police chief shall subject any member to disciplinary action, including dismissal and termination.
(Code 1996, § 9.07.011)

~~Sec. 9.07.012. Penalties.~~[77]
~~Any person, firm or corporation that violates, disobeys or refuses to comply with any provision of this article, upon conviction in the municipal court, shall be subject to a fine as provided for in the general penalty provision found in section 1.01.009 of this code, and every day such violation continues shall constitute a separate offense.~~
~~(Code 1996, § 9.07.012)~~

[77] **Sec. 9.07.012. Penalties.** The penalty section is duplicative of chapter 1 general penalties. Also, is this intended to apply to police department reserve personnel or all personnel? If so, language to that effect should be added to the section regarding disciplinary action and a penalty provision should clarify that violations may be charged and punished as code violations.

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Chapter 20

MUNICIPAL COURT

Sec. 7.01.003. Definitions and terms adopted.

Definitions and terms used in V.T.C.A., Government Code, ch. 30, are adopted and incorporated herein for all purposes.
(Code 1996, § 7.01.003; Ord. No. O-31-08, 10-6-2008)

Sec. 7.01.001. Court of record established.[78]

Pursuant to V.T.C.A., Government Code, § 30.00003, the city council has established a city municipal court as a court of record in order to provide a more efficient disposition of cases arising in the city and to more effectively enforce the ordinances of the city. This municipal court of record is established pursuant to the authority granted in V.T.C.A., Government Code, ch. 30. ~~The municipal court shall become a municipal court of record from and after the __ day of __, 200_, and shall be designated the "Municipal Court of Record in the City of Glenn Heights, Texas."~~

(b) All prosecutions in the municipal court of record shall be conducted as provided in the Uniform Municipal Courts of Record Act, V.T.C.A., Government Code, § 30.00001 et seq. and Vernon's Ann. C.C.P. ch. 27. ~~Vernon's Ann. C.C.P. art. 45.002~~. Complaints and pleadings must substantially conform to the relevant provisions of Vernon's Ann. C.C.P. chs. 27 and 45A ~~27 and 45~~.
(Code 1996, § 7.01.001; Ord. No. O-31-08, adopted 10/6/08)

Sec. 7.01.002. Jurisdiction of court.[79]

(a) The municipal court of record has the jurisdiction and authority provided by V.T.C.A., Government Code, § 30.00005, and shall have:

(1) Criminal jurisdiction for the purpose of enforcing municipal ordinances enacted under ordinances authorized by V.T.C.A., Government Code, §§ 215.072, 217.042, 341.903 and 551.002 ~~401.002~~;

(2) Concurrent jurisdiction with a justice court in any precinct in which the municipality is located in criminal cases that arise within the territorial limits of the municipality and are punishable only by fine;

(3) Civil jurisdiction for the purpose of enforcing municipal ordinances enacted under V.T.C.A., Local Government Code, ch. 214 ~~subchapter A, chapter 214, Local Government Code,~~ or ~~subchapter E, chapter 683,~~ V.T.C.A., Transportation Code, ch. 683;

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[78] **Sec. 7.01.001. Court of record established.** Incomplete and unnecessary text is stricken as shown. Also, Vernon's Ann. C.C.P. art. 45.002 was repealed effective January 1, 2025.

[79] **Sec. 7.01.002. Jurisdiction of court.** Subsection (a)(1) is conformed to V.T.C.A., Government Code, § 30.00005. The remainder of the citations are corrected as to citation form.

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(4) Concurrent jurisdiction with a district court or a county court at law under V.T.C.A., Local Government Code, ch. 54 within the municipality's territorial limits and property owned by the municipality located in the municipality's extraterritorial jurisdiction for the purpose of enforcing health and safety and nuisance abatement ordinances; and

(5) 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.

(b) The municipal court of record has all jurisdiction and authority provided by any state statute or judicial decision for municipal courts or municipal courts of record. Nothing contained in this section shall be construed to limit or otherwise restrict the jurisdiction of the municipal court of record.
(Code 1996, § 7.01.002; Ord. No. O-31-08, 10-6-2008)

Sec. 7.01.004. Judge.

(a) Establishment of office. The municipal court of record shall be presided over by a municipal judge appointed and compensated by the city council according to the provisions of the city charter, section 6.02, and V.T.C.A., Government Code, § 30.00006. The municipal judge must be a licensed attorney in good standing in the state and must have two or more years of experience in the practice of law in Texas. The municipal judge must be a citizen of the United States and a resident of the state. A person may not serve as a municipal judge if the person is employed by the city. A municipal judge who accepts employment with the city vacates the judicial office.

(b) Alternate municipal court judge. An alternate municipal court judge may be appointed and compensated by the city council according to the provisions of the city charter, section 6.02.

(c) Supervision and control of the municipal court of record. The municipal judge shall supervise and control the operation and clerical functions of the administrative department of the municipal court of record including the court personnel, during the proceedings or docket of the court according to V.T.C.A., Government Code, §§ 30.00006 and 30.00009. At all other times, the operation and clerical functions of the administrative department of the municipal court of record is under the supervision and direction of the city manager or his designee.

(d) Removal of judge. In conformity with V.T.C.A., Government Code, § 30.000085, the municipal judge may be removed from office by the city council with the advice and consent of the city manager as set forth in section 6.02 of the city charter.
(Code 1996, § 7.01.004; Ord. No. O-31-08, 10-6-2008)

Sec. 7.01.005. Appointment of court clerk and court personnel.[80]

(a) Appointment. Pursuant to section 6.03 of the city charter and V.T.C.A., Government Code, §

[80] **Sec. 7.01.005. Appointment of court clerk and court personnel.** Citations are corrected as shown.

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30.00009, the city manager has the authority to appoint a clerk of the municipal court of record, who shall be known as the municipal court clerk. The municipal court clerk shall keep the records of the municipal court of record, issue process, and generally perform the duties of a clerk of a county court at law exercising criminal jurisdiction. In the annual budget, the city council may provide for deputy clerks, warrant officers, and other personnel as needed for the proper operation of the municipal court of record. The municipal court clerk shall supervise the selection of persons for jury service in the municipal court of record. Trial by jury, including the summoning of jurors, must substantially conform to Vernon's Ann. C.C.P. chs. 45A ~~45, Code of Criminal Procedure~~.

(b) Seal. The court clerk is directed to acquire a seal in conformance with state law for the municipal court of record. The appearance and use of the seal must substantially conform to Vernon's Ann. C.C.P. art. 45A.052 ~~45.012~~, but must also include the phrase "Municipal Court of/in Glenn Heights, Texas."

(c) Court reporter. A court reporter shall be provided to preserve the record in cases tried before the municipal court of record according to V.T.C.A., Government Code, § 30.00010, subject to the following:

(1) The court reporter must meet the qualifications provided by law for official court reporters.

(2) The court reporter or court staff may use written notes, transcribing equipment, video or audio recording equipment, or a combination of those methods to record the proceedings of the court.

(3) The court reporter or court staff are not required to record testimony in any case unless the judge or one of the parties requests a record in writing, and files the request with the court before trial.

(4) If a record is made, it shall be kept for the 20-day period beginning the day after the last day of the court proceeding, trial or denial of motion for new trial, whichever occurs last.

(5) The court reporter is not required to be present during proceedings of the municipal court of record, provided that proceedings that are required to be recorded are recorded by a good quality electronic recording device.

(6) If a case is appealed, the proceedings shall be transcribed from the recording by an official court reporter.

(Code 1996, § 7.01.005; Ord. No. O-31-08, 10-6-2008)

Sec. 7.01.006. Appeals.

(a) Appeals. 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 Vernon's Ann. C.C.P. art. 44.01. Such appeals shall be in accordance with and conform to V.T.C.A., Government Code, §§ 30.00014–30.00027.

(b) Transcript preparation fee. In the event of an appeal, the appellant shall pay a transcript preparation fee in the amount of $25.00. The transcript preparation fee does not include the fee for an actual transcript of the proceedings. The clerk shall note the payment of the fee on the docket of the court. If the case is reversed on appeal, the transcript preparation fee of $25.00 shall be refunded to the appellant. In addition to the transcript preparation fee, the fee for the actual transcript of the proceedings and statement of facts must be paid by the appellant, pursuant to V.T.C.A., Government Code, §§ 30.00014 and 30.00019.

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(Code 1996, § 7.01.006; Ord. No. O-31-08, 10-6-2008)

Sec. #. Consolidated municipal court building security and technology fund.[81]

(a) The city has established a consolidated municipal court building security and technology fund pursuant to Vernon's Ann. C.C.P. art. 102.175, as a fund in the municipal court treasury. The fund consists of money allocated to the fund under V.T.C.A., Local Government Code, § 134.103.

(b) Money deposited in a consolidated municipal court building security and technology fund may be used only for the purposed authorized under Vernon's Ann. C.C.P. art. 102.017(b) or (c) for use of a municipal court technology fund or Vernon's Ann. C.C.P. art. 102.0172(b) for use of a municipal court technology fund.

(c) The consolidated municipal court building security and technology fund shall be administered by or under the direction of the city council.

~~Sec. 7.02.001. Municipal court technology fund.~~

~~(a) The city has established a municipal court technology fund pursuant to Vernon's Ann. C.C.P. art. 102.0172. The fund may be maintained in an interest-bearing account and may be maintained in the general revenue account. The fund shall be administered by or under the direction of the city council.~~

~~(b) The city imposes a fee of $4.00 to be assessed and collected from defendants upon conviction for a misdemeanor offense in the municipal court as a cost of court. A defendant is considered convicted if a sentence is imposed on the defendant, or if the defendant is placed on community supervision (including deferred adjudication community supervision), or if the court defers final disposition on the defendant's case.~~

~~(c) The clerk of the court shall collect the fee and pay the fee to the treasurer of the city, who shall deposit the fee into the municipal court technology fund.~~

~~(d) The fund shall be used only to finance the purchase of technological enhancements for the municipal court of the city including:~~

~~(1) Computer systems, networks, hardware, and software;~~
~~(2) Imaging systems;~~
~~(3) Electronic kiosks;~~
~~(4) Electronic ticket writers; or~~
~~(5) Docket management systems.~~

~~(Code 1996, §§ 7.02.001—7.02.003)~~

~~**Sec. 7.03.001. Municipal court building security fund.**~~

~~(a) There is hereby established a municipal court building security fund to be used only to finance the following items when used for the purpose of providing security services for buildings housing a~~

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[81] **Sec. #. Consolidated municipal court building security and technology fund.** See Vernon's Ann. C.C.P. art.102.0175 effective May 29, 2025. The city may wish to adopt this new provision by ordinance rather than by recodification inclusion.

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~~municipal court:~~

~~(1) The purchase or repair of X-ray machines and conveying systems;~~
~~(2) Handheld metal detectors;~~
~~(3) Walk-through metal detectors;~~
~~(4) Identification cards and systems;~~
~~(5) Electronic locking surveillance equipment;~~
~~(6) Bailiffs, deputy sheriffs, deputy constables or contract security personnel during times when they are providing appropriate security services;~~
~~(7) Signages;~~
~~(8) Confiscated weapon inventory and tracking systems;~~
~~(9) Locks, chains or other security hardware; and~~
~~(10) Any other item or for any other purpose authorized by article 102.017 of the Texas Code of Criminal Procedure as may be amended by the state legislature from time to time.~~

~~(b) A defendant convicted in a trial for a misdemeanor offense in the municipal court of the city shall pay a $3.00 security fee as costs of court. A person is considered convicted if:~~

~~(1) A sentence is imposed on the person;~~
~~(2) The person receives community supervision, including deferred adjudication; or~~
~~(3) The court defers final disposition of the person's case.~~

~~(c) The clerk of the municipal court shall collect the costs and pay them to the municipal treasurer for deposit in a fund to be known as the municipal court security fund.~~
~~(Code 1996, § 7.03.001)~~

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Chapter 22

OFFENSES AND NUISANCES

ARTICLE I. IN GENERAL

Sec. 8.01.001. Certain misdemeanors under state law constitute city offenses.

All misdemeanors named in the penal code and civil statutes of the state for which the municipal court has jurisdiction are declared to be offenses against the city, and the fines and penalties and other punishments shall be the same as is prescribed in the penal code and civil statutes.
(Code 1996, § 8.01.001)

Sec. 1.13 Warrant issuance fee.

A fee, as provided for in the city fee schedule ~~found in appendix A of this code,~~ shall be collected for the issuance and service or attempted service of all warrants.
(Code 1996, Art. 1.13)

Sec. 8.01.002. Loitering restricted.

(a) It is unlawful for any person to loiter within the city between the hours of 2:00 a.m. and 6:00 a.m. of any day and for any person under the age of 18 to loiter within the city between the hours of 12:01 a.m. and 6:00 a.m. of any day.

(b) The term “loiter” as used in this section includes any of the following activities:

(1) Lingering in the streets, sidewalks, parking lots, or vicinity of a business, in which the person has no ownership or employment interest, either within or outside of a vehicle, when the premises are not open for business to the public without permission of the owner.

(2) Failure to leave private property when requested to do so by the owner, manager, proprietor, or lessee of such property.

(3) Walking, standing, driving a vehicle, or parking a vehicle in the city under circumstances that show no apparent business or employment-related need for such activity.

(4) Lingering in the streets, sidewalks, or vicinity of a residence, either within or outside of a vehicle, without the permission of the owner or tenant of the residence.

(c) The following activities shall not be considered “loitering” and shall be exempt from the provisions of this division:

(1) A person shall not be considered loitering while in direct route, and not lingering, to or from work or to or from a place of residence.

(2) A person shall not be considered loitering while engaged in the repair of a disabled vehicle.

(3) A person under the age of 18 shall not be considered loitering while engaged in or in direct route to school, church, or entertainment activities with permission of his or her parent or guardian.

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(4) A person shall not be considered loitering while sleeping in a vehicle, provided the vehicle is parked on private property with the permission of the owner or manager of the premises, or if the vehicle is parked on public property, with permission of a peace officer of the city.

(Code 1996, § 8.01.003)

Sec. 8.01.003. Unlawful consumption of alcoholic beverages in public places.

It is unlawful for any person to consume, drink, or possess an open container of an alcoholic beverage in any public place in the city, other than the following:

(1) A premises operated by a person possessing a private club registration permit from the state alcoholic beverage commission, issued for such premises; or

(2) A special event being held in city recreational facility, meeting room in a city building, or other city facility pursuant to a special event alcoholic beverage permit approved by the city manager or his/her designee.

(Code 1996, § 8.01.003; Ord. No. O-20-22, § 2, 1/3/2023)

Sec. 8.04.001. Unlawful discharge of firearms within city limits.

It is unlawful to discharge within the corporate limits of the city any firearm, air gun, BB gun, pellet gun, or any other mechanism projecting lead or other missiles. This section shall not be construed to prohibit the following:

(1) Any officer of the law from discharging a firearm in the lawful performance of his duty.

(2) Any citizen from discharging a firearm when lawfully defending person or property.

(3) The use of workers in the construction business of any mechanism designed to propel nails, bolts, screws, rivets, or other fasteners, so long as such mechanism is being used in the manner in which it was intended.

(4) The discharge of “blanks” during official celebrations, athletic events, etc., when written permission is received from the police chief, or his designee.

(5) The operation of any commercial shooting range otherwise lawfully operating under all other applicable laws and ordinances.

(Code 1996, §§ 8.04.001, 8.04.002)

Sec. 12.10.003. Obstructing public ways.

It is unlawful for any person to place, leave standing, or store any property, structure or any obstruction in or on any public street, alley, sidewalk, public right-of-way or other public property of the city for a time period of more than 24 hours, and such is declared a public nuisance.

(Code 1996, § 12.10.003; Ord. No. 748-03, 4/7/03 ; Ordinance O-12-10, sec. 3, 6/21/10)

ARTICLE II. NUISANCES

DIVISION 1. GENERALLY

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Sec. 8.01.004. General nuisances.

(a) Any act, condition or thing existing, or in being within the city which endangers the public peace, property, health and safety of the citizens of the city is hereby declared to be a public nuisance and shall be abated as provided in this Code.

(b) When the city council shall have legally declared any thing, act, or commission to be a nuisance and through the police chief instructed the party guilty of maintaining or creating such nuisance to abate or remove the same within a designated or reasonable time, and notice of the action shall have been served upon the party to be so charged, and he shall fail to obey the same within the time so reasonably designated, he shall be deemed guilty of a misdemeanor, which, upon conviction therefor, shall be punishable by fine as provided for in the general penalty provision found in section 1.01.009 of this code. Every day for the existence of such public nuisance shall be and constitute a separate and distinct offense and shall be punishable as herein provided.

(c) When any nuisance has been declared to exist, and the city council has ordered the same to be abated, corrected, or removed, and the author of such nuisance shall fail or refuse to obey such order, the city manager shall direct the police chief to abate the same, who shall proceed at once to carry out such order, calling such assistance as he deems necessary, and all costs accruing therein shall be taxed against the author of such nuisance and collected as other costs.

(d) No act, condition, or thing may be abated as a public nuisance, nor may any person be prosecuted for doing, maintaining, or permitting any such act, condition, or thing as a public nuisance, unless and until same shall have been by ordinance of the city council declared to be a public nuisance, and until such person or persons so doing, making, or permitting such act, condition, or thing shall be notified in writing to cease, remove, or abate same, and a reasonable time, not to exceed five days, shall have been allowed within which same shall have not ceased, been removed, or abated.

(e) Without limiting the power of the city council to declare as public nuisances any other act, condition, or thing, as herein provided, the following specific acts, conditions, and things are, each and all of them, hereby declared to be and constitute public nuisances:

(1) Spitting upon any sidewalk or upon the floor or wall of any public building, or upon any streetcar, bus, automobile, or person.

(2) The accumulation of water in which mosquito larvae breed.

(3) The accumulation of scrap iron and metal, inoperative automobiles, worn out household appliances, scrap wood, and abandoned and decaying structures where rats, mice, rodents, snakes, and wild or abandoned animals may be concealed.

(4) The maintenance of any but sanitary toilets, and these only in compliance with the public health laws, ordinances and regulations of the state, county and city.

(5) The disposal or accumulation of any vile, decaying, or putrescent substance or other offensive material dangerous to public health, in or upon any lot, street or highway, or the escape of any gases or odors to such an extent that the same or any of them shall by reason of such offensive odors become a source of discomfort to persons living or passing in the vicinity.

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(6) The deposit or accumulation of manure or other noxious fertilizer, unless it be in fly-proof receptacles.

(7) The presence of polluted water in a well, cistern, spring, or other source of water supply, when the water therefrom is used for human consumption.

(8) The deposit of garbage in any but fly-proof, watertight receptacles.

(9) Growth of weeds or grass where mosquitoes may harbor or rubbish be concealed.

(10) The congregating and living together of persons of either sex in any house or tenement in this city, in such numbers and under such circumstances as to endanger the health of the city, or to create contaminating diseases therein, as declared by the health officer of the city, or, in his absence, of the County of Dallas.

(11) The keeping or allowing to be kept in any pen, place, or premises within the city, of any animal or animals, in such manner as to be dangerous, offensive, or an annoyance to any other person whatsoever.

(12) The keeping of any hogs or pigs within the city.

(13) Trespassing upon public or private property; or the throwing, or causing to be thrown, of garbage or refuse or any noxious, offensive, or dangerous substance upon any property in the city; or the unlawful interference in any way with the person or property of others.

(Code 1996, § 8.01.004)

DIVISION 2. NUISANCE PROPERTY CONDITIONS

Sec. 6.02.001. Definitions.[82]

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

Brush. Shrub vegetation or dense undergrowth.

Carrion. The dead and putrefying flesh of any animal, fowl or fish.

~~City. The City of Glenn Heights, Texas, or its agents.~~

Code enforcement official. A city employee or person or entity acting under a contract with the city, authorized to enforce the provisions of this division and city ordinances, including yet not limited to the building official, inspector, code enforcement officer or his/her designee.

Dump. To dispose, discharge, place, deposit, throw, leave, sweep, scatter, unload or toss. Filth. Any matter in a putrescent state.

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[82] **Sec. 6.02.001. Definitions.** A standardized introduction is substituted for consistency and definitions duplicative of chapter 1 are stricken as shown.

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Garbage. Any kitchen refuse, foodstuffs or related material, including all decayable waste.

Impure or unwholesome matter. Any putrescible or nonputrescible condition, object or matter that may, could or tends to cause injury, death or disease to human beings.

Junk. All worn-out, worthless or discarded material, including yet not limited to any of the following materials, or parts of said materials or any combination thereof: new or used iron, steel or nonferrous metallic scrap, brass or waste materials; used or inoperative household appliances, household electrical or plumbing fixtures, floor coverings or window coverings not currently in use; used lumber, brick, cement block, wire, tubing and pipe, tubs, drums, barrels or roofing material not currently in use; air-conditioning and heating equipment not currently in use; used vehicle components and parts not currently in use; used furniture other than that designed for outdoor use or what would normally be considered as antique furniture, used or inoperative residential lawn care equipment and machinery not currently in use; used pallets, windows or doors not currently in use; new or used sheet metal, structural steel or chain not currently in use; used or inoperable vending machines, radios or televisions not currently in use; and, any other type of used or inoperable machinery or equipment not currently in use.

Matter. That of which any physical object is composed.

Nuisance. Any condition, object, material or matter that is dangerous or detrimental to human life or health; or that renders the ground, the water, the air or food a hazard or likely to cause injury to human life or health; or that is offensive to the senses; or that threatens to become detrimental to the public health; and shall include but not be limited to: any abandoned or uncovered (including unsecured covered) wells, shafts or basements, abandoned refrigerators, stagnant or unwholesome water, sinks, privies, filth, carrion, rubbish, junk, trash, debris or refuse, impure or unwholesome matter of any kind, and any objectionable, unsightly, or unsanitary matter of whatever nature.

Objectionable, unsightly or unsanitary matter. Any matter, condition or object that is objectionable, unsightly or unsanitary to a person of ordinary sensitivities.

Owner. Any person or entity shown as the property owner on the latest property tax assessment rolls or any person having or claiming to have any legal or equitable interest in the property, including any agent who is responsible for managing, leasing or operating the property; provided, however, an individual who is an employee of the owner or management company is not personally liable for criminal or civil penalties if the individual provides the property owner's name, street address and telephone number to the code enforcement official, if the violation relates to a certificate of occupancy or certificate of completion relative to the construction of improvements on the property yet not as to violations in construction or development of the property, consistent with state law as it exists and as it may be amended.

~~Person. Any individual, firm, partnership, association, business, corporation or other entity.~~

Property. All privately owned, occupied or unoccupied property, including vacant land or a building designed or used for residential, commercial, business, industrial or religious purposes. The term shall also include a yard, ground, wall, driveway, fence, porch, steps or other structure appurtenant to the property.

Putrescible. The decomposition of organic matter with the formation of foul-smelling,

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incompletely oxidized products.

Refuse. Heterogeneous accumulation of worn-out, used, broken, rejected or worthless materials, including yet not limited to garbage, rubbish, paper or litter and other decayable or nondecayable matter.

Rubbish. Junk, trash, debris, rubble, stone, useless fragments of building materials, and other miscellaneous, useless waste or rejected matter.

Trash and debris. All manner of refuse, including yet not limited to: mounds of dirt, piles of leaves, grass and weed clippings, paper trash, useless fragments of building materials, rubble, furniture other than furniture designed for outside use, useless household items and appliances, items of salvage, such as scrap metal and wood, old barrels, old tires, objects that hold water for an extended period of time, tree and brush trimmings, dead standing or fallen trees and other miscellaneous wastes or rejected matter.

Urban nuisance. Any condition that exists and because of violations of this division, is in a state of disrepair, such that it could reasonably cause injury, damage, harm or inconvenience to a considerable portion of the community and the use and enjoyment of property, materially interfering with the property [proper] use or comfort and enjoyment of surrounding property, taking into consideration the nature and use of the properties in the area and the character of the community in which they are situated, which condition would be substantially offensive and annoying to persons of ordinary sensibilities, taste and habits in the community. Such urban nuisance includes yet is not limited to:

(1) Fences that are leaning, falling down, missing boards or otherwise deteriorated;

(2) Motor vehicles, or parts thereof, that do not qualify as junked vehicles as defined by city ordinances and state statutes but that are wrecked, dismantled or partially dismantled, on blocks, stands, trailers, under tarps or other similar covering.

Vegetative growth. Any grass, weeds, shrubs, trees, brush, bushes or vines.

Weeds. Any vegetation that because of its height is objectionable, unsightly or unsanitary, excluding: shrubs, bushes, trees, cultivated flowers and cultivated crops.

(Code 1996, § 6.02.001; Ord. No. O-05-08, 2/4/08 ; Ord. No. O-09-10, 6/21/10)

Sec. 6.02.002. Prohibited nuisance conditions.[83]

(a) It is unlawful and declared a nuisance for any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, within the territorial limits of the city, to knowingly or intentionally permit or allow any stagnant or unwholesome water, sinks, refuse, filth, carrion, weeds, rubbish, brush, refuse, trash, debris, junk, garbage, impure or unwholesome matter of any kind, or other objectionable or unsightly matter of whatever nature, to accumulate or remain upon any such real property or within any public easement on or across such real property or upon any adjacent public street or alley right-of-way between the property line of such real property and where the paved

[83] **Sec. 6.02.002. Prohibited nuisance conditions.** A reference to the weed and grass restriction is added for clarity.

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surface of the street or alley begins.

(b) It is unlawful and declared a nuisance for any person to knowingly or intentionally dump, or permit to be dumped, upon or along any drain, gutter, alley, sidewalk, street, park, right-of-way or vacant lot into or adjacent to water, or any other public or private property within the territorial limits of the city, any unwholesome water, refuse, rubbish, trash, debris, filth, carrion, weeds, brush, junk, garbage, impure or unwholesome matter of any kind, or other objectionable or unsightly matter of any kind.

(c) It is unlawful and declared a nuisance for any person owing, claiming or occupying or having supervision or control of any real property, occupied or unoccupied, within the territorial limits of the city, to knowingly or intentionally permit or allow an urban nuisance to exist on any residentially zoned property, or on property that abuts a residential use. It shall be an affirmative defense that:

(1) A permit was issued for the repair of the fence and such repair work is being diligently performed within the time frames authorized under the permit;

(2) The urban nuisance has existed on the property for less than 30 days and the person has documented proof of anticipated date of removal;

(3) The urban nuisance is completely contained on an improved surface, fully screened from public view behind a fence or within a structure.

(d) Weeds and brush in violation of section 6.02.003.
(Code 1996, § 6.02.001; Ord. No. O-05-08, 2/4/08 ; Ord. No. O-09-10, 6/21/10)

Sec. 6.02.003. Weeds and brush over ten inches in height prohibited.

(a) It is unlawful for any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, within the territorial limits of the city to knowingly or intentionally permit weeds, brush or any objectionable or unsightly matter to grow to a height greater than ten inches upon such real property within 200 feet of any property line that abuts street rights-of-way, alleys, utility easements, subdivided additions, developed property or any buildings or other structures.

(b) It shall be the duty of such person to keep the area from the line of his property to the curbline next adjacent to it, if there is a curbline, and, if not, then to the centerline of the adjacent unpaved street, or to the edge of the pavement, cleared of the matter referred to above.

(c) All vegetation (including hay unless the hay is cultivated on property that has been granted an agricultural property tax exemption on the most recent tax roll as certified by the county appraisal district in the county in which the property is located), except regularly cultivated row crops, that exceeds ten inches in height shall be presumed to be objectionable and unsightly matter; provided further that regularly cultivated row crops shall not be allowed to grow within the right-of-way of any public street or easement nor shall such crops be allowed to obstruct the necessary view to and from adjacent rights-of-way, but shall be kept mowed as provided herein.

(d) With respect to lots, tracts or parcels of land of five or more acres, the provisions of this section shall not apply to any area situated more than 200 feet from any open public street or thoroughfare, as measured from the right-of-way line of said street or thoroughfare, and situated more than 200 feet from any adjacent property under different ownership and on which any building is located or on which any improvement exists, as measured from the property line.

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(Code 1996, § 6.02.003; Ord. No. O-05-08, 2/4/08 ; Ord. No. O-09-10, 6/21/10)

Sec. 6.02.004. Inspections.

For purposes of ascertaining whether violations of this division exist, the code enforcement official is authorized to inspect the exterior of a structure and premises that contain no structure. If entry onto the property is refused, the code enforcement official shall have every recourse provided by law, including yet not limited to an administrative search warrant or an injunction to secure entry. If the owner, occupant, or person in control cannot be identified or located, the code enforcement official shall be authorized to enter the property to the extent allowed by, and in accordance with, law.
(Code 1996, § 6.02.004; Ord. No. O-05-08, 2/4/08 ; Ord. No. O-09-10, 6/21/10)

Sec. 6.02.005. Duty of owner or occupant to prevent nuisance conditions.

It shall be the duty of any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied to:

(1) Remove, drain or fill all prohibited matter or conditions and to cut and remove all weeds, brush, vegetative growth, and other objectionable or unsightly matter as often as may be necessary to comply with sections 6.02.002 and 6.02.003 and to use every precaution to prevent the same from occurring or growing on such property.

(2) Maintain the exterior of all structures, such as fences, in good repair, structurally sound and sanitary, so as not to pose a threat to the public health, safety and welfare.

(3) Maintain all exterior property and premises in a clean, safe and sanitary condition.

(4) Keep the sidewalks in front of their property free and clear of all such matter, and to fill up, drain or regrade any lots, ground or yards that have stagnant water thereon, and to cleanse and disinfect any house, building, establishment, lot, yard or ground from refuse, rubbish, trash, filth, carrion, or objectionable, unsightly or unsanitary matter of any kind, or other impure or unwholesome matter of any kind.
(Code 1996, § 6.02.005; Ord. No. O-05-08, 2/4/08 ; Ord. No. O-09-10, 6/21/10)

Sec. 6.02.006. Notice of violation and to abate; failure to comply; abatement by city.

(a) If a violating the terms of this division fails or refuses to comply with the demand for compliance contained in the aforementioned notice within seven days after the date of notification as provided herein, the city shall have the authority as provided by law to enter upon such property and do or cause to be done the work necessary to obtain compliance with this division. All reasonable costs, charges and expenses incurred in doing or in having such work done shall be a charge to, and be a personal liability of, such person.

(b) It shall be the duty of the police chief or his/her duly appointed representative to give a minimum of seven days' official notice in writing to such person violating the terms of this division, subject to the provisions herein stated. The notice shall be in writing and may be served on such person violating the terms of this division:

(1) By delivering it to him or her in person; or

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(2) By letter or written notice addressed to such person at the person's address as recorded in the appraisal district in which the property is located and delivered by United States certified mail, return receipt requested, with a second copy by United States regular mail; or

(3) Unless required otherwise by state law, by letter or written notice addressed to such person at the person's address as recorded in the appraisal district in which the property is located and delivered by United States regular mail along with posting the notice on or near the front door of each building on the property to which the violation relates; or

(4) Or, if personal service cannot be obtained:

(A) By publication at least once within seven consecutive days in the city's official newspaper; or

(B) By posting the notice on or near the front door of each building on the property to which the violation relates; or

(C) By posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates, if the property contains no buildings.

(c) If the city mails a notice to the property owner in accordance with subsection (b) herein and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected and the notice shall be considered as delivered.

(d) The city, in the notice provided herein, may inform the owner by certified mail, return receipt requested, or regular mail and a posting on the property, or by personally delivering the notice, that if the owner commits another violation of the same kind or nature that poses a danger to the public health and safety on or before the first anniversary of the date of such notice, the city, without further notice, may correct the violation at the owner's expense and assess the expense against the property. If the violation covered by a notice under this subsection occurs within said one-year period, and the city has not been informed in writing by the owner of an ownership change, then the city, without notice, may take any action permitted by subsection (a) herein, and assess its reasonable expenses incurred as provided by section 6.02.008, below.
(Code 1996, § 6.02.006; Ord. No. O-05-08, 2/4/08 ; Ord. No. O-09-10, 6/21/10)

Sec. 6.02.007. Additional authority to abate nuisance.

(a) The city may abate, without notice, weeds that have grown higher than 48 inches and are an immediate danger to health, life or safety of any person.

(b) Not later than the tenth day after the date the city abates weeds under this section, the city shall give notice to the property owner in the manner required by section 6.02.006, herein. The notice shall contain:

(1) An identification, which is not required to be a legal description, of the property;

(2) A description of the violations that occurred on the property;

(3) A statement that the city abated the weeds; and

(4) An explanation of the property owner's right to request an administrative hearing about the city's

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abatement of the weeds.

(c) The city shall conduct an administrative hearing before the city council on the abatement of weeds under this section if, not later than the 30th day after the date of the abatement of the weeds, the property owner files with the city a written request for a hearing. An administrative hearing conducted under this section shall be conducted not later than the 20th day after the date a request for a hearing is filed. The owner may testify or present any witnesses or written information relating to the city's abatement of the weeds.

(d) The city may assess reasonable expenses and create liens under this section as it assesses expenses and creates liens under section 6.02.008. A lien created under this section is subject to the same conditions as a lien created under section 6.02.008. The authority granted the city by this section is in addition to the authority granted by section 6.02.008.
(Code 1996, § 6.02.007; Ord. No. O-05-08, 2/4/08)

Sec. 6.02.008. Expenses incurred by city; lien.

(a) If a notice as provided for herein is delivered to the owner of such real property, and he or she fails or refuses to comply with such demand for compliance within the seven day time period established herein, the aforementioned charges shall be, in addition to a charge to and personal liability of said owner, a privileged lien upon and against such real property, including all fixtures and improvements thereon. In order to perfect such lien, the code enforcement official first shall give such owner written notice of demand for payment of such charges. Such written notice may be given by any one of the methods provided for herein for the giving of the initial notice demanding compliance with the terms of this division.

(b) If such owner fails or refuses to make complete payment of said charges within 30 days of his or her receipt of said notice, the city manager, or designated authorized representative, such as the code enforcement official, shall file a written statement of such charges with the county clerk for filing in the county land and deed records where the property is located. Said statement shall be deemed sufficient if it contains the following minimum information; however, it may also contain such other additional information deemed appropriate by the city manager, the code enforcement official or duly appointed representative:

(1) The name of the owner of the real property, if known;

(2) A legal description of the real property;

(3) A statement of the charges incurred by the city in doing or in having such work done as necessary to bring the real property into compliance with this division; and

(4) A notarized affidavit executed by the code enforcement official stating that all prerequisites required by this division for the imposition of the charges and the affixing of the lien have been met and that all statements or representatives [representations] made therein are true and correct.

(c) All such charges shall bear interest at the rate of ten percent per annum from the date of payment by the city. The lien obtained is security for the expenditures made and is inferior only to tax liens and liens for street improvements. The city may bring suit to collect the charges, institute foreclosure proceedings, or both. The written statement of such charges provided for herein, or a certified copy thereof, shall be prima facie evidence of the city's claim for charges or right to foreclose the lien. The

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owner of the real property or any other persons claiming, occupying or having supervision or control of the real property shall be jointly and severally liable for such charges.

(d) The remedy is in addition to any penal provision provided herein.
(Code 1996, § 6.02.008; Ord. No. O-05-08, 2/4/08)

Sec. 6.02.009. Enforcement.

The provisions of this division shall be enforced by the code enforcement official and it is unlawful for any person to interfere with or hinder the code enforcement official in the exercise of their duties under this division. Notwithstanding any provisions contained herein to the contrary, the code enforcement officials are hereby granted the authority to issue immediate citations to persons violating any provision of this division in their presence.
(Code 1996, § 6.02.009; Ord. No. O-05-08, 2/4/08)

Sec. 6.02.010. Penalty.

(a) Any person violating or failing to comply with any provision or requirement of this division, who continues to violate or fail to comply with same within seven days after notice is given and received as set forth in section 6.02.006, shall also be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not to exceed $2,000.00, such offense being a violation of the health and safety ordinances of the city. A separate offense shall be deemed committed upon each day during or on which a violation or failure to comply occurs or continues to occur. This section shall be in addition to and cumulative of the provisions for abatement of the nuisance by the city and charging the cost of same against the owner of the property.

(b) Notwithstanding the foregoing, any violation of any provision of this division that constitutes an immediate danger or threat to the health, safety and welfare of the public may be enjoined in a suit brought by the city for such purpose.

(c) In addition to any other remedies or penalties contained herein, the city may enforce the provisions of this division pursuant to the applicable provisions of V.T.C.A., Local Government Code, ch. 54.
(Code 1996, § 6.02.010; Ord. No. O-05-08, 2/4/08)

DIVISION 3. NOISE NUISANCES

Sec. 8.02.001. Purpose and enforcement.

(a) The purpose of this division is to make it unlawful for any person or entity to make, cause to be made or allow any loud or unreasonably loud and disturbing noise of such character, intensity and duration as to be detrimental or offensive to the ordinary sensibilities of the inhabitants of the city, or which renders the enjoyment of life, health and property uncomfortable or interferes with public peace and comfort.

(b) The police department, code enforcement officer, director of municipal services or their designees may enforce the provisions of this division, including yet not limited to the issuance of citations or notices of violation.
(Code 1996, § 8.02.001; Ord. No. O-859-07, 11/19/07)

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Sec. 8.02.002. Definitions.[84]

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

~~City. The City of Glenn Heights, employees or any authorized representative of the city.~~

Construction. Any site preparation, assembly, erection, substantial repair, alteration or similar action (excluding demolition) of public or private right-of-way surfaces, structures, utilities or similar property.

Demolition. Any dismantling, intentional destruction or removal of public or private right-of-way surfaces, structures, utilities or similar property.

Device. Any mechanism which is intended to produce, or which actually produces, noise when operated or handled.

Emergency vehicle. A motor vehicle used in response to a public calamity or to protect persons or property from an imminent exposure to danger.

Motor vehicle. Any vehicle propelled by mechanical power, such as, yet not limited to, any passenger car, truck, truck-trailer, semi-trailer, camper, motorcycle, mini-bike, pocket bike, go-cart, dune buggy or racing vehicle.

Noise disturbance. Any sound which annoys or disturbs, or which causes or tends to cause an adverse psychological effect upon, the sensibilities of a reasonable, prudent, adult person; any loud or disturbing noise which unreasonably disturbs or interferes with the peace, comfort and repose of persons or ordinary sensibilities.

Noise disturbance per se. A noise not requiring extraneous evidence or support to establish the existence of a noise disturbance.

Owner. Any person having supervision or control of any property.

Nonresidential district. Any district not classified by the zoning ordinance as containing residential homes, apartments or condominiums.

Power equipment. Any motorized electric or fuel powered equipment, including yet not limited to tractors, lawnmowers and other similar device or equipment.

Power motor vehicle. Any self-propelled airborne, waterborne or land-borne plane, vessel or vehicle, which is not designed to carry persons, including yet not limited to, any model airplane, boat, car or rocket.

Property. Any lot, tract, parcel of land or a portion thereof, occupied or unoccupied, improved or unimproved, public or private, within the territorial limits of the city.

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[84] **Sec. 8.02.002. Definitions.** A standardized introduction is substituted for consistency and definitions duplicative of chapter 1 are stricken as shown.

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Property boundary. An imaginary line exterior to any enclosed structure, at the ground surface and its vertical extension, which separates the real property owned by one person from that owned by another person.

Quiet zone. Property on which a school, hospital, clinic, library or other noise disturbance sensitive facility is operated.

Residential district. Any district classified by the zoning ordinance as containing residential homes, apartments, condominiums or dwelling units.

Roadway. Any street, alley, parkway, sidewalk or gutter.

(b) All terminology used in this division, and not specifically defined above, shall retain its meaning in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body or the latest volume of Webster's Collegiate Dictionary.
(Code 1996, § 8.02.003; Ord. No. O-859-07, 11/19/07)

Sec. 8.02.003. Specific noise disturbances prohibited.

(a) *Generally.* No person shall allow, make or cause to be made any unreasonably loud or disturbing noise which is offensive to the sensibilities of a reasonable, prudent adult person, renders the enjoyment of life or property uncomfortable, interferes with public peace and comfort, or causes a noise disturbance. This prohibition includes, but is not limited to, the following sounds and activities which can create unreasonably loud or disturbing noises in violation of this division, including activities which are noise disturbances per se, unless an exemption exists or a permit of variance was first obtained as provided in section 8.03.005:

(1) Owning, keeping, possessing or harboring any animal or fowl which by frequent or habitual noise making, unreasonably disturbs or interferes with the peace, comfort or repose of citizens, or causes a noise disturbance as defined herein. The provisions of this division shall apply to all private or public facilities including any animal shelter or commercial kennel, which holds or treats animals.

(2) The using, operating or permitting to be played, used or operated any sound production or reproduction device, radio, receiving set, musical instrument, drums, phonograph, television set, loudspeaker and sound amplifiers or other machine or device for the producing or reproducing of sound within a residential or a nonresidential area in such a manner as to cause a noise disturbance.

(3) The using, operating or permitting to be played, used or operated any sound production or reproduction device, radio, receiving set, musical instrument, drums, phonograph, television set, loudspeakers and sound amplifiers or other machine or device that produces or reproduces sound for the purpose of attracting attention to any cause or demonstration, or to any performance, show, sale or display of merchandise so as to attract attention to such cause, demonstration or premises when such use is done in a manner which causes a noise disturbance.

(4) The using, operating or permitting to be played, used or operated any sound production or reproduction device, radio, receiving set, musical instrument, drums, phonograph, television

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set, loudspeakers and sound amplifiers or other machine or device on trucks or other moving vehicles for the purpose of attracting attention to any cause or demonstration, or for advertising any show, sale or display of merchandise when such use is done in a manner which causes a noise disturbance.

(b) *Motor vehicle sound devices.* It is a violation of this division to operate or control a motor vehicle in either a public or private place within the city while operating a sound device which is part of, or connected to, any radio, stereo receiver, compact disc player, cassette tape player or other similar device in the motor vehicle in such a manner that, when operated, it is audible at a distance of thirty feet (30'), or when operated, causes a person to be aware of the vibration accompanying the sound at a distance of thirty feet (30') from the source when such operation is done in a manner which causes a noise disturbance.

(c) *Peddlers, hawkers, etc.* It is a violation of this division for any peddler, hawker, or other person to yell, shout, cry, hoot, whistle or sing in such a manner to cause a noise disturbance.

(d) *Loading and unloading vehicles.* It is a violation of this division to load or unload a vehicle in such a manner as to cause a noise disturbance.

(e) *Construction/maintenance work.* The following construction and maintenance activities are violations of this division:

(1) Operating or permitting to be operated any equipment used in construction, maintenance, repair, alteration or demolition work on buildings, structures, streets, alleys, lawns, golf courses or appurtenances thereto or the erection, including excavation, demolition, alteration or repair of any building within a residential district or quiet zone, or within five hundred feet (500') of any residence or quiet zone, in such a manner as to cause a noise disturbance. Furthermore, any such activity shall create a noise disturbance per se if conducted between the hours of 9:00 p.m. and 6:00 a.m.

(2) Operating or permitting to be operated any gravel pit, rock crusher or other machinery for the separation, gathering, grading, loading or unloading of sand, rock or gravel within a residential district or quiet zone, or within five hundred feet (500') of a residence or quiet zone. Furthermore, any such activity shall create a noise disturbance per se if conducted between the hours of 9:00 p.m. and 6:00 a.m.

(3) Operating or permitting to be operated any equipment used in construction, maintenance, repair, alteration or demolition work on buildings, structures, streets, alleys, lawns, golf course or appurtenances thereto within a nonresidential district in such a manner as to cause a noise disturbance.

(4) Operating or permitting to be operated any gravel pit, rock crusher or other machinery for the separation, gathering, grading, loading or unloading of sand, rock or gravel within a nonresidential district in such a manner as to cause a noise disturbance.

(f) *Power equipment.* The following activities involving power equipment are violations of this division:

(1) Operating or permitting to be operated any power equipment (as defined herein and excluding construction equipment which is specifically regulated above) within a residential district or

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quiet zone, or within five hundred feet (500') of any residence or quiet zone, in such a manner as cause a noise disturbance. Furthermore, any such activity shall create a noise disturbance per se if conducted between the hours of 9:00 p.m. and 6:00 a.m.

(2) Operating or permitting to be operated any power equipment (as defined herein and excluding construction equipment which is specifically regulated above) within a nonresidential district in such a manner as to cause a noise disturbance.

(g) *Repairs or testing of motor vehicles.* The following activities involving the repair or testing of motor vehicles are violations of this division:

(1) The repairing, rebuilding, modifying or testing of any motor vehicle (including off-road vehicles) or watercraft within a residential district or quiet zone, or within five hundred feet (500') of any residence or quiet zone, in such a manner as to cause a noise disturbance. Furthermore, any such activity shall create a noise disturbance per se if conducted between the hours of 9:00 p.m. and 6:00 a.m.

(2) The repairing, rebuilding, modifying or testing of any motor vehicle (including off-road vehicles) or watercraft within a nonresidential district in such a manner as to cause a noise disturbance.

(h) *Use of loud and defective motor vehicles.* The following activities involving the use of loud or defective motor vehicles are violations of this division:

(1) The use of any automobile, motorcycle or other vehicle so out of repair, so modified, or so loaded, which emits or creates loud or unnecessary grating, grinding or rasping noise, the excessive spinning of tires, or the racing of a motor vehicle engine unnecessarily within a residential district or quiet zone, in such a manner as to cause a noise disturbance. Furthermore, such activity shall create a noise disturbance per se if conducted between the hours of 9:00 p.m. and 6:00 a.m.

(2) The use of any automobile, motorcycle or other vehicle so out of repair, so modified, or so loaded, which emits or creates loud or unnecessary grating, grinding or rasping noise, the excessive spinning of the tires, or the racing of a motor vehicle engine unnecessarily within a nonresidential district in such a manner as to cause a noise disturbance.

(i) *Motor vehicle exhaust discharges.* It is a violation of this division to discharge emissions into the open air from the exhaust of any motor vehicle in such a manner as to cause a noise disturbance, except as discharged through a muffler or other device which effectively and efficiently prevents loud and unusual noises and annoying smoke.

(j) *Explosive devices.* Explosive sound sources including, but not limited to, the use of fireworks, explosives, the firing of guns or other explosive devices in such a manner as to cause a noise disturbance is a violation of this division; provided, however, no such noise disturbance shall be deemed to exist when the activity is allowed or sanctioned by this Code or other lawful authority and the activity is conducted in strict accordance with such authority.

(k) *Powered model mechanical devices.* The following activities involving powered model mechanical devices are violations of this division:

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(1) The flying of model aircraft powered by internal combustion engines, whether tethered or not, or the firing or operating of model rocket vehicles or other similar noise-producing devices, within a residential district or quiet zone, or within five hundred feet (500') of any residence or quiet zone, in such a manner as to cause a noise disturbance. Furthermore, any such activity shall create a noise disturbance per se if conducted between the hours of 9:00 p.m. and 6:00 a.m.

(2) The flying of model aircraft powered by internal combustion engines, whether tethered or not, or the firing or operating of model rocket vehicles or other similar noise-producing devices within a nonresidential district in such a manner as to cause a noise disturbance.

(l) *Refuse compacting vehicles.* Operating or permitting to be operated any refuse compacting, processing or collection vehicles in any residential district or quiet zone or within 500 feet of any residence or quiet zone in such a manner as to cause a noise disturbance is a violation of this division. Furthermore, any such activity shall create a noise disturbance per se if conducted between the hours of 9:00 p.m. and 6:00 a.m. No noise disturbance shall be deemed to occur when the noise is created in the regular course of the activity for which the equipment is designed and the noise occurs for no longer than reasonably necessary to conduct the activity and the hours of operation occur between 6:01 a.m. and 8:59 p.m.

(m) *Noise in quiet zones.* It is a violation of this division to create a noise disturbance on any street adjacent to any school, hospital, clinic, library or other noise sensitive facility.

(n) *Stationary non-emergency signaling devices.* Sounding or permitting the sounding of any electronically activated or amplified signal from any stationary bell, chime, siren, whistle, or similar device, intended primarily for non-emergency purposes, from any place for more than five minutes during any consecutive 60 minute period which causes a noise disturbance is a violation of this division. Such signaling device is allowed if used as a danger signal, residential alarm or as required by law if vehicles are backing, starting or turning in such a way as to likely cause a collision.

(o) *Vibrations.* Using or causing to use any device that creates any ground vibration which is perceptible without instruments at any point on or beyond the property boundary of the source is a violation of this division.
(Code 1996, § 8.02.003; Ord. No. O-859-07, 11/19/07)

Sec. 8.02.004. Exemptions.

The following sources of potential noise disturbance shall be exempt from the regulations of this division:

(1) Safety signals, storm warning sirens or horns and the testing of such equipment, emergency vehicle sirens or horns used when responding to an emergency, and emergency pressure relief valves.

(2) Sound caused in the performance of emergency or public service work, including police, fire and public utility operations, acting in the performance of lawful duties to protect the health, safely or welfare of the community.

(3) Sounds caused by natural phenomena.

(4) Activities conducted on public parks and playgrounds which are approved, sponsored or

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sanctioned by the city. Activities conducted on public or private school grounds including, yet not limited to, school athletic and school entertainment events which are approved, sponsored or sanctioned by the school.

(Code 1996, § 8.02.004; Ord. No. O-859-07, 11/19/07)

Sec. 8.02.005. Permits for relief.

(a) The police chief, or his/her designated representative, is authorized to grant permits for relief of any provision in this division on the basis of undue hardship in cases when the sound source will be of short duration and the activity cannot be conducted in a manner as to comply with this division, additional time is necessary for the applicant to alter or modify their activity or operation to comply with this division, or no reasonable alternative is available to the applicant.

(b) An automatic variance will be granted without the payment of permit fees for the purpose of conducting parades or other public events provided that any noise disturbance created by such activity will be abated when such request is made by the police chief, or his/her designated representative.

(c) The police chief, or his/her designated representative, may prescribe any reasonable conditions or requirements deemed necessary to minimize adverse effects and may suspend any permit issued for violating any provisions prescribed in the permit of relief.

(d) A fee of $25.00 shall be charged to each applicant for processing permit applications.

(Code 1996, § 8.02.005; Ord. No. O-859-07, 11/19/07)

Sec. 8.02.006. Appeals.

(a) Any applicant who has been denied a permit or any permittee whose permit has been suspended, shall have the right to a hearing before the city manager.

(b) Request for a hearing shall be made in writing and received by the police chief, or his/her designated representative, within ten days of the date of the denial or the date of the notice of the suspension. The city manager may review the appeal at a staff level and has the authority to reject the action of his/her designated representative and order that a permit be granted or to reinstate a suspended permit. However, should the city manager uphold the denial or suspension of a permit, he/she shall, or his/her designated representative shall, schedule a hearing within 30 days of receipt of the request.

(c) The city manager shall have the authority to review all pertinent files and information regarding the applicant/permittee which are in the custody of the police chief, or his/her designated representative. Additionally, the city manager shall have the authority to accept written and verbal testimony from the police chief, his/her designated representative, any appropriate city staff member, applicant/permittee and interested citizens. The city manager shall also have the authority to place time restrictions on the testimony to be given at the hearing.

(d) The city manager shall have the authority to assess whether the police chief, or his/her designated representative, acted properly within the powers granted under this division in the denial or suspension of a permit. Upholding the action of the police chief, or his/her designated representative, shall affirm the denial or suspension. Rejection of the police chief, or his/her designated representative's action, shall automatically grant a permit or reinstate a suspended permit.

(e) No person whose permit has been denied or suspended shall create or allow the creation of the

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noise disturbance in dispute prior to a determination by the city manager.
(Code 1996, § 8.02.006; Ord. No. O-859-07, 11/19/07)

Sec. 8.02.007. Penalty.

(a) Any person violating any of the provisions of this division shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed five hundred dollars ($500.00). A separate offense shall be deemed committed upon each day during or on which a violation or failure to comply occurs.

(b) Notwithstanding the foregoing, in the event a citation is issued for a violation hereof and the violator commits another act on the same day in the same manner, a separate violation shall be deemed to exist for which a separate citation may issue and an enhanced penalty may be assessed not to exceed the maximum penalty ascribed herein.

(c) Allegation and evidence of a culpable mental state is not required for the proof of an offense under this division.
(Code 1996, § 8.02.007; Ord. No. O-859-07, 11/19/07)

Sec. 8.02.008. Injunctive relief and abatement authority.

In addition to and accumulative of all other penalties, the city shall have the right to seek injunctive relief for any and all violations of this division. In the case of noise disturbances created by construction activity, the city shall have the authority to issue stop work orders, or invalidate any permit issued for the activity until compliance with this division is assured.
(Code 1996, § 8.02.008; Ord. No. O-859-07, 11/19/07)

DIVISION 4. JUNKED VEHICLES

Sec. 8.03.001. Definitions.[85]

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

Antique vehicle. A passenger car or truck that is at least 25 years old.

Inoperable. Not capable of being used or operated due to legal or mechanical incapability. Junked vehicle. A vehicle that is self-propelled and:

(1) Does not have lawfully attached to it an unexpired license plate and a valid motor vehicle inspection certificate;

(2) Is wrecked, dismantled or partially dismantled, or discarded; or

(3) Is inoperable and has remained inoperable for more than 72 consecutive hours if the vehicle is on public property or 30 consecutive days if the vehicle is on private property.

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[85] **Sec. 8.03.001. Definitions**. A standardized introduction is substituted for consistency.

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Motor vehicle collector. A person who owns one or more antique or special interest vehicles and acquires, collects or disposes of an antique or special interest vehicle or part of an antique or special interest vehicle for personal use to restore and preserve an antique or special interest vehicle for historic interest.

Special interest vehicle. A motor vehicle or any age that has not been changed from original manufacturer's specifications and, because of its historic interest, is being preserved by a hobbyist.
(Code 1996, § 8.03.001; Ord. No. O-854-07, 9/17/07)

Sec. 8.03.002. Junked vehicles declared public nuisance.

A junked vehicle, including a part of a junked vehicle, that is visible at any time of the year from a public place or public right-of-way:

(1) Is detrimental to the safety and welfare of the public;

(2) Tends to reduce the value of private property; invites vandalism;

(3) Creates a fire hazard;

(4) Is an attractive nuisance creating a hazard to the health and safety of minors;

(5) Produces urban blight adverse to the maintenance and continuing development of municipalities; and

(6) Is a public nuisance.

(Code 1996, § 8.03.002; Ord. No. O-854-07, 9/17/07)

Sec. 8.03.003. Offenses.

A person commits an offense if the person maintains a public nuisance described by this division. An offense under this section is a misdemeanor punishable by a fine not to exceed $200.00. In addition, the court shall order abatement and removal of the nuisance on conviction.
(Code 1996, § 8.03.003; Ord. No. O-854-07, 9/17/07)

Sec. 8.03.004. Abatement procedure and effect.

(a) *Authority; administration.* The city may remove from private or public property or a public right-of-way a junked vehicle or part of a junked vehicle that constitutes a public nuisance as provided in this division. The city police chief or his designee shall administer and enforce this division, provided that any designee must be a regularly salaried, full-time employee of the city.

(b) *Right of entry.* The police chief or his designee may enter private property to examine a public nuisance, to obtain information to identify the nuisance and to remove or direct the removal of the nuisance, consistent with state and federal law.

(c) *Relocating vehicles does not abate nuisance.* The removal of a junked vehicle that is a public nuisance to another location in the city after a proceeding for the abatement and removal of a junked vehicle has commenced has no effect on the proceeding if the junked vehicle constitutes a public nuisance at the new location.

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(d) *Service of notice of violation.* Notice of the nature of the nuisance must be personally delivered, sent by certified mail with a five-day return requested, or delivered by the United States Postal Service with signature confirmation service to the last known registered owner of the nuisance, each lienholder of record, and the owner or occupant of the property on which the nuisance is located or, if the nuisance is located on a public right-of-way, the property adjacent to the right-of-way.

(1) If the post office address of the last known registered owner of the nuisance is unknown, notice may be placed on the nuisance or, if the owner is located, hand delivered.

(2) If notice is returned undelivered, action to abate the nuisance shall be continued to a date not earlier than the 11th day after the date of the return.

(3) If the city mails a notice to the property owner in accordance with this subsection 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.

(e) *Content of notice.* The notice of violation must state that the nuisance must be abated and removed not later than the 10th day after the date of the notice and a request for a hearing must be made before the 10-day period expires (which shall also be the date by which the nuisance must be abated and removed).

(f) *No notice required if citation is issued.* No notice is required for issuance of a citation for an offense under this division.

(g) *Hearing.* The municipal court shall have full authority to enforce the abatement procedures including, but not limited to, issuing all necessary orders. The municipal court judge shall conduct hearings relative to the abatement of junked vehicles, subject to the following:

(1) A public hearing must be conducted prior to the removal of the public nuisance not earlier than the 11th day after the date of service of notice.

(2) If a hearing is requested by a person for whom notice is required under subsection (b)(1)(C) herein, by no later than the date by which the nuisance must be abated and removed, the hearing shall be held not earlier than the 11th day after the date of the service of notice.

(3) At the hearing, the junked motor vehicle is presumed, unless demonstrated otherwise by the owner, to be inoperable.

(4) If the information is available a resolution or order requiring removal of the nuisance must include the vehicle description, identification (VIN) number, and license plate number.

(h) *Reconstruction prohibited.* As part of the order authorizing removal or abatement of the public nuisance, the court shall prohibit a vehicle from being reconstructed or made operable after removal and require that notice identifying the vehicle or part of the vehicle be given to the department of public safety not later than the fifth day after the date of removal.

(i) *Cancellation of certificate of title.* On receipt of notice of removal, the department shall immediately cancel the certificate of title issued for the vehicle.

(j) *Exceptions.* The procedure provided in this section shall not apply to a vehicle or vehicle part

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that:

(1) Is completely enclosed in a building in a lawful manner and is not visible from the street or other public or private property; or

(2) Is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard; or

(3) Is an antique or special interest vehicle stored by a motor vehicle collector on the collector's property, if the vehicle or part thereof, and the outdoor storage area, if any:

a. Is maintained in an orderly manner;

b. Does not constitute a health hazard; and

c. Is screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery. A vehicle or part thereof, covered by a tarp, car blanket, or similar covering does not meet the requisite screening requirements of this division.

(k) *Ordinance public view defined.* For purposes of this section, "ordinary public view" means the view from private or public property, or public right-of-way from average grade of the surrounding property.

(Code 1996, §§ 8.03.004, 8.03.005; Ord. No. O-854-07, 9/17/07)

DIVISION 5. GRAFFITI

Sec. 8.08.001. Definitions.[86]

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

Graffiti means any marking, including, but not limited to, any inscription, slogan, drawing, design, painting, symbol, logo, name, character, or figure, that is scratched, painted, sprayed, or placed on any surface of public or private buildings, structures or other facility or upon any other property regardless of the nature of the material of the structured component of property.

Graffiti implement means any spray paint container, liquid paint in cans or other containers, graffiti stick, paint stick, or etching tool capable of scarring or otherwise defacing glass, metal, concrete or wood.

Guardian means a person who under court order is the guardian of the minor or a public or private agency with whom a minor has been placed by a court.

Minor means any person under 18 years of age.

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[86] **Sec. 8.08.001. Definitions.** A standardized introduction is substituted for consistency and definitions from throughout the division are combined in this section and duplication eliminated.

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Owner means any person with the legal right of possession to tangible property.

Paint stick or *graffiti stick* means any device containing a solid form of paint, chalk, wax or other similar substance capable of being applied to a surface by pressure and upon application, leaving a visible mark that is not water soluble.

Parent means a person who is the natural parent, adoptive parent, or stepparent of another person.

Spray paint means any pressurized spray cans containing paint, including but not limited to a clear or pigmented lacquer finish.

(Code 1996, § 8.08.001)

Sec. 8.08.001. Duty of property owner to remove.[87]

(a) An owner of property in the city commits an offense if he/she fails to remove all graffiti from the property that is visible from any public property or right-of-way, or from any private property other than the property on which the graffiti exists~~, unless the graffiti was created on the property with the owner's consent and it does not violate any applicable city ordinance or state or federal law~~.

(b) Before issuing a citation for violation under this section, the police chief or the city's code enforcement officer shall serve the property owner where the graffiti is located with written notice to remove the graffiti within 21 calendar days from the date the notice is served.

(c) The notice may be served by handing it to the owner in person, or by United States certified mail, five-day return receipt requested, addressed to the owner at the owner's post office address as shown on the tax rolls of the city or of the county where the property is located. If the owner cannot be found and the notice is returned by the United States Postal Service, then the owner may be notified by:

(1) Publication two times, within ten consecutive days in the official newspaper adopted by the city council;

(2) Posting the notice on or near the front door of each building on the property to which the violation relates; or

(3) Posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates, if the property contains no buildings.

(d) The 21 calendar day period referred to in this section will be counted:

(1) From the date the notice is personally served on the owner or from the sixth day after the notice is placed in the United States certified mail; or

(2) If the owner cannot be found or the notice is returned by the United States Postal Service, from the date the notice is published for the second time in accordance with subsection (c)(1) of this section or posted in accordance with subsection (c)(2) or (3) of this section.

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[87] **Sec. 8.08.001. Duty of property owner to remove.** Duplicative defense is stricken as shown.

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(e) If, after the expiration of the 21-day notice the graffiti is not removed, the police chief or the code enforcement officer shall remove or cause to be removed all the graffiti by any means deemed sufficient by the officials. All costs of the abatement of the graffiti shall be charged to the property owner. Recovery of the expenses will be done in accordance with any and all state and federal regulations or laws. (Code 1996, § 8.08.001)

Sec. 8.08.002. Responsibility of parent or guardian for graffiti created by a minor.

A parent or guardian of a minor commits an offense if he/she intentionally, knowingly or recklessly permits, or by insufficient control, allows the minor to create graffiti on tangible property in the city without the property owner's consent. It is a defense to prosecution under this section if the minor has been emancipated from parental control as mandated by state or federal regulations or laws. (Code 1996, § 8.08.003)

Sec. 8.08.003. Graffiti implement related violations.

(a) *Possession by a minor.* It is unlawful for a minor to be in possession of any sort of graffiti implement unless the minor is accompanied by a parent or guardian, or a teacher in connection with a bona fide school project, or a supervisor during the minor's regular employment. It is a defense to prosecution under this subsection if the minor's possession was in connection with an event sponsored by the city or a church or some other officially recognized entity and with the express permission of the property's owner or owner's agent. It is also a defense to prosecution under this subsection if the minor has been emancipated from parental control as mandated by state or federal regulations or laws.

(b) *Possession by persons other than minors.* It is unlawful for any person to have in his or her possession any graffiti implement on private property not open to the public, for the purpose of defacing property. The graffiti implement shall be presumed to be for the purpose of defacing property if it is in the holder's possession while the holder is on private property closed to the public, without permission from either the owner or the owner's lawful agent.

(c) *Possession in certain public places.* It is unlawful for any person to have in his or her possession any graffiti implement in city hall or in a public park, public swimming pool, other public recreational facility, or other public ground of the city when the facility is closed to the public. With regard to prosecution of minors for violation of this subsection, it is a defense to such prosecution that the minor's possession was in connection with an event sponsored or supervised by the city.

(d) *Permitting minor to be in unlawful possession in designated public places.* It is unlawful for the parent or guardian of a minor to intentionally, knowingly or recklessly, or by insufficient control permit a minor to be in possession of any graffiti implement in city hall or in a public park, public swimming pool, other public recreational facility, or other public ground of the city when the facility is closed to the public.

(e) *Sale of implement to minor*. It is unlawful for any person to sell or otherwise transfer any spray paint, graffiti stick, paint stick or any other graffiti implement to a minor unless, at the time of purchase or transfer, the minor is accompanied by a parent or guardian, or a teacher in connection with a bona fide school project, or a supervisor during the minor's regular employment. It is a defense to prosecution under this subsection if the minor has been emancipated from parental control as mandated by state or federal regulations or laws.

(f) *Presenting false evidence of age.* It is unlawful for any minor to furnish fraudulent evidence of

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majority to purchase or obtain any spray paint container, graffiti stick, paint stick, or any other graffiti implement.
(Code 1996, § 8.08.003)

Sec. #. Other defenses.

In addition to other defenses enumerated in this division, it is a defense to prosecution under this division that:

(1) No notice was served on the property owner in compliance with subsection (c) of this section;

(2) The property owner has removed graffiti from that particular property three or more times within the preceding 12 months;

(3) Before being issued a citation under this section, the property owner gave the police chief or the city's code enforcement officer written authorization to allow persons to enter onto the property and remove the graffiti pursuant to a volunteer or community service program approved by the city's code enforcement officer in which the property is eligible to participate; or

(4) The property owner gave consent for the graffiti to be placed on the tangible property, and the graffiti is not in violation of any regulation of the city.

(Code 1996, § 8.08.001)

Sec. 8.08.004. Penalty.

A person who violates a provision of this division shall be fined in accordance with the general penalty provision in section 1.01.009 of this code. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.
(Code 1996, § 8.08.004)

ARTICLE III. SEX OFFENDER RESIDENCY

Sec. 8.09.001. Definitions.[88]

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:

Minor. A minor is a person younger than 17 years of age.

Permanent residence. A place where a person abides, lodges, or resides for 14 or more consecutive days.

Temporary residence. A place where a person abides, lodges, or resides for a period of 14 or more days in the aggregate during any calendar year and which is not the person's permanent address, or a place where a person routinely abides, resides, or lodges for a period of four or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.

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[88] **Sec. 8.09.001. Definitions.** A standardized introduction is substituted for consistency.

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(Code 1996, § 8.09.001; Ord. No. 829-06, 10/16/06)

Sec. 8.09.002. Residency offense.

For each person required to register on the state department of public safety's sex offender database (the database) because of a violation involving a victim who was less than 17 years of age, it is unlawful for that person to establish a permanent residence or temporary residence within 1,000 feet of a playground, school, video arcade facility, youth center or public swimming pool, as those terms are defined in V.T.C.A., Health and Safety Code, § 481.134.
(Code 1996, § 8.09.002; Ord. No. 829-06, 10/16/06)

Sec. 8.09.003. Evidentiary matters; measurements.

(a) It shall be prima facie evidence that this division applies to a person if that person's record appears on the database and the database indicates that the victim was less than 17 years of age.

(b) For the purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent or temporary residence to the nearest property line of the premises described hereinabove, or, in the case of multiple residences on one property, measuring from the nearest wall of the building or structure occupied or the parking lot or driveway, whichever is closer to the nearest property line of the premises, as described herein.

(c) A map depicting the prohibited areas shall be maintained by the city police department. The city shall review the map at least annually for changes. Said map will be available to the public at the police department.
(Code 1996, § 8.09.003; Ord. No. 829-06, 10/16/06)

Sec. 8.09.004. Culpable mental state not required.

Neither allegation nor evidence of a culpable mental state is required for the proof of a residency offense under this article.
(Code 1996, § 8.09.004; Ord. No. 829-06, 10/16/06)

Sec. 8.09.005. Affirmative defenses.

It is an affirmative defense to prosecution that any of the following conditions apply:

(1) The person required to register on the database established the permanent or temporary residence and has complied with all of the sex offender registration laws of the state, prior to the date of the adoption of this division.

(2) The person required to register on the database entered into a residential lease or rental agreement prior to the date of the adoption of this division.

(3) The person required to register on the database was a minor when he or she committed the offense requiring such registration and was not convicted as an adult.

(4) The person required to register on the database is a minor or a ward under guardianship.

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(5) The prohibited premises, as specified herein, within 1,000 feet of the permanent or temporary residence of the person required to register on the database was opened after the person established the permanent or temporary residence and complied with all sex offender registration laws of the state.

(6) The person required to register on the database maintains a permanent or temporary residence at a jail, prison, juvenile facility or other correctional institution or facility.

(7) The information on the database is incorrect, and, if corrected, this division would not apply to the person who was erroneously listed on the database.
(Code 1996, § 8.09.005; Ord. No. 829-06, 10/16/06)

Sec. 8.09.006. Exemption hearing.

(a) A person who is required to register on the database because of a violation involving a victim who was less than 17 years of age may petition the city council, in writing, for an exemption from the requirements of this division.

(b) The city council may authorize an exemption from this division when, in its opinion, undue hardship will result from compliance or an individualized recidivist assessment indicates an exemption should be granted. In granting an exemption, the council shall take into account the probable effect the exemption will have upon the public health, safety and welfare of the community.

(c) No exemption shall be granted without first having held a public hearing on the exemption petition and unless the city council makes written findings regarding the following:

(1) The person lives with his/her family in the only home available and affordable to the family;

(2) The number of victims;

(3) The diversity of victims;

(4) The person’s relationship to the victims;

(5) A history of juvenile sexual offenses;

(6) A history of abuse and neglect;

(d) Such findings of the city council, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the council meeting at which such exemption is granted. Exemptions may be granted only when in harmony with the general purpose and intent of this division so that the public health, safety and welfare may be secured and that substantial justice may be done.
(Code 1996, § 8.09.006; Ord. No. 829-06, 10/16/06)

Sec. 8.09.007. Prohibition against renting or leasing.

(a) It is unlawful for the owner, lessee or occupant (collectively referred to as “lessor”) of any place, residence, structure, dwelling, manufactured dwelling, mobile home, camping trailer or other conveyance, with knowledge that it will be used as a temporary or permanent residence of such person, to rent or lease

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the same, or any part thereof, to a person required to register on the database because of a violation involving a victim who was less than 17 years of age, if such place, residence, structure, dwelling, manufactured dwelling, mobile home, camping trailer or other conveyance is located within 1,000 feet of any playground, school, video arcade facility, youth center or public swimming pool, as those terms are defined in V.T.C.A., Health and Safety Code, § 481.134.

(b) An owner, lessee or occupant (collectively referred to as "lessor") of any place, residence, structure, dwelling, manufactured dwelling, mobile home, camping trailer or other conveyance, shall be deemed to have knowledge that another person is required to register on the database because of a violation involving a victim who was less than 17 years of age if such person's record appears on the database and the database indicates that the victim was less than 17 years of age on the earlier of:

(1) The date of receipt of a lease application, rental application or similar document by lessor or lessor's officers, agents, employees or volunteers; or

(2) The date the person first occupies lessor's place, residence, structure, dwelling, manufactured dwelling, mobile home, camping trailer or other conveyance.
(Code 1996, § 8.09.007; Ord. No. 829-06, 10/16/06)

Sec. 8.09.008. Penalties.

(a) Civil and criminal penalties. The city shall have the power to administer and enforce the provisions of this division as may be required by governing law. Any person violating any provision of this division [is] subject to suit for injunctive relief as well as prosecution for criminal violations.

(b) Criminal prosecution. Except as may otherwise be provided herein, any person violating any provision of this division shall, upon conviction, be fined a sum not exceeding $500.00. Except as may otherwise be provided herein, each day that a provision of this division is violated shall constitute a separate offense. An offense under this division is a misdemeanor.

(c) Civil remedies. Nothing in this division shall be construed as a waiver of the city's right to bring a civil action to enforce the provisions of this division, and to seek remedies as allowed by law, including, but not limited to the following:

(1) Injunctive relief to prevent specific conduct that violates this division or to require specific conduct that is necessary for compliance with this division;

(2) Except as may otherwise be provided herein, a civil penalty up to one hundred dollars ($100.00) a day when it is shown that the defendant was actually notified of the provisions of this division and after receiving notice committed acts in violation of the article or failed to take action necessary for compliance with this division; and

(3) Other available relief.
(Code 1996, § 8.09.008; Ord. No. 829-06, 10/16/06)

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Chapter 24

PARKS AND RECREATION

ARTICLE I. IN GENERAL

Sec. 1.18.001. Authority of city over city parks.

The city shall have exclusive control of all city parks within the city limits and shall have the power to control, regulate or remove all obstructions, and prevent all encroachments thereupon.
(Code 1996, § 1.18.001)

Sec. 1.18.002. Hours of operation of recreational facilities.

The park and recreational facilities of the city will be available for general use and occupancy during the hours designated by the city. The city may revise operational hours as its seems necessary and appropriate; however, the normal hours of operation and use are 5:00 a.m. to 11:00 p.m. Sunday through Thursday and 5:00 a.m. to 12:00 a.m. (midnight) on Friday and Saturday.
(Code 1996, § 1.18.002)

Sec. 1.18.003. Vehicle driving and parking in city recreational areas.

(a) It is unlawful to drive, stand, park, or to permit the driving of any motor vehicle on any picnic area, walkway, or ball field within the park.

(b) All vehicles will remain parked or driven only on clearly established and maintained roadways, driveways, and parking lots. However, any motor vehicle actually engaged in the maintenance or service of or to such park areas or any facility therein may deviate from said roadway, driveway, or parking lot for as long as needed to perform said maintenance or service.

(c) This section shall not apply to any vehicle actually engaged in any emergency service involved in the saving or preservation of human life or property within the confines of the park.
(Code 1996, § 1.18.003)

Sec. 1.18.004. Speed limit in city park.

The designated speed limit for the operation of any motor vehicle within the confines of the park is ten miles per hour at all times.
(Code 1996, § 1.18.004)

Sec. 1.18.005. Fires and excavations within the city park restricted.

No person shall start any type of fire within the confines of the park except in the designated picnic areas and then only in the designated barbecue grills. There shall at no time be any excavation of the grounds within the park for fires of any type and for any purpose.
(Code 1996, § 1.18.005)

Sec. 1.18.006. Gambling or wagering within city park permitted.

No gambling or wagering of any type shall be permitted within the park or at any designated event held at

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the park by any person, group, or civic organization.
(Code 1996, § 1.18.006)

Sec. 1.18.007. Alcoholic beverages within city park prohibited.

At no time will any person, group, or civic organization be permitted to possess or consume any type of alcoholic beverage within the confines of the park.
(Code 1996, § 1.18.007)

Sec. 1.18.008. Concessions in recreational facilities restricted.

The sale of concessions in conjunction with any event scheduled at the park or recreational facility is prohibited unless otherwise approved in advance by the city.
(Code 1996, § 1.18.008)

Sec. 1.18.009. Penalties.

Any person violating this article shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court of the city, shall be fined in accordance with the general penalty provision found in section 1.01.009 of this code.
(Code 1996, § 1.18.009)

ARTICLE II. PRIVATE USE OF CITY RECREATIONAL FACILITIES

Sec. 1.18.101. Designation of city facilities.

The city manager shall from time-to-time designate the city recreational facilities and other city facilities that are available for use by the public for public or private events and meetings. The term 'use' as used in this division, includes but is not limited to use pursuant to rental or use agreement, license, or permit, and use with or without charge.
(Code 1996, § 1.18.101; Ord. No. O-20-22, § 1, 1/3/2023)

Sec. 1.18.102. City manager to establish policy for use.

The city manager is authorized to establish a policy for the use of city facilities as provided in this division 4 and the use of city facilities as provided in this division shall be subject to the policy for use of city facilities established by the city manager from time-to-time.
(Code 1996, § 1.18.102; Ord. No. O-20-22, § 1, 1/3/2023)

Sec. 1.18.103. Use permits.

The city manager, or his/her designee, is authorized to issue permits, licenses, rental or use agreements, or other agreements with respect to the reservation, rental, or use of city recreational facilities, meeting rooms in city buildings, and other city facilities for events and meetings, including permits, licenses or other agreements for the service of alcoholic beverages in such facilities.
(Code 1996, § 1.18.103; Ord. No. O-20-22, § 1, 1/3/2023)

Sec. 1.18.104. Fees.

The city manager is authorized to establish fees and deposits for the use of city facilities, including special

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event alcoholic beverage permits unless the fee or deposit has been established by city ordinance or by resolution of the city council.
(Code 1996, § 1.18.104; Ord. No. O-20-22, § 1, 1/3/2023)

Sec. 1.18.105. Alcoholic beverages at special events.[89]

(a) No person shall sell, store, possess, or consume an alcoholic beverage in any city facility except as authorized in this section. Pursuant to V.T.C.A., Alcoholic Beverage Code, § 1.04, the term 'alcoholic beverage' as used in this section means alcohol, or any beverage containing more than one-half of one percent of alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted. ~~shall be defined as used in the Texas Alcoholic Beverage Code.~~

(b) The city manager or his/her designee may grant a special event alcoholic beverage permit to allow for the consumption, possession, or sale of beer and wine in a city recreational facility, meeting room in a city building, or other city facility. In issuing such permit, the city manager shall designate a specific area within the city facility for the serving and consumption of alcoholic beverages under such permit and shall establish such hours that the alcoholic beverages may be dispensed and consumed. The city manager is further authorized to implement such other appropriate safety and control regulations as he or she deems necessary for the public safety and general welfare.
(Code 1996, § 1.18.105; Ord. No. O-20-22, § 1, 1/3/2023)

ARTICLE III. PARK LAND DEDICATION

Sec. 1.18.041. Purpose.

(a) The requirements contained in this article are intended for the purpose of assuring open space and community park facilities are available and adequate to meet the needs created by such development while maintaining current and proposed park and recreation standards pursuant to the city parks, recreation and open space master plan.

(b) The city has imposed a park dedication fee on residential development, and all fees collected shall be used solely and exclusively for the purpose of acquisition and development of new community parks and existing park facilities intended for access and use by the entire city. Acceptable park land that meets the criteria to be dedicated in lieu of the imposed park fee may be accepted by the city.
(Code 1996, § 1.18.041; Ord. No. O-04-08, 2/4/08)

Sec. 1.18.042. Supplement fees established.

(a) The city has established a city-wide park fee and a neighborhood park fee. A city-wide park fee of $618.00 per dwelling unit shall be imposed on all residential development in the city. A neighborhood park fee shall be calculated and collected as provided in section 1.18.045 of this article.

(b) The park dedication requirement established by this division is additional and supplemental to, and not in substitution to, any other requirements imposed by the city on the development of land. Such dedication requirement is intended to be consistent with and to further the policies of the city's comprehensive plan, the master park plan, the city's unified development code, the city's subdivision

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[89] **Sec. 1.18.105. Alcoholic beverages at scheduled events.** Definition from state statute is inserted for clarity.

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rules and regulations and all other city policies, ordinances and resolutions by which the city seeks to promote orderly growth and preserve natural resources.
(Code 1996, §§ 1.18.042, 1.18.043; Ord. No. O-04-08, 2/4/08)

Sec. 1.18.044. Developer contribution by land dedication in lieu of park fee.

(a) In lieu of the imposed park fee, the developer of any area zoned and to be used for single-family, duplex or multifamily residential purposes within the city may elect to apply a contribution of dedication of community park land acceptable to the city at the rate of not less than one acre of land per 50 ultimate units of such residential subdivision and public parks shall not be smaller than five acres in size.

(b) The developer shall propose dedication of park land in conjunction with approval of the subdivision plat.

(c) The dedicated land required hereby shall be well drained, relatively level, in areas that are proposed for active park uses and shall be suitable for appropriate recreational and leisure activities as defined in a community park. All park land offered for dedication under this section shall meet the requirements for location and for physical land characteristics outlined in the master park plan. Areas having environmentally sensitive ecosystems, attractive views, topographical interests or unique natural features shall be preferred and encouraged for park land dedication. Areas which are relatively featureless, barren of natural trees and vegetative cover and which are not physically attractive in some other way, may not be typically acceptable.

(d) The location and size of public parks within the city shall be determined in all instances by the city council upon recommendations from the city manager or the city manager's designee. That determination shall be based upon existing circumstances at the time and shall be in accordance with the adopted parks, recreation and open space master plan and as may thereby be amended from time to time by the city.

(e) Dedicated park land shall be easily accessible to the public, enhance the visual character of the city and minimize conflict with adjacent land uses.
(Code 1996, § 1.18.044; Ord. No. O-04-08, 2/4/08)

Sec. 1.18.045. Neighborhood park fees and funds.

(a) A neighborhood park fee shall be due and collectable for residential units to be constructed in any area in the city for which park and recreation facilities are suitable and desirable, is consistent with the master park plan and which has been identified by the city manager and the city manager's designee for future construction as a neighborhood park.

(b) Upon the filing of a subdivision plat, concept plan, site plan, proposal for agreement, proposal for planned development (PD) district, application for plat or replat, or other form of authorization that adequately informs the city of a plan to construct residential units in the city, staff shall ascertain whether such units are in an area from which a neighborhood park is contemplated, and if so, shall inform the applicant or other person filing such document of the requirements for payment of a neighborhood park fee.

(c) The maximum neighborhood park component fee shall be calculated by the staff separately for each neighborhood park, by dividing the average cost of that type of park facility for the entire area that is reasonably expected to be benefitted by such park and which is reasonably susceptible to and authorized

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for development for residential purposes.

(d) A separate neighborhood park fee fund shall be established for each neighborhood park that is identified pursuant to this section.

(e) Fees collected for the neighborhood park funds shall be used for the purpose of acquisition and development of neighborhood parks located in reasonable proximity to the residential development from which the park fee was received. Fees collected may be used for site preparation, the extension of utilities to or within sites, the installation of landscaping, play equipment, or recreation improvements and attendant engineering and planning costs associated with park development.
(Code 1996, § 1.18.045; Ord. No. O-04-08, 2/4/08)

Sec. 1.18.046. Processing and collection of fees.

(a) *Fee determination.* The developer has the duty to submit the information concerning the number of dwelling units. Upon receipt of an application for a building permit, the city shall calculate the amount of the applicable city-wide park fee due and any neighborhood park fee. The applicable fees shall be collected prior to the issuance of the building permit. No permit shall be issued nor shall any construction be allowed to begin until payment of all fees required by this article are paid.

(b) *Credit against park fee for developer contributions of land.* Park land that has been dedicated in lieu of the park fee shall be reviewed and approved by the city council subsequent to a recommendation from the park and recreation board. When review of development applications has resulted in the acceptance of land dedication, such land dedication shall be shown on a final plat and shall contain clear fee simple dedication of that land to the city.
(Code 1996, § 1.18.046; Ord. No. O-04-08, 2/4/08)

Sec. 1.18.047. Use of park fees.

(a) Fees collected for the city-wide park fund shall be used for the purpose of acquisition and development of new centralized community parks and the improvement of existing park facilities intended for use and access by the entire city. Fees collected may be used for land acquisition, site preparation, the extension of utilities to or within sites, the installation of landscaping, play equipment, or recreation improvements, installation of expansions, new features, athletic fields, parking lots, swimming pools and water recreation facilities, and similar facilities normally associated with parks and recreation, including attendant engineering, architectural, legal, planning or other consultant costs associated with such park development.

(b) All expenditures of fees collected shall be made in accordance with the city parks, recreation and open space master plan, advice or recommendation of the staff and the parks and recreation board, and as approved by the city council to best benefit the citizens of the city.

(c) Any monies paid into the city-wide or neighborhood park fund must be expended by the city within ten years from the date received by the city. If such funds are not expended within ten years following final plat approval, the property owner shall be entitled to a refund of such funds upon written request, less any amounts expended for such purposes.
(Code 1996, § 1.18.047; Ord. No. O-04-08, 2/4/08)

ARTICLE IV. NAMING CITY RECREATIONAL FACILITIES

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Sec. 1.18.081. Definitions.[90]

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:

Ancillary feature. Individual exterior or interior features or facilities within the larger park or facility, including, but not limited to, meeting rooms, landscaped grounds, flower gardens, sculptures, picnic shelters, play lots, ball fields, and other similar items.

Deceased. A person who has been dead for more than two years.

Elected official. Any person who acquires local, regional, or national office through an election.

Family member or relative. Any person having a current or past familial relationship including natural born, adopted, or legally connected persons.

Naming. The intention of permanently identifying a human created object, open space, waterway, or other feature occurring in the natural environment.
(Code 1996, § 1.18.081; Ord. No. O-16-12, 7/16/12)

Sec. 1.18.082. Procedure.

(a) Because temporary "working" designations tend to be retained, the park and recreation board will carry out the required naming recommendation to city council for a new park facility within 12 months after its acquisition or development. Facilities will bear number designations until the naming process results in adoption of a name.

(b) The parks and recreation board can initiate the naming process whenever deemed necessary and in the best interest of the city. In the absence of any naming request, the parks and recreation board shall adhere to the criteria stated in this policy for recommendation of name. All requests for naming a park or facility are to be presented to the park and recreation board for consideration.

(c) Only a naming request for a recently deceased individual will have a two year waiting period before the request may be proposed for consideration.

(d) The city staff will log in each request by date and time and review the request for completeness before submitting the request to the park and recreation board for consideration.

(e) Those submitting a name request should show how the proposed name is consistent with the criteria stated in this policy. When naming after a person, the application will describe the contributions to the city along with submitted written documentation as required.

(f) City staff will review the proposal for adherence to the stated criteria and authentication of statements relative to contributions in the case of the request being brought forward to the park and recreation board. If the request is incomplete staff will contact the applicant in writing and provide them with the opportunity to resubmit a revised request.

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[90] **Sec. 1.18.081. Definitions.** A standardized introduction is substituted for consistency.

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(g) The park and recreation board will place one public notice in the city's newsletter or other media 30 days before the board's meeting where discussion will take place; conduct two consecutive public meetings to offer an opportunity for public input on the proposed name. Public input to be considered shall be postmarked 30 days prior to the public meeting and presented in writing and with supporting documentation to the director of public works who shall forward the input to the park and recreation board.

(h) The city council will review the application and supporting documents at next scheduled council meeting and evaluate merit of public input and documentation for disposition.

(i) City council will inform the park and recreation board of final decision who will forward decision to the park department for final notification to applicant and will have closure of request on disposition log.
(Code 1996, § 1.18.082; Ord. No. O-16-12, 7/16/12)

Sec. 1.18.083. Park and open space naming policies.

Parks, open spaces, waterways and other elements of the natural environment shall be subject to the following city policy:

(1) Council to name city parks. The city council shall designate the names of public parks and recreation facilities. The city council will not make its selection until after receiving written recommendations from the parks and recreation board. Such recommendations shall state how the proposed name(s) meet the naming criteria. If a contest or competition is held to help determine the name of a park or recreation facility, the parks and recreation board shall establish recommended guidelines to the city council. Citizen input shall be encouraged in the naming of the parks, subject to the criteria below.

(2) Naming criteria. The naming of public parks and recreation facilities shall be made upon one or more of the following criteria and preferably in the following order:

a. The proposed name fits a neighborhood or geographical identification (e.g., Lake Hollywood, Courtney Lane Park, Cinnamon Springs, and Gateway);

b. The proposed name fits a natural or geological feature historical, or cultural significance, geographical location and the wishes of the community in which it is located (e.g., Magnolia Creek, Red Oak Creek, Bear Creek);

c. The proposed name is a historical figure or of local cultural or historical significance (e.g., Ida Glenn);

d. The proposed name is for a deceased individual who has made a significant land or monetary contribution or a significant contribution of personal time, effort, or service to the park system that is commensurate with the value of the recognition but only after said person has been deceased for at least two years, and only after, through due diligence, it has been found that said person's character, achievements, reputation, and contributions are above reproach;

e. The proposed name is to recognize a contribution made "in memoriam" for the donor or entity, when the name has been stipulated as a condition of the donation;

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f. The proposed name is for a civic group or corporation whose mission statement is compatible with city goals and objectives and that has made a significant land or monetary contribution of time, effort, or service to the park system;

g. The proposed name is for a city employee who has made extraordinary and significant contributions to the park system, and held a position with the city for at least 20 years and deceased for two years or more;

h. To avoid duplication, confusing similarity, or inappropriateness, the board or committee, in the considering name suggestions, will review existing park and facility names in the park system;

i. No park shall be given the same name as an existing school site or public facility, except where they abut one another;

j. Requests that are rejected or received disapproved from the board are ineligible to resubmit to the parks department without adhering to stated policy and application requirements and only after a period of 12 months.

(3) Naming of ancillary features. A park or open space, individual ancillary features or facilities may have names other than that of the entire park or open space. These names shall be subject to the same general criteria.

(4) Naming through fundraisers. The city council may authorize a feature of a park or open space to be developed or established through a fundraising effort that may include naming. It is not the intent of this policy to prohibit such fundraising activities that involve naming as part of the fundraising effort. Examples may include but are not limited to: a “named bricks” fundraiser to pave a path; “named seats” to fundraise for a bleacher; “named bushes” to fundraise for a rose garden, etc.

(5) Naming of donated property - conditions. The naming of donated public park property, facility, or ancillary feature should ordinarily be with the intent for it to be a perpetual recognition of the individual, family, corporation, foundation, association or other entity from whom the donation was received. The naming should be commensurate with the value of the donation. The renaming of a donated facility is generally discouraged. Rescinding the name of a donated facility shall occur only under extraordinary circumstances after thorough study and the receipt of written recommendations from the park and recreation board. The city council may rescind the naming of a facility donated after the effective date of this policy only under the following circumstances:

a. The individual, family, corporation, foundation, association or other entity for which the facility has been named has been convicted of a felony, a crime involving moral turpitude, or participated in any other illegal or disreputable behavior which would bring discredit to the city and do substantial harm to the reputation and mission and vision of the city and the facility;

b. The useful life of the facility has expired and the facility must be replaced or substantially renovated;

c. The specific agreed upon period of time for the retention of the name has expired; or

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d. The donor, or their legally authorized representative, has requested or consented to a renaming action by the city.

(6) Signage. Following selection of a name, the park department shall identify the specific facility with appropriate signage specifying the name.

(Code 1996, § 1.18.083; Ord. No. O-16-12, 7/16/12)

Sec. 1.18.084. Naming of other city facilities.

(a) General policy. Other city facilities, such as city hall, police stations, annexes, maintenance buildings, community centers, senior centers, and related manmade structures shall be subject to the policies outlined in this section. As a general policy, public building names shall be named to reflect the functionality of the facility by simply stating its purpose without further description (example: Glenn Heights Senior Center, Glenn Heights Performing Arts Center, and Public Safety Building).

(b) City council to name city facilities. The city council shall designate the names of city facilities, including ancillary features. In making this selection, the city council may request a written recommendation from the park and recreation board. Such recommendations shall state how the proposed names meet the naming criteria outlined below.

(c) Naming criteria. The naming of general city facilities shall be made upon one or more of the following criteria:

(1) The building name simply reflects the functionality of the facility without further description;

(2) The proposed name fits a neighborhood or geographical identification (e.g., Glenn Heights, Bear Creek);

(3) The proposed name is for an individual deceased for two years that has made a significant financial contribution or contribution of time, effort, or service to the city that is commensurate with the value of the recognition;

(4) The proposed name is to recognize a contribution made “in memoriam” for an individual, when the name has been stipulated as a condition of a significant donation.

(d) Naming of ancillary features. A facility’s significant individual interior or exterior features or rooms may have names designated other than that of the general facility. These names shall be subject to the same general criteria designated in this section but may be lessened or modified to include and commensurate with the value of the ancillary feature so named.

(e) Naming through fundraisers. The city council may authorize a feature of a building to be developed or established through a fundraising effort that may include naming. It is not the intent of this policy to prohibit such fundraising activities that involve naming as part of the fundraising effort. Examples may include: “named bricks” to fundraise for a floor, path, or sidewalk; “named bushes” to fundraise for a garden, etc.

(Code 1996, § 1.18.084; Ord. No. O-16-12, 7/16/12)

Sec. 1.18.085. Name plates for minor ancillary features.

Nothing in this policy shall be construed to prohibit the city from fixing a name plate or providing similar

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recognition to a minor feature in a park or other city facility. Such recognition shall be made only for those persons who have made a significant contribution to the city or otherwise donated the feature to the city. Examples include trees, bushes, flower beds, park benches, kiosks, play toys, water fountains, and similar items.
(Code 1996, § 1.18.085; Ord. No. O-16-12, 7/16/12)

Sec. 1.18.086. Nomination and notification from citizens.

A completed citizen nomination should include a completed application with attached narrative to support the proposed name change nomination, letters of support, and a maximum of ten attachments that may include newspaper articles, listing of accomplishments or affiliations, resumes, photos, etc. Individuals submitting applications will receive notification by mail of the status of the application.
(Code 1996, § 1.18.086; Ord. No. O-16-12, 7/16/12)

Sec. 1.18.087. Administration of policy.

(a) The city shall provide a good faith, discretionary administration of this policy for the benefit of the public in general, but the city makes no promise for the specific application of any part or the whole of this document to any individual. This document is not intended to provide an enforceable right, expectation, or property interest to any third party providing donations or bequests to the city.

(b) Proper and thoughtful consideration and due diligence should be exercised in naming similar facilities uniformly. For example: If the soccer fields are to be named, they should have a similar theme, such as naming them all after indigenous wildflowers or city founders. Consideration should also be given to the level of significance a person played in the city and the size of the amenity to be named, if it is to be named after a person. It seems only fitting that larger facilities be named after someone who played a much larger role in founding the city or parks/park facilities, with smaller facilities/amenities being named after those who played important yet lesser roles.

(c) Established criteria will be the primary rating tool, though, there may be some unforeseen situations in which applications may be looked at on a case-by-case basis.
(Code 1996, § 1.18.087; Ord. No. O-16-12, 7/16/12)

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Chapter 26

SOLID WASTE

ARTICLE I. IN GENERAL

Sec. 13.06.001. Definitions.[91]

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

Bulky items. Stoves, refrigerators, water tanks, washing machines, furniture and other similar waste materials. This term shall include loose brush greater than four inches in diameter that cannot be bundled in four-foot lengths and weighs more than 50 pounds Items of loose brush shall not exceed five feet in length and 50 pounds

Bundle. Trees, shrubs and brush trimmings or newspapers and magazines securely tied together forming an easily handled package not exceeding four feet in length, six in diameter, or 50 pounds in weight. The total amount of "bundled" material set out for collection shall not exceed two cubic yards (6' x 3' x 3') during each collection period.

Construction debris. Waste building materials resulting from construction, remodeling, repair, demolition or landscaping operations.

Customer. An occupant of a residential unit or commercial establishment who generates refuse.

Dead animals. Animals or portions thereof equal to or greater than ten pounds in weight that have expired from any cause, except those slaughtered or killed for human use.

Garbage or trash. Any and all dead animals of less than ten pounds in weight, except those slaughtered for human consumption, every accumulation of waste (animal, vegetable or other matter) that results from the preparation, 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 limitations, 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 items, construction debris, dead animals, hazardous waste, rubbish or stable matter.

Hazardous waste. Any chemical, compound, mixture, substance or article which is designated by the United States Environmental Protection Agency or appropriate agency of the state to be "hazardous" as that term is defined by or pursuant to police or state law.

Recyclable material. Post-consumer products that are not placed in a landfill or incinerated but are diverted from the waste stream for reuse or reprocessing as another product. Except as otherwise provided, recyclable material shall be included as a part of the term garbage for all provisions of this article related to the collection, pickup and disposal of garbage.

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[91] **Sec. 13.06.001. Definitions.** A standardized introduction is substituted for consistency.

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Residential unit. A single-family, duplex, triplex or fourplex dwelling within the corporate limits of the city. A residential unit shall be deemed occupied when city water or sewer or waste removal services are provided to it by reason of human habitation of the premises.

Rubbish. All 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 mattresses, used and discarded clothing, used and discarded shoes and boots, combustible waste pulp and other products such as are used for packaging or wrapping crockery and glass, cinders, floor sweeping, glass, mineral or metallic substances, and any and all other waste materials not included in the definition of bulky items, construction debris, dead animals, garbage, hazardous waste or stable matter.

Stable matter. All manure and other waste matter normally accumulated in or around a stable, or any animal, livestock, poultry enclosure, and resulting from the keeping of animals, poultry, or livestock.
(Code 1996, § 13.06.001; Ord. No. O-19-16, 10-18-2016)

Sec. 13.06.004. Charges, billing, and delinquencies.[92]

(a) The charge to be made for garbage pickup service shall be as fixed by the franchise agreement between the city and the service provider.

(b) Any garbage collection bill not paid in full within 15 days of the due date shall be deemed past due, and a delinquent payment charge shall be assessed. When water, wastewater services and garbage services or a combination of any of the three services are included in a bill, payment in full for all services must be made or otherwise the entire bill will be considered delinquent. Any services for which charges continue to be delinquent for 20 days from the due date are subject to termination by the city.
(Code 1996, §§ 13.06.004, 13.06.005)

Sec. 13.06.011. Penalty for violations.

Except as otherwise provided in this chapter, any person, firm or corporation violating any term or provision of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be subject to a fine not to exceed the sum of $200.00 for each offense.
(Code 1996, § 13.06.011; Ord. No. O-19-16, 10-18-2016)

ARTICLE II. COLLECTION AND DISPOSAL

Sec. 13.06.002. Mandatory use of services.

All residences in the city shall use garbage pickup facilities as provided by the city. The use of such facilities shall be mandatory and bills for such services shall be added to the monthly water bill of the city.
(Code 1996, § 13.06.002)

Sec. 13.06.003. Pickup schedule.[93]

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[92] **Sec. 13.06.004. Charges, billing, and delinquencies.** Clarification of “franchise” is added as shown.

[93] **Sec. 13.06.003. Pickup schedule.** Minor text adjustment is recommended as shown.

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The city shall provide or make available garbage pickup service so that garbage will be picked up once weekly at each residential location in the city. The weekly residential pickup day shall be Wednesday unless otherwise provided by the city council ~~provided that the city council may change the day from time to time by resolution and written notice to residential customers~~.
(Code 1996, § 13.05.003; Ord. No. O-19-16, 10-18-2016)

Sec. 13.06.006. Collection time; placement of garbage for collection.

(a) Garbage, including all permitted containers and bags, shall be placed either at the front of the premises adjacent to the public street or at the rear of the premises adjacent to a public alley for pickup service at such location. Garbage may be placed out for pickup no earlier than 7:00 p.m. on the day before the scheduled day of pickup and shall be removed no later than 10:00 p.m. on the day of the scheduled pickup. Violations of this subsection shall be subject to a fine of $25.00 for the first offense, $50.00 for a second offense, and $75.00 for the third and all subsequent offenses.

(b) For residential customers, service shall be between 7:00 a.m. and 8:00 p.m. on the scheduled pickup day. Service on Sundays or holidays shall not be provided. There will be at least one pickup per week of a holiday. Holidays for the purpose of this article shall be New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day; provided that the city may designate additional holidays by resolution from time to time and with notice to city customers.
(Code 1996, §§ 13.06.006, 13.06.0010, 13.06.0011; Ord. No. O-19-16, 10-18-2016)

Sec. 13.06.007. Container requirements.

(a) All garbage and trash placed on the exterior of a premises shall be kept in a garbage container. Garbage containers shall meet the following minimum requirements:

(1) The container shall be equipped with suitable lifting handles or handle on the outside, and a securely fitting cover or lid equipped with a handle.

(2) The container must not have any inside structures, such as inside bands and reinforcing angles or anything within the container to prevent the free discharge of the contents.

(3) The container shall not be deteriorated or damaged to the extent that the container has jagged or sharp edges capable of causing injury to garbage collectors or other persons whose duty it is to handle the containers or the container's cover does not fit securely so as to protect the interior from the elements or small animals, including birds and rodents.

(4) Containers shall be watertight, constructed of a solid and durable grade of metal, fiberglass or plastic, and not exceed 35 gallons in capacity. The combined weight of the refuse container and its contents shall not exceed 50 pounds.

(b) Polycart containers shall be rubber-wheeled, watertight, constructed of a solid and durable grade of metal, fiberglass or plastic and not exceed 95 gallons in capacity. The combined weight of the polycart container and its contents shall not exceed 175 pounds.

(c) Recycling containers shall be watertight, constructed of a durable grade plastic with a minimum capacity of 18 gallons. The container shall be designed for the purpose of curbside collection of recycling materials.

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(d) Containers that do not meet the minimum applicable requirements in this section may be condemned and, after written notice to the owner of the container and property owner, confiscated by the city.
(Code 1996, § 13.06.007; Ord. No. O-19-16, 10-18-2016)

Sec. 13.06.008. Collection of nonconforming containers or bags.

When garbage is not placed in a garbage container as described in this article or in a watertight garbage bag when permitted, it will not be picked up by the garbage collector except by special arrangement with the collector for such service; provided, however, that the collector, in his/her sole discretion, may pick up garbage placed for pickup that is not secured in a container or bag.
(Code 1996, § 13.06.008; Ord. No. O-19-16, 10-18-2016)

Sec. 13.06.009. Exclusions.

Garbage collection under this article does not include removal of hazardous, toxic or radioactive wastes or substances as currently or in future defined as such by applicable police, state or local laws or regulations. The city will not be responsible for hauling human or animal waste, hazardous waste, auto parts, rocks, concrete, sand, gravel, dirt, or construction debris, unless specifically contracted for with the generator of such refuse.
(Code 1996, § 13.06.009)

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Chapter 28

STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES

ARTICLE I. IN GENERAL

ARTICLE II. CONSTRUCTION IN PUBLIC WAYS

~~Sec. 3.17.001. Definitions.~~[94]
~~Director. The public works director or his designated agent.~~
~~Permit. A written document signed by the public works director or his designated representative.~~
~~Public right-of-way. Only public streets, highways, roadways, alleys or sidewalks.~~
~~(Code 1996, § 3.17.001)~~

Sec. 3.17.002. Permit required; exceptions.

(a) Any person or franchise utility who undertakes to perform any work upon, in, under, above, or about any public street, roadway, alley or sidewalk (herein collectively called "public right-of- way"), shall be required to obtain a permit issued by the public works director or his designated representative. The permit must be acquired before any work has begun. This subsection does not apply to work done on private property.

(c) A homeowner's permit may be obtained to cover work by the homeowner on the public right-of-way adjacent to his property, and no bond will be required for this work.
(Code 1996, § 3.17.002)

Sec. 3.17.003. Work required.

(a) It shall be the responsibility of the permit holder to provide, erect, place and maintain proper traffic control devices and barricades as required by the state manual on uniform traffic control devices or as required by the public works director.

(b) It shall be the responsibility of the permit holder to perform all work as required by this article, which work may include, but is not limited to, sawing, cutting, excavation, removal of spoil material, compacted emplacement of subgrade, compacted emplacement of base, and emplacement of asphalt.

(c) All work as required by the permit shall be performed in a timely manner as determined by the public works director. Failure to perform work in a timely manner may result in 10-days' formal notice by the public works director that work is not satisfactory ten days, except for emergencies or hazardous conditions, and

(1) Notification that city crews will perform the work; or

(2) Notice that the work will be performed by a private contractor;

If work is performed at the direction of the city, then the minimum charge shall be as provided in the city fee schedule ~~for in the fee schedule found in appendix A of this code~~.

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[94] **Sec. 3.17.001. Definitions.** Unnecessary definitions are stricken.

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(d) All work covered by this permit shall be in accordance with the provisions of standard specifications for public works construction by the North Texas Council of Governments as adopted by city council or contained within the city subdivision rules and regulations and standard specifications. Except in cases where existing utilities must be tapped under a street or where leaks and repairs are required on existing lines under a street, all placement of lines under a street shall be done by tunneling, jacking or boring.

(e) All work done by the city shall meet the standards established by this article and standard specifications for public works construction.
(Code 1996, § 3.17.003)

Sec. 3.17.004. Application for permit.

An applicant for a permit hereunder shall file with the director an application showing:

(1) Name and address of the contractor or agent in charge of the proposed work.

(2) Name and address of the owner for whom the work is done.

(3) Location of the work.

(4) Plan or sketch showing the details for the proposed construction.
(Code 1996, § 3.17.004)

Sec. 3.17.005. Special requirements.

(a) The director may, at the time of issuance of the permit, require the use or specific location of additional barricades, that only a specified area or number of street lanes be blocked at any one time, and that work be performed only at specific times.

(b) Any work performed, other than normal city operating hours, including weekends and holidays, shall be approved by the public works director;

(c) An approved plan or sketch showing details of the construction must be on the job site at all times.
(Code 1996, § 3.17.005)

Sec. 3.17.006. Fee schedule.

Permit and inspection fees are as provided for in the city fee schedule ~~fee schedule found in appendix A of this code~~.
(Code 1996, § 3.17.006)

Sec. 3.17.007. Bond required.

(a) A bond is required except as otherwise provided in this Code. No person shall construct, cut, repair, alter or grade any sidewalk, curb, curb cut, driveway, storm sewer, or street in the city without executing and delivering to the city a surety bond in the amount of $2,000.00. The bond guarantees that all work will be done in a workmanlike manner, will strictly comply with all ordinances and regulations

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of the city, will maintain all work for a period of one year after completion of work, and will indemnify and hold harmless the city for any work performed. Bonding is required prior to issuance of the permit except for franchise utilities where work is performed by utility and not franchisee contractor.
(Code 1996, § 3.17.007)

ARTICLE III. RIGHT-OF-WAY MANAGEMENT[95]

Sec. 3.19.001. Purpose.

The purpose of this article is to:

(1) Assist in the management of facilities placed in, on or over the public rights-of-way in order to minimize the congestion, inconvenience, deterioration, visual impact and other adverse affects and the costs to the citizens resulting from the placement of facilities within the public rights-of-way.

(2) Govern the use and occupancy of the public rights-of-way.

(3) Assist the city in its efforts to protect the public health, safety and welfare.

(4) Conserve the limited physical capacity of the public rights-of-way held in public trust by the city.

(5) Preserve the physical integrity of the streets and highways.

(6) Control the orderly flow of vehicles and pedestrians.

(7) Keep track of the different entities using the public rights-of-way to prevent the interference between them.

(8) Assist in scheduling common trenching and street cuts.

(9) Protect the safety, security, appearance and condition of the public rights-of-way.

(Code 1996, § 3.19.001; Ord. No. O-860-07, 11/19/07)

Sec. 3.19.002. Authority; scope.[96]

This article applies to all persons that place facilities in, on or over public rights-of-way. Compensation for use of the public rights-of-way shall be paid in accordance with all applicable state or federal law, including, but not limited to, the federal Cable Act, 47 USC § 541 et seq.; V.T.C.A., Local Government Code, ch. 283; V.T.C.A., Tax Code, § 182.025; and V.T.C.A., Local Government Code, § 590.0001 ~~Civil Statutes art. 1175(1)~~ as applicable.
(Code 1996, § 3.19.002; Ord. No. O-860-07, 11/19/07)

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[95] **Art. III. Right-of-Way Management.** This article would benefit from reorganization but I think some updates may also be in order which we should do first. Please review for current accuracy.

[96] **Sec. 3.19.002. Authority; scope.** Citation is corrected as shown.

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Sec. 3.19.003. Definitions.[97]

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:

Cable or video service provider (or CVSP). Means the same as defined in Texas Utilities Code, section 66.002(3) and (11) (any entity that has been issued a certificate of franchise authority by the public utility commission of the state to offer cable or video service).

Capital improvements program or project. The official proposed schedule of all future public projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project as adopted by the city council.

Certificated telecommunications provider (or CTP). Means the same as defined in V.T.C.A., Local Government Code, § 283.002(2) ~~Tex. Loc. Gov't Code section 283.002(2)~~.

~~City. The territorial, corporate and geographic limits of the city. As used throughout, the term "city" also includes the designated agent of the city.~~

City property. All city buildings, infrastructure, bridges, parks, golf courses, parking lots and all other real property that is not dedicated for utility or street transportation purposes.

~~Direction of the city. All ordinances, laws, rules, resolutions and regulations of the city that are not inconsistent with this article and that are now in force or may hereafter be passed and adopted.~~

Director or director of municipal services. The city manager, director of municipal services **(formerly public works)** or such director's designated representative.

Facilities or facility. Any and all wires, cables, fibers, duct spaces, manholes, poles, conduits, pipes, lines, conduits, underground and overhead passageways and other equipment, structures, plant and appurtenances and all associated physical equipment placed in, on or under the public rights-of-way.

~~Person. A natural person (an individual), corporation, company, association, partnership, firm, limited liability company, joint venture, joint stock company or association and other such legal entity.~~

Public rights-of-way. As defined in V.T.C.A., Local Government Code, § 283.002(6) ~~Tex. Loc. Gov't Code section 283.002(6), and Texas Utility Code, section~~ and V.T.C.A., Utility Code, § 66.002(8), which includes (the area on, below or above a public roadway, highway, street, public sidewalk, alley, waterway or utility easement in which the city has an interest. The term does not include the airwaves above a public right-of-way with regard to wireless telecommunications.
(Code 1996, § 3.19.003; Ord. NO. O-860-07, 11/19/07)

Sec. 3.19.004. City authorization required.

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[97] **Sec. 3.19.003. Definitions.** A standardized introduction is substituted for consistency. Also, does the city still use the title "public works director"? The title is used in various places in the code, but these definitions indicate that the title has been replaced with "municipal services director."

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(a) Any person seeking to place facilities on, in or over the public rights-of-way, shall pay a $500.00 construction permit application fee (except CTPs and CVSPs and their contractors to the extent exempted by V.T.C.A., Local Government Code, ch. 283 and V.T.C.A., Utilities Code, ch. 66, ~~Tex. Loc. Gov't Code, chapter 283 and Tex. Utilities Code chapter 66),~~ shall file an application for such construction permit with the director and shall abide by the terms and provisions of this article pertaining to use of the public rights-of-way. If there are additional direct costs to the city in processing the applications, the city may recover those from the applicant prior to the issuance of the construction permit.

(#) With the application, applicants shall submit to the director written applications identifying the applicant and all the applicant's affiliates that may have physical control of facilities within the public rights-of-way, with a map of the proposed installations, general description of the services to be provided, a construction schedule and a general description of the effect on public rights-of-way as detailed in section 3.19.006(3) below.

(b) Any person, except a CTP or CVSP, prior to placing, reconstructing or altering facilities in, on or over the public rights-of-way, must obtain separate municipal authorization from the city, such as a license agreement or franchise, as may be applicable. For use of the public rights-of-way, all users of the public rights-of-way shall compensate the city on the value of the public rights-of- way used, being typically either on a gross receipts basis or linear foot basis, to the fullest extent allowed by law.

(c) Any person with a current, unexpired consent, franchise, agreement or other authorization from the city ("grant") to use the public rights-of-way that is in effect at the time this article takes effect shall continue to operate under and comply with the grant (except to the extent the police powers regulations in such grant are inconsistent with this article, in which event, this article will control) until the grant expires or until it is terminated by mutual agreement of the city and the person, or it is terminated as otherwise provided for in law.

(d) Prerequisites to issuance of construction permit. Each person must register with the city. In order for the city to know which person or persons owns or has physical control over facilities in a public right-of-way within the city, each such person who owns or has physical control over facilities shall register with the city and provide the following information at a minimum:

(1) Person's name, address and telephone numbers; and

(2) A 24 hour telephone numbers to a contact persons with decision-making authority for the person.

Each person shall update and keep current his/her registration with the city at all times.
(Code 1996, § 3.19.004; Ord. No. O-860-07, 11/19/07)

Sec. 3.19.005. Administration and enforcement.

(a) The director shall administer and enforce compliance with this article.

(b) A person shall report information related to the use of the public rights-of-way that the director requires in the form and manner reasonably prescribed by the director.

(c) The director shall report to the city council upon the determination that a person has failed to comply with this article and the same shall be subject to the penalty provisions provided herein for violation of this article.
(Code 1996, § 3.19.005; Ord. No. O-860-07, 11/19/07)

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Sec. 3.19.006. Construction obligations.

(a) A person is subject to reasonable police power regulation of the city to manage its public rights-of- way in connection with the excavation, construction, installation, expansion, reconstruction, relocation, alteration, removal, maintenance or repair of facilities in the public rights-of-way, pursuant to the city's rights as a custodian of public property based upon the city's historic rights under state and federal laws. Such regulations include, but are not limited to, those set forth in this section.

(1) At the city's request, a person shall furnish the city accurate and complete information relating to the excavation, construction, installation, expansion, reconstruction, relocation, alteration, removal, maintenance or repair of facilities performed within the public rights-of-way underground according to the applicable city requirements unless the person makes a compelling demonstration that, in any specific instance, this requirement is not reasonable, feasible or equally applicable to other similar users of the public rights-of-way.

(A) The underground placement of facilities is encouraged. In any event, facilities shall be installed underground where existing utilities are already underground. If there are no facilities in the public rights-of-way, then the facilities shall be placed underground. The utility owning the underground facilities shall make a reasonable determination as to whether space is available to accommodate the new facilities. A negative determination shall not relieve the person of the responsibility to underground its facilities in underground utility areas. To the degree reasonably feasible previously installed aerial facilities shall be placed underground in concert, and on a cost-sharing basis, with other utilities when such other utilities convert from aerial to underground construction. All undergrounding of facilities shall be at a depth of 24 feet or more unless otherwise directed by the city.

(B) Underground conduits and ducts shall be installed in the public rights-of-way between the adjacent property line and curbline unless otherwise directed by the city.

(C) Conduits and ducts shall be installed parallel with the curbline and cross the public rights- of-way perpendicular to the public rights-of-way centerline unless otherwise directed by the city.

(D) Ducts and conduits shall be installed by trenchless excavation or directional boring when placing these facilities under paved public rights-of-way centerline unless otherwise directed by the city.

(2) A person shall perform excavations and other construction in the public rights-of-way in accordance with all applicable city requirements including the obligation to use trenchless technology whenever commercially economical and practical and consistent with obligations on other similar users of the public right-of-way. The city shall waive the requirement of trenchless technology if it determines that, based upon information provided to the city by the person, the particular field conditions warrant a waiver. All excavations and other construction in the public right-of-way shall be conducted so as to minimize interference with the use of public and private property. Any plant or facility placed within the public rights-of-way which is [shall be] suspended at a height not less than twenty-two feet (22') above ground level, unless otherwise approved by the director, yet not in the event less than fifteen feet (15'), except to the extent state law controls. A person shall follow all reasonable construction directions given by the city in

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order to minimize any such interference.

(3) A person must obtain a permit, as reasonably required by applicable city codes, including subsection (B) of this section, at least 72 hours prior to excavation, construction, installation, expansion, reconstruction, relocation, alteration, removal, maintenance or repair of the person's facilities, which 72 hours may be waived or altered by the city for good cause shown by the applicant. All permit applications shall be accompanied by the certification of a professional engineer licensed in Texas that the drawings, plans and specifications submitted with the application comply with applicable technical codes, rules and regulations when required by state law.

(A) Bonding will be required as in subsection (11) below and insurance as in section 3.19.008 herein.

(B) A construction permit is not required for routine maintenance that does not require excavation of the public rights-of-way or which does not block traffic lanes or sidewalks during peak traffic periods between 7:00 a.m. to 9:00 p.m. and 4:00 p.m. to 6:30 p.m. on weekdays or for more than two hours during any non-peak traffic period. The failure of the person to request and obtain a permit from the city prior to performing any of the above- listed activities in, on or over any public right-of-way, except in an emergency as provided for in subsection (10) [(9)] below, will subject the person to a stop-work order from the city and enforcement action pursuant to the city's Code of Ordinances. If the person fails to act upon any permit within 90 calendar days of issuance, the permit shall become invalid unless extended by the city upon showing of a good cause. Upon expiration of a permit, a person shall be required to obtain another permit pursuant to the requirements of this article.

(C) At least forty-five (45) days prior to submission of an application for a construction permit for a capital improvements project, a person shall furnish the director with construction plans and maps using the standard format adopted by the department of municipal services, showing the location and plans and specifications for a permit for construction of a capital improvements project [and a permit shall not be issued] until all required plans and drawings have been approved in writing by the city, which approval will not be unreasonably withheld, taking due consideration of the surrounding area and alternative locations for the facilities and routing.

(D) At least three days before beginning excavation, construction, installation, expansion, reconstruction, relocation, alteration, removal, maintenance or repair of facilities for a project that involves an alteration to the surface or subsurface of the public rights-of-way but is not a capital improvements project, a person shall submit an application for a permit for the standard format adopted by the department of municipal services, showing the location and proposed routing of the excavation, construction, installation, expansion, reconstruction, relocation, alteration, removal, maintenance or repair unless otherwise approved by the director. A person may not begin construction until the location of new facilities and proposed routing of the new construction or reconstruction and all required plans and drawings have been approved in writing by the city and a permit has been issued, which issuance will not be unreasonably withheld, taking due consideration of the surrounding area and alternative locations for the facilities and routing.

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(E) Construction plans and maps shall show all features within the public rights-of-way that would affect the placement of the proposed facilities such as, yet not limited to, existing underground and aerial wires or conduits, ducts, poles, wires, pipes, sewerage, water lines and cables as well as their ownership; traffic signal and streetlight poles; fire hydrants; driveways; curbs, inlets and drains; sidewalk; wheelchair ramps; and trees and large shrubs. Drawings shall be drawn to an appropriate scale of no larger than one inch (1") equals fifty feet (50') using the standard formats adopted by the municipal services department. State plane coordinates shall be shown for benchmarks, curblines and elevations. If typical are used, they shall reference the station numbers for which they are to be applied. Traffic- control plans shall be in conformance with the latest revision of the Texas Manual on Uniform Traffic Control Devices (MUTCD).

(F) A person shall use its best efforts to coordinate joint trenching with any other persons and/ or public utilities which may be constructed in and along the same public rights-of-way in a time frame reasonably similar to the person's construction timetable. The department of municipal services may mandate such coordination to the fullest extent allowed by law.

(G) To the extent known, plans for ongoing repair, maintenance and improvements which involve cutting into paved city roads and streets shall be submitted to the director of municipal services on an annual basis, no later than April of each year and updated based upon any changes. This does not require any proprietary information such as equipment or customer-specific information. Such information may be designated confidential and to the extent allowed by law will be kept confidential by the city. Alternatively, a person may meet with the appropriate representative of municipal services each calendar quarter to provide such plans to the extent known.

(H) Once a permit is issued, the department of municipal services shall be notified at least 24 hours in advance that construction in the public rights-of-way is ready to proceed by a person or its representative. Information signs (at least three feet (3') by three feet (3') in size (3' x 3') stating the identity of the person doing the work, their telephone number and the person's identity and telephone number shall be placed at the location where construction is to occur 48 hours prior to the beginning of work in the public rights-of-way and shall continue to be posted at the location during the entire time the work is occurring or until permanent repairs are completed.

(I) Erosion control measures and advance warning signs, markers, cones and barricades must be in place before work begins. A person may be required to show proof of engineered plans relating to stormwater and erosion when applicable or a letter stating a person is not required to obtain such plans. A person shall be responsible for stormwater management erosion control that complies with city, state and federal guidelines as applicable.

(J) Lane closures on major thoroughfares will be limited to between 9:00 a.m. and 4:00 p.m. unless the department of municipal services grants prior approval. Arrow boards will be required on lane closures with all barricades, advance warning signs and thirty-six inch (36") reflector cones placed according to the specification of the city. Working hours in the public rights-of-way are limited to the hours between 7:00 a.m. to 6:00 p.m. Monday through Friday. Work to be performed after 6:00 p.m. on Monday through Friday or on Saturday must be approved by the department of municipal services

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in advance. Directional boring is permitted only Monday through Friday 7:00 a.m. to 6:00 p.m. No work in the public rights-of-way shall be performed except for emergencies on Sundays or on holidays.

(K) Without affecting the legal relationship between a person and its contractors, a person is responsible for the workmanship and any damages by a contractor or subcontractor.

(L) If additional poles and [on an] existing aerial utility route are required, a person shall negotiate with the utility company for the installation of the needed poles in accordance with existing statutes and regulations. However, if the utility will not install new poles on a reasonable basis, then a person may erect its own poles.

(4)

(A) Within 14 days of complete excavation, construction, installation, expansion, reconstruction, relocation, alteration, removal, maintenance or repair of facilities or other work in the public rights-of-way, a person shall temporarily restore and repair the public rights-of-way in accordance with applicable sections of the Code of Ordinances of the city. Within 30 calendar days after completion of work in the public rights-of-way, the person shall permanently restore, replace, re-lay or repair the surface, base, curbs, drainage systems, irrigation systems, landscape treatment or other city facilities and infrastructure located on, in and under any public rights-of-way that has been excavated, altered or damaged by reason of the excavation, construction, installation, expansion, reconstruction, relocation, alteration, removal, maintenance or repair of the person's facilities in accordance with existing standards of the city in effect at the time of the work. Upon a showing of good cause, the city may at its sole discretion extend the time for restoration and repair of the public rights-of-way under this subsection. Unless the person provides a recent dated photograph or a videotape of the public rights-of-way before the construction, the condition of the public rights-of-way before construction should be presumed in good condition, subject only to reasonable wear and tear as determined by the director.

(B) Whenever a person shall disturb or destroy any right-of-way markers or monuments, it shall restore the same within 30 days after construction has ceased. A person shall furnish three sets of drawings, blueline or blackline, detailing the restored monumentation. State plane coordinates shall be shown for all monumentation (existing or restored). The drawings shall be signed (original signature), sealed and certified by a registered professional land surveyor and delivered to the director of municipal services for approval no later than 30 days after construction has ceased.

(5) Upon failure of a person to perform any such repair or replacement work after five days' written notice has been given by the city to the person, and in the event repairs have not been initiated during such five day period, the city may repair such portion of the public rights-of- way as may have been disturbed by the person, its contractors or agents. The city may, at its discretion for good cause, alter the five day period. Upon receipt of an invoice from the city, the person shall reimburse the city for the costs so incurred within 30 calendar days from the date of the city invoice.

(6) Should the director reasonably determine within one year from the date of the completion of the repair work that the surface, base, curbs, drainage systems, irrigation systems, landscape

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treatment or other city facilities and infrastructure located on, in or under any public rights-of-way requires additional restoration, replacement or repair work to meet existing standards of the city, a person shall perform such additional restoration, replacement or repair work to the satisfaction of the city, subject to all city remedies as provided herein.

(7) Notwithstanding the foregoing in subsection (6), if the director determines that the failure of a person to properly repair or restore the public rights-of-way constitutes a safety hazard to the public, the city may undertake emergency repairs and restoration efforts after emergency notice has been provided to the extent reasonable under the circumstances and the person failed to respond within a reasonable time specified by the city. Upon receipt of an invoice from the city a person shall promptly reimburse the city for all costs incurred by the city within 30 calendar days from the date of the city invoice.

(8) If the director declares an emergency with regard to the health and safety of the citizens and requests by written notice the removal or abatement of facilities, a person shall remove or abate the person's facilities by the deadline provided in the director's request. The person and the city shall cooperate to the extent possible to assure continuity of service. If the person, after notice, fails or refuses to act, the city may remove or abate the facility at the sole cost and expense of the person without paying compensation to the person and without the city incurring liability for damages.

(9) Except in the case of customer service interruptions and imminent harm to property and persons ("emergency conditions"), a person may not excavate the pavement of a street or public rights- of-way without first complying with city requirements. The city department of municipal services shall be notified as promptly as possible regarding work performed under such emergency conditions and the persons shall comply with the requirements of city standards and of this article for restoration, replacement or repair of the public rights-of-way. Any emergency repairs requiring saw cuts shall be performed in accordance with standards established by the director.

(10)

(A) Within 120 days of completion of each new permitted section of a person's facilities, the person shall supply the city with a complete set of "as built" drawings for the segment in a format used in the ordinary course of the person's business to the extent they are prepared in the ordinary course of business, excluding customer-specific, proprietary or confidential information and as reasonably prescribed by the city as is described below, and as may be allowed by law. Such "as built" maps may be corrected and revised construction plans. In the event the facilities were built as specified in the originally submitted plans, the person may certify to the city that there were no changes. The city may, at its discretion, accept in lieu of "as built" drawings any reasonable alternative which provides adequate information as to the vertical depth, linear location and size of facilities in the public rights-of-way which may include direct on-line access to such information.

(B) To the extent the person's customary as-built format will conform without economic impracticability, a person shall furnish the city "as-built" drawings as follows: Drawings shall show ownership of conduits, ducts, poles, cables and other facilities placed within the public rights-of-way. Drawings shall be drawn to a scale of one inch (1") equals twenty feet (20') on twenty-four inch (24") by thirty-six inch (36") sheets (24 x 36) and one inch (1") equals forty feet (40') on eleven inch (11") by seventeen inch (17") sheets (11 x 17) using the standard format

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adopted by the department of municipal services. A person shall provide one set of all such drawings on diskette in Autocad or Microstation format drawn to full scale and one set of blue- or black-lined "as built" drawings on vellum or mylar to the director of the department of municipal services. State plane coordinates shall be shown for benchmarks, curblines and structures. Drawings shall show horizontal dimensions from the curbline and elevations.

(C) All persons who have facilities in the public rights-of-way existing as of the date of this article and who have not provided "as built" drawings shall do so no later than 60 days after the passage of this article, unless the person demonstrates an economic impracticality to provide such "as built" drawings in the above format. The city may waive such "as built" maps as to existing facilities for good cause.

(D) If "as built" drawings submitted under this section include information expressly designated by the person as a trade secret or other confidential proprietary information protected from disclosure by state or federal law, the director may not disclose that information to the public without the consent of the person, unless otherwise required by an opinion of the attorney general pursuant to the Texas Public Information Act, as amended, or by a court having jurisdiction of the matter pursuant to applicable law or as otherwise required by law. This subsection may not be construed to authorize a person to designate all matters as confidential or as trade secrets.

(11) Except as to CVSPs to the extent modified by the Texas Utility Code, chapter 66, the director shall require reasonable bonding requirements of a person, as are required of other entities that place facilities in the public rights-of-way. Such bonding amounts will be reasonably determined by the director depending on several factors as to public safety and risk of harm to persons and property. Such factors include:

(A) The nature of the construction project (overhead, trenchless, open trench);

(B) Type of facility (gas, electric, water, telecommunications, cable, fiber);

(C) Past construction history of person in the city as to any damage claims, repairs and timeliness of construction.

The city may in a non-discriminatory manner waive or reduce the amount of the bond in the event the person provides written documentation as to reserves available to compensate the city for damages and has a two year history of no claims or damages to city property by the city or of prompt payment on such claims.

(12) In determining whether any requirement under this section is unreasonable or unfeasible, the director or his/her designee shall consider, among other things, whether the requirement would subject the person or persons to an unreasonable increase in risk or service interruption, or to an unreasonable increase in liability for accidents, or to an unreasonable delay in construction or in availability of its services or to any other unreasonable technical or economic burden.

(13) A person issued a permit pursuant to this article shall, at all times, employ the standard of care attendant to the risks involved to prevent actions, failures and accidents which may cause damage, injury or nuisance to persons, the public, the facilities or of other persons, or to any city structures or structures owned by other persons located in the public rights-of-way. A person issued a permit pursuant to this article shall observe all federal and state statutes and regulations and all applicable city ordinances and

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safety codes. A person issued a permit pursuant to this article shall keep and maintain its facilities in a safe and suitable condition and in good order and repair sufficient for its intended purpose.
(Code 1996, § 3.19.007; Ord. No. O-860-07, 11/19/07)

Sec. 3.19.007. Conditions of public rights-of-way occupancy.

(a) In the exercise of governmental functions, the city has first priority over all other users of the public rights-of-way. The city reserves the right to lay sewer, gas, water facilities and any other pipelines or cables and conduits, and to do underground and overhead work and have attachments and require restructuring or changes in the city's aerial facilities in, across, along, over or under a public street, alley or public rights-of-way that may be occupied by a person and to change the curb, route or grade of sidewalks and streets, to the fullest extent allowed by law.

(b) The city shall assign the location in or over the public rights-of-way among competing users of the public rights-of-way with due consideration to the public health and safety considerations of each user type, and to the extent that the city can demonstrate that there is limited space available for additional users, may limit new users, as allowed under state or federal law. As a priority, each user of the public rights-of-way will be allowed one alignment on one side of the street for placement of its facilities, provided there is adequate space available. In the event an additional alignments or both sides of the street have been requested by a user, the director will grant such request, provided there is adequate space available and the requestor has demonstrated the financial or technical impracticability of the use of the requestor's single alignment or use of only one side of the street.

(c) If the city authorizes abutting landowners to occupy space under the surface of any public street, alley, or public rights-of-way, the grant to an abutting landowner shall be subject to the rights of the previously authorized user of the public rights-of-way.

(d) (1) If the director gives written notice, a person shall, at its own expense, temporarily or permanently, remove, relocate, change or alter the position of person's facilities that are in the public rights-of-way within 120 days, except in circumstances that require additional time as reasonably determined by the city based upon information provided by the person.

(2) For projects expected to take longer than 120 days to remove, relocate, change or alter, the director will confer with the person before determining the alterations to be required and the timing thereof. The director shall give notice whenever the city has determined that removal, relocation, change or alteration is reasonably necessary for the construction, operation, repair, maintenance or installation of a city governmental public improvement in the public rights-of-way. This section shall not be construed to prevent a person's recovery of the cost of relocation or removal from private third parties who initiate the request for relocation or removal, nor shall it be required if improvements are solely for beautification purposes without prior joint deliberation and agreement with the person. On a non-discriminatory basis, the director and a person may agree in writing to different time frames than those provided above if circumstances reasonably warrant such a change.

(e) If the person fails to relocate facilities in the time allowed by the director in this section, the person may be subject to liability to the city for such delay and as set forth in the city codes or ordinances, now or hereafter enacted.

(f) A person may trim trees or other vegetation in or over the public rights-of-way as needed for the safe and reliable operation, use and maintenance of its facilities. All tree trimming shall be performed in accordance with standards promulgated by the city. Should the person, its contractor or agent, fail to

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remove such trimmings within 24 hours, the city may remove the trimmings or have them removed, and upon receipt of a bill from the city, the person shall promptly reimburse the city for all costs incurred within 30 working days. A person shall not be responsible for tree trimming or removal, except as to the trimming required to construct, maintain or restore utility service.

(g) A person shall temporarily remove, raise or lower its aerial facilities to permit the moving of houses or other bulky structures, if the requesting party provides written notice to [such person] no less than five days, except for good cause shown. The expense of these temporary rearrangements shall be paid by the party or parties requesting and benefiting from the temporary arrangements. The person may require prepayment or prior posting of a bond from the party requesting the temporary move.

(h) In the event a person's use of the facilities is discontinued, the person shall be notified by the city and thereafter shall forthwith remove its facilities therefrom unless specifically permitted to continue the same, and on the removal thereof shall restore, repair or reconstruct the street area where such removal has occurred, and place the street area where such removal has occurred in the condition prior to the removal, as determined by the city. In the event of failure, neglect or refusal of the person, after 30 days' notice by the director to repair, improve or maintain such street portion, the city may do such work or cause it to be done, and the reasonable cost thereof as determined by the city shall be paid by the person and collection may be made by court action or otherwise.
(Code 1996, § 3.19.007; Ord. No. O-860-07, 11/19/07)

Sec. 3.19.008. Insurance requirements.

(a) Except as to CVSPs to the extent modified by V.T.C.A., Utility Code, ch. 66, a person shall obtain and maintain insurance in the amounts reasonably prescribed by the director with an insurance company licensed to do business in the state and acceptable to the city. A person shall furnish the director with proof of insurance at the time of the request for construction permits. The director reserves the right to review the insurance requirements and to reasonably adjust insurance coverage and limits when the director determines that changes in statutory law, court decisions or the claims history of the industry or the person may require adjustment for coverage. For purposes of this section, the city will accept certificates of self-insurance issued by the state or letters written by the person in those instances where the state does not issue such letters, and in all such instances, the person that self-insures shall provide written documentation as to substantially the same coverage, claims process and defense to the city as would be provided by an insurance carrier as required herein, all as may be detailed in the information provided to the city. However, for the director to accept such self-insurance coverage the person must demonstrate by written information that it has adequate financial information requested by and furnished to the city. The city's insurance requirements are described in exhibit A attached to Ordinance O-860-07.

(b) A person shall furnish to the director, at no cost to the city, copies of certificates of insurance evidencing the coverage required by this section. The city may request the deletion, revision or modification of particular policy terms, conditions, limitations or exclusions, unless the policy provisions are established by a law or regulation binding the city, the person or the underwriter. If the city requests a deletion, revision or modification, a person shall exercise reasonable efforts to pay for and to accomplish the change.

(c) The insurance certificate required under subsection (b) shall:

(1) Name the city and its officers, employees, board members and elected representatives as additional insureds for all applicable coverage;

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(2) Provide for 30 days' written notice to the city for cancellation, non-renewal or material change; and

(3) Provide that written notice of claims shall be provided to the director by certified mail.

(d) A person shall file and maintain proof of insurance with the director. An insurance certificate obtained in compliance with this section is subject to city attorney approval. The city may require the certificate to be changed to reflect changing liability limits. A person shall immediately advise the city attorney of actual or potential litigation that may develop or affect an existing carrier's obligation to defend and indemnify.

(e) An insurer has no right of recovery against the city. The required insurance policies shall protect the person and the city. The insurance shall be primary coverage for losses covered by the policies.

(f) The policy clause "Other Insurance" shall not apply to the city if the city is an insured under the policy.

(g) A person shall pay premiums and assessments for the insurance required under this section. A company which issues an insurance policy has no recourse against the city for payment of a premium or assessment. Insurance policies obtained by a person must provide that the issuing company waives all right of recovery by way of subrogation against the city in connection with damage covered by the policy. (Code 1996, § 3.19.008; Ord. No. O-860-07, 11/19/07)

Sec. 3.19.009. Indemnity.

(a) Except as to CTPs and CVSPs each person placing facilities in the public rights-of-way shall agree to promptly defend, indemnify and hold the city harmless from and against all damages, costs, losses or expenses:

(1) For the repair, replacement or restoration of the city's property, equipment, materials, structures and facilities which are damaged, destroyed or found to be defective as a result of the person's acts or omissions;

(2) From and against any and all claims, demands, suits, causes of action and judgments for:

(A) Damage to or loss of the property of any person (including yet not limited to the person, its agents, officers, employees and subcontractors, city's agents, officers and employees and third parties); or

(B) Death, bodily injury, illness, disease, loss of services, or loss of income or wages to any person (including yet not limited to the agents, officers and employees of the person, person's subcontractors and city third parties), arising out of, incident to, concerning or resulting from the negligent or willful act or omissions of the person, its agents, employees or subcontractors, in the performance of activities pursuant to or authorized under this article.

Upon commencement of any suit, proceeding at law or in equity against the city relating to or covering any matter covered by this indemnity, to indemnify and hold the city harmless, or to pay said final judgment and costs, as the case may be, the city shall give the person reasonable notice that the city shall have the right to defend the same in addition of to being reimbursed for any such judgment that may be rendered against the city, together with all court costs incurred therein, the person shall promptly reimburse the city for attorney's fees, including those employed by the city in such case or cases, as well

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as all expenses incurred by the city by reason of undertaking the defense of such suit or suits, whether such suit or suits are successfully defended, settled, compromised or fully adjudicated against the city.

(b) This indemnity provision shall not apply to any liability resulting from the negligence of the city, its officers, employees, agents, contractors or subcontractors.

(c) The provisions of this indemnity are solely for the benefit of the city and is not intended to create or grant any rights, contractual or otherwise, to any person or entity.

(d) To the fullest extent permitted by law, a person shall pay all expenses incurred by the city in defending itself with regard to all damages and penalties provided in this article. These expenses shall include all out-of-pocket expenses such as attorney's fees and shall also include the reasonable value of any services rendered by any employees of the city. In the event the city is compelled to undertake the defense of any such suit by reason of a person's failure to perform as hereinabove provided, the city shall have the full right and authority to make or enter into any settlement or compromise of such adjudication as the city council shall deem in the best interest of the city, this without the prior approval or consent of the person with respect to the terms of such compromise or settlement.
(Code 1996, § 3.19.009; Ord. No. O-860-07, 11/19/07)

Sec. 3.19.010. Governing law.

This article shall be construed in accordance with the city codes in effect on the date of passage of this article to the extent that such codes are not in conflict with or in violation of the constitution and laws of the United States of the state, subject to the city's ongoing authority to adopt reasonable police power based regulations to manage its public rights-of-way, pursuant to sections 3.19.006 and 3.19.007 herein or as otherwise provided by law.
(Code 1996, § 3.19.010; Ord. No. O-860-07, 11/19/07)

Sec. 3.19.011. Unauthorized use of public rights-of-way; penalty.

(a) The city may institute all appropriate legal action to prohibit any person from knowingly utilizing the public rights-of-way unless the person has complied with the provisions of this article.

(b) A person commits a class C misdemeanor offense if that person knowingly commences or continues with the construction or installation of facilities within the public rights-of-way, except as permitted by this article or state law, as it exists or as it may be amended. Each day that a person continues with the construction or installation of facilities or knowingly engages in maintenance that requires excavation or blocks the public rights-of-way in violation of this article constitutes a separate offense.
(Code 1996, § 3.19.011; Ord. No. O-860-07, 11/19/07)

Sec. 3.19.012. Construction permit application.

Each construction permit application to use the public rights-of-way shall contain or have attached, the following statement: "By this application for a construction permit to use the public rights-of-way, I, _____ as the lawful representative of _____ [not the contractor but a representative of the facility owner with authority to bind the owners], hereby agree to use the city's public rights-of-way management regulations." Name Title Date
(Code 1996, § 3.19.012; Ord. No. O-860-07, 11/19/07)

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Chapter 30

TAXATION

ARTICLE I. IN GENERAL

ARTICLE II. PROPERTY TAXES

Sec. 11.02.001. Tax collector office established.

(a) The city has established the office of tax collector for the city. The tax collector shall be appointed by the city manager. The position of tax collector may be combined with other positions at the discretion of the city council. The tax collector shall receive such compensation as may be allowed by the city council.

(b) The tax collector shall provide for collection of all property taxes due the city, assist the city council in complying with tax increase notices, issue tax certificates, prepare delinquent tax rolls, make reports to the city council on taxes collected and perform such other duties as may be required by state property tax laws and directives of the city council.

(c) The tax collector shall give the city a bond in the amount of $10,000.00. The tax collector shall be registered and certified as may be required by state law.
(Code 1996, § 11.02.001)

Sec. 11.02.002. Participation in appraisal district.

The city has elected to participate in the Dallas County Appraisal District. The appraisal district shall be authorized to perform all appraisal and assessment functions required under the state property tax code. The city shall retain collection functions.
(Code 1996, § 11.02.002)

Sec. 11.02.003. Residence homestead exemptions for elderly and disabled.[98]

(a) Elderly exemption. Pursuant to article VIII, section 1-b of the Texas Constitution, $25,000.00 of assessed value of the residential homesteads of persons 65 years of age or older shall be exempt from city ad valorem taxes when taxes are levied for the year 2003, and for all subsequent levies, upon the owner's compliance with the following requirements:

(1) The owner of the residence homestead, or one of the spouses if the residence homestead is owned by a married couple, shall be 65 years of age or older as of January 1 of each tax year, beginning with 2003.

(2) All prior year's taxes be paid, and all special assessment payments shall be kept current before exemption hereunder may be granted.

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[98] **Sec. 11.02.003. Residence homestead exemptions for elderly and disabled.** Unnecessary dates are stricken as shown.

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(3) The owner of the residence homestead shall submit to the Dallas Central Appraisal District, before May first of each year, an affidavit that the owner or one of the spouses if the residence homestead is owned by a married couple, is 65 years of age or older. The initial exemption claim shall be accompanied by adequate proof of such age. An exemption, once allowed, need not be claimed in subsequent years. The exemption applies to the property until it changes ownership or the person's qualification for the exemption changes.

(b) Disabled exemption. ~~There be and is hereby ordained for the fiscal year beginning on October 1, 2005, and ending on September 30, 2006, and~~ For each fiscal year ~~thereafter~~ until otherwise provided, the city has ordained a $25,000.00 ad valorem tax exemption for disabled persons on the assessed value of residential homesteads within the corporate limits for the city.
(Code 1996, § 11.02.003; Ord. No. 755-03, 6/16/03; Ord. No. 794-05, 6/6/05)

Sec. 11.02.005. Tax due date.

The property taxes levied by the city each year shall become due on the first day of October of each year for which the levy is made and shall become delinquent on the following first day of February. Penalties and interest for delinquent taxes shall incur in accordance with V.T.C.A., Property Tax Code, § 33.01.
(Code 1996, § 11.02.005)

Sec. 11.02.006. Recovery of costs and expenses.[99]

In addition to other costs authorized by law, the city is entitled to recover costs and expenses in a suit to collect delinquent taxes as provided for in V.T.C.A., Tax Code, § 33.48 ~~of the state Property Tax Code~~.
(Code 1996, § 11.02.006)

Sec. 11.02.007. Additional penalty for collection costs.

(a) The tax collector of this jurisdiction is hereby directed to cause to be mailed, as expeditiously as possible, notices to all delinquent taxpayers, where addresses are available, of the additional penalty to be imposed, as hereinafter set forth, on all taxes delinquent.

(b) The tax collector is directed to annually mail notices during the month of May to all current year delinquent taxpayers advising them of the additional penalty, as hereinafter set forth, to be imposed as of July 1 on all unpaid current year delinquent taxes.

(c) An additional penalty of 15 percent of the taxes, penalty and interest shall be incurred; furthermore, taxes becoming delinquent shall incur this additional penalty July 1 of the year in which they become delinquent.
(Code 1996, § 11.02.007)

Sec. 11.02.008. Taxation of freeport goods.

All of that property described in the Texas Constitution, article VIII, section 1-j, shall be fully taxable in the city.
(Code 1996, § 11.02.008)

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[99] **Sec. 11.02.006. Recovery of costs and expenses.** Citation is corrected as shown.

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ARTICLE III. SALES TAX

Sec. 11.03.001. Local sales tax adopted.[100]

A local sales tax of one percent as provided for in the Local Sales and Use Tax Act of 1967 was adopted by the voters of the city as a result of an election held for that purpose on April 3, 1971, and is continued under the Municipal Sales and Use Tax Act, V.T.C.A., Tax Code, § 321.001 et seq.
(Code 1996, § 11.03.001)

Sec. 11.03.002. Local sales tax retained on residential gas and electricity.[101]

The tax imposed by the city pursuant to the ~~provisions of the~~ Local Sales and Use Tax Act of 1967 ~~is hereby retained~~ on receipts from the sale, production, distribution, lease or rental of, and the use, storage or other consumption of gas and electricity for residential use, is continued as authorized by V.T.C.A., Tax Code, § 321.105 ~~section 6 of House Bill No. 1, Acts 1978, 65th Legislature, Second Called Session~~.
(Code 1996, § 11.03.002)

Sec. 11.03.003. Taxation of telecommunications services.[102]

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

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

~~The city secretary shall forward to the comptroller of the state by United States registered mail a copy of this section along with a copy of the minutes of the city council's vote and discussion of this section.~~
(Code 1996, § 11.03.003)

ARTICLE IV. COIN-OPERATED MACHINES TAX

Sec. 11.04.001. Coin-operated machines tax.[103]

(a) An occupation tax by the city is hereby levied and imposed on each coin-operated machine that an owner exhibits or displays, or permits to be exhibited or displayed, the rate to be one-fourth of the maximum permitted state rate ~~currently being a tax of one-fourth (1/4) of sixty dollars ($60.00) per machine, or fifteen dollars ($15.00) per machine~~.

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[100] **Sec. 11.03.001. Local sales tax adopted.** Citation is added as shown.

[101] **Sec. 11.03.002. Local sales tax retained on residential gas and electricity.** Citations are updated

[102] **Sec. 11.03.003. Taxation of telecommunications services.** Unnecessary text is stricken as shown.

[103] **Sec. 11.04.001. Coin-operated machines tax.** Tax amount is stricken as unnecessary.

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(b) The following coin-operated machines shall be exempt from the tax imposed by subsection (a) of this article, in accordance with V.T.C.A., Occupations Code, § 2153.004:

(1) A stamp vending machine;

(2) A service coin-operated machine; or

(3) If subject to an occupation or gross receipts tax, a:

(A) Gas meter;

(B) Food vending machine;

(C) Confection vending machine;

(D) Beverage vending machine;

(E) Merchandise vending machine; or

(F) Cigarette vending machine.

(Code 1996, § 11.04.001; Ord. No. 700-01, 4/16/01)

ARTICLE IV. HOTEL OCCUPANCY TAX

Sec. 11.05.001. Definitions.[104]

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

Consideration. The monetary cost of a room or sleeping space in a hotel only if the room is one ordinarily used for sleeping and shall not include the cost of any food served or personal services rendered to the occupant of such room not related to the cleaning and readying of such room for occupancy.

Hotel. Any building or buildings in which members of the public may, for consideration, obtain sleeping accommodations. The term includes hotels, motels, bed and breakfasts, tourist homes, houses or courts, lodging houses, inns, rooming houses, or other buildings where rooms are furnished for consideration, but "hotel" shall not include hospitals, sanitariums, nursing homes, or dormitories or other housing facilities owned or leased and operated by an institution of higher education or a private or independent institution of higher education.

Occupancy. The use or possession, or the right to the use or possession, of any room or space in a hotel if the room or space is one which is ordinarily used for sleeping and if the occupant's use, possession or right to use or possession extends for a period of less than 30 days.

Occupant. Anyone who, for consideration, uses, possesses, or has a right to use or possess any room in a hotel if the room is one ordinarily used for sleeping.

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[104] **Sec. 11.05.001. Definitions.** Definition duplicative of chapter 1 is stricken as shown.

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~~Person. Any individual, corporation, or other legal entity.~~

Quarterly period. The regular calendar quarters of the year, the first quarter being composed of the months of January, February and March; the second quarter being the months of April, May and June; the third quarter being the months of July, August and September, and the fourth quarter being the months of October, November and December.
(Code 1996, § 11.05.001; Ord. No. O-04-19, 6/18/19)

Sec. 11.05.002. Tax imposed.

Under the provisions of V.T.C.A., Tax Code, § 351.002, the city has levied upon the cost of occupancy of any room furnished by any hotel within the corporate limits of the city a hotel occupancy tax equal to seven percent of the consideration paid by the occupant of such room to such hotel, where the consideration of occupancy is at the rate of $2.00 or more per day and such room or space is ordinary used for sleeping. This tax is exclusive of other occupancy taxes imposed by other governmental agencies under the law.
(Code 1996, § 11.05.002; Ord. No. O-04-19, 6/18/19)

Sec. 11.05.003. Collection of tax.

Every person owning, operating, managing, or controlling any hotel shall collect the tax levied by this section for the city.
(Code 1996, § 11.05.003; Ord. No. O-04-19, 6/18/19)

Sec. 11.05.004. Payment of tax and reporting.

The taxes provided for herein shall be paid on a monthly period basis. On or before the 20th day of the month following each calendar month, every person required by this article to collect the taxes imposed herein shall file a report with the director of finance of the city showing the consideration paid for all room occupancies in the preceding calendar month, the amount of the taxes collected on such occupancies and such other information as the director of finance may reasonably require. The report shall be submitted in a form prescribed by the director of finance of the city. Such person shall pay the taxes due on such occupancies at the time of filing of such report.
(Code 1996, § 11.05.004; Ord. No. O-04-19, 6/18/19)

Sec. 11.05.005. Rules and regulations; access to books, records.

The director of finance of the city shall have the power to make such rules and regulations as are reasonable and necessary to effectively collect the tax levied herein, and shall, upon reasonable notice, have access to all books and records of hotels subject to this article as necessary to enable the director of finance to determine the correctness of any report filed as required by this article, and the amount of taxes due under the provisions of this article.
(Code 1996, § 11.05.005; Ord. No. O-04-19, 6/18/19)

Sec. 11.05.006. Effect of failure to collect tax, file report.

(a) Any person who fails to collect the tax levied herein, fails to file a report as required herein, files a false report, or fails to pay the director of finance the tax imposed herein when due, shall owe a penalty of five percent of the total tax amount due. After the first thirty 30 days, the person shall owe an additional five percent of such tax. Delinquent taxes shall further draw interest at the rate of ten percent

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per annum beginning 60 days from the due date.

(b) The city attorney or other attorney acting for the city may bring suit against a person who is required to collect the tax imposed by this article and pay the collections over to the city and who has failed to file a tax report or pay the tax when due under this article to collect the tax not paid, to enjoin the person from operating a hotel in the city until the tax is paid or the report filed, or both, or seek any other remedy permitted by law. In addition to the amount of any tax owed under this article, the city may also seek recovery of and shall be entitled to recovery of the city's reasonable attorney's fees incurred in bringing the action.
(Code 1996, § 11.05.006; Ord. No. O-04-19, 6/18/19)

Sec. 11.05.007. Penalty of fine.

Any person violating any of the provisions of this article, including persons who fail to collect the tax, file a false return, or are delinquent in the submitting of a report or tax required by this article, shall be charged with a misdemeanor and shall, upon conviction, be fined in any sum not to exceed $500.00, and each 24 hours of any such violation shall constitute a separate offense.
(Code 1996, § 11.05.007; Ord. No. O-04-19, 6/18/19)

Sec. 11.05.008. Use of revenues.

All revenue received from any hotel occupancy tax authorized under this article shall be used only for those purposes authorized by V.T.C.A., Tax Code, ch. 351.
(Code 1996, § 11.05.008; Ord. No. O-04-19, 6/18/19)

Sec. 11.05.009. Collection procedures upon purchase of hotel.

(a) If a person who is liable for the payment of an amount under this article is the owner of the hotel and sells the hotel, the successor to the seller or the seller's assignee shall withhold an amount of the purchase price sufficient to pay the amount due until the seller provides a receipt from the tax collector/assessor of the city showing that the amount has been paid or a certificate stating that no amount is due.

(b) The purchaser of a hotel who fails to withhold an amount of the purchase price as required by this article is liable for the amount required to be withheld to the extent of the value of the purchase price.

(c) The purchaser of a hotel may request that the tax assessor/collector of the city issue a certificate stating that no tax is due or issue a statement of the amount required to be paid before a certificate may be issued. The director of finance of the city shall issue the certificate or statement not later than 60 days after receiving the request.

(d) If the tax assessor/collector of the city fails to issue the certificate or statement within the applicable period provided by subsection (c) of this section, the purchaser is released from the obligation to withhold the purchase price or pay the amount due.

(e) The period of limitation during which the tax assessor/collector of the city may assess tax against the purchaser under this section is four years from the date when the former owner of the hotel sells the hotel or when a determination is made against the former owner, whichever event occurs later. At any time within three years after a deficiency determination against the purchaser has become due and payable, the city attorney may bring an action in a district court of the county or a court of any other state

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of the United States in the name of the city to collect the delinquent amounts, together with penalties and interest and all other available legal remedies, including the recovery of the city's reasonable and necessary attorney's fees expended in bringing such action.
(Code 1996, § 11.05.009; Ord. No. O-04-19, 6/18/19)

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Chapter 32

TRAFFIC AND VEHICLES

ARTICLE I. IN GENERAL

Sec. 12.01.001. Traffic division of police department established; enforcement authority.

(a) The city has established within the city police department a traffic division to be under the control of an officer of police appointed by and directly responsible to the police chief.

(b) It shall be the duty of the traffic division to make arrests for violations of this chapter, to investigate accidents and to cooperate with the city traffic engineer and other officers of the city in the administration of the street and pedestrian conditions, and to carry out the duties specifically imposed on the division by this chapter and other provisions of this Code.

(c) In carrying out its duties, the traffic division may be aided by other members of the police department or code enforcement or any person designated by the police chief to enforce city and state street and pedestrian traffic regulations.
(Code 1996, §§ 12.01.001, 12.01.002; Ord. No. 748-03, 4/7/03)

Sec. 12.01.003. Records of traffic violations.

The traffic division of the police department shall keep a record of all violations of the traffic ordinances of this city or of the state vehicle laws of which any person has been charged, together with a record of the final disposition of all such alleged offenses. Such records shall maintain a complete detail of all violations of this chapter on a continuing basis for a minimum of the immediately passed five-year period.
(Code 1996, § 12.01.003)

Sec. 12.01.004. City traffic engineer designated; authority and duties.[105]

(a) The city has established the office of city traffic engineer. The police chief shall serve as city traffic engineer in addition to his other functions until such time as the city council shall determine otherwise. The traffic engineer shall exercise the powers and duties with respect to traffic as provided in this chapter.

(b) It shall be the general duty of the city traffic engineer to determine the installation and proper timing and maintenance of traffic-control devices, to conduct engineering analysis of traffic accidents and to devise remedial measures, to conduct engineering investigation of traffic conditions, to cooperate with other city officials in the development of ways and means to improve traffic conditions, and to carry out the additional powers and duties imposed by the city.

(c) The city traffic engineer is authorized to promulgate, establish, and enforce temporary or experimental regulations to ensure enforcement of the provisions of this chapter and state traffic law and to cover emergencies. No such temporary or experimental regulations shall remain in effect for more than 30 days.

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[105] **Sec. 12.01.004. City traffic engineer designated; authority and duties.** Text duplicative of the following sections is stricken as shown.

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~~The city traffic engineer may test traffic control devices under actual conditions in traffic, and may place signs prohibiting or restricting the stopping, standing, or parking of vehicles on any highways, roads, streets, boulevards, pathways, and alleyways where the opinion of the city traffic engineer shall deem such stopping, standing, or parking is dangerous to those using the highways, roads, streets, boulevards, pathways, and alleyways, or where the stopping, standing, or parking of vehicles would unduly interfere with the free movement of traffic thereon. Such signs shall be official signs and no person shall stop, stand, or park a vehicle in violation of the restrictions stated on such signs.~~
(Code 1996, §§ 12.01.004, 12.01.005)

Sec. 12.08.001. When vehicle removal is authorized; redemption.

(a) A police officer is authorized to remove or cause to be removed a vehicle or other property of any description from a street to a place designated by the city council when:

(1) The vehicle or property is left unattended upon a bridge or viaduct or in a tunnel or underpass;

(2) The vehicle is illegally parked so as to block the entrance to any private driveway;

(3) The vehicle is found upon a street, and report has previously been made that the vehicle has been stolen or complaint has been filed and a warrant issued charging that the vehicle has been unlawfully taken from the owner;

(4) The officer has reasonable grounds to believe that the vehicle has been abandoned as defined by state law;

(5) A vehicle upon a street is so disabled that its normal operation is impossible or impractical and the person or persons in charge of the vehicle are incapacitated by reason of physical injury or other reason to such an extent as to be unable to provide for its removal or custody, or are not in the immediate vicinity of the disabled vehicle;

(6) An officer arrests any person driving or in control of a vehicle for an alleged offense;

(7) The vehicle is standing, parked, or stopped in any portion of a street and the officer has reason to believe that the vehicle constitutes a hazard, interferes with the normal function of a governmental agency, or the safety of the vehicle is imperiled;

(8) The vehicle is standing, parked, or stopped in violation of city parking ban regulations;

(9) The vehicle is standing, parked, or stopped in violation of any provision of this chapter.

(b) A vehicle removed and towed pursuant to the provisions of this article shall be kept at the place designated by the city council until application for redemption is made by the owner or his authorized agent, who will be entitled to possession of the vehicle upon payment of costs of towing and storage.
(Code 1996, §§ 12.08.001, 12.08.002)

Sec. #. Sale of impounded vehicles.

A public auction shall be held at the old city hall building on Bear Creek Road, on such occasion as the police chief deems necessary for the purpose of selling by sealed bid vehicles impounded by the police

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department. The city reserves the right to accept or reject any or all bids at said public sale. All sales are final. No refunds or exchanges will be authorized. All vehicles must be removed within five days following the date of sale. No city employee or member of their family shall submit a bid either directly or indirectly for any item. The purchaser of the motor vehicle shall take title to the motor vehicle free and clear of all liens and claims of ownership, shall receive a sales receipt from the police department and shall be entitled to register the purchased vehicle and receive a certificate of title.
(Code 1996, art. 12.06)

ARTICLE II. TRAFFIC-CONTROL DEVICES

~~Sec. 12.02.001. Authority to install traffic-control devices.~~[106]
~~The city traffic engineer shall cause to be placed and maintained traffic-control signs, signals, and devices when and as required under the traffic ordinances of this city to effect and enforce the provisions of said ordinances, and may place and maintain such additional traffic-control devices as he may deem necessary to regulate traffic under the traffic ordinances of this city or under state law, or to guide or warn traffic.~~
~~(Code 1996, § 12.02.001)~~

Sec. #. Ratification of existing traffic-control devices.

All traffic-control signs, signals, devices, and markings placed or erected prior to the adoption of this code and in use for the purpose of regulating, warning, or guiding traffic are affirmed, ratified, and declared to be official traffic-control devices; provided such traffic-control devices are not inconsistent with the provisions of this article or state law.
(Code 1996, art. 12.09)

Sec. 12.02.002. Duty and authority to city traffic engineer install and maintain traffic control devices.[107]

(a) *Determination of necessity.* The city traffic engineer shall determine the necessity for installation and maintenance of traffic-control devices on the public streets and highway within the corporate limits of the city based upon a traffic and engineering study and install or cause to be installed all such traffic-control devices determined necessary.

(b) *Safety zones, marking traffic and pedestrian lanes* The city traffic engineer is authorized to:

(1) Designate and maintain, by appropriate devices, marks, or lines upon the surface of the roadway, crosswalks at intersections where in his opinion there is particular danger to pedestrians crossing the roadway, and at such other places as he may deem necessary.

(2) Establish safety zones of such kind and character and at such places as he may deem necessary for the protection of pedestrians.

(3) Mark lanes for traffic on street pavements at such places as he may deem advisable, consistent with the traffic ordinances of this city.

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[106] **Sec. 12.02.001. Authority to install traffic-control devices.** Section duplicative of section below is stricken as shown.

[107] **Sec. 12.02.002. Duty and authority to city traffic engineer install and maintain traffic control devices.** Sections are combined as indicated in history note.

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(c) *Report of installation.* When the traffic engineer has erected and installed such traffic-control devices, he or she shall file a report with the city secretary stating the type of any such traffic-control devices that were installed and the date when and location where such devices were installed.

(d) *Removal of devices authorized.* The city traffic engineer to remove any and all traffic-control devices which he determines in a like manner to be no longer necessary.

(e) *Maintenance of devices.* The traffic engineer shall maintain any other existing traffic-control devices and any and all existing traffic-control devices previously installed within the corporate limits of the city shall be deemed to be properly installed in accordance with the provisions of this article until such time as they are removed or caused to be removed by the city traffic engineer pursuant to the terms of this article.
(Code 1996, §§ 12.02.002, 12.02.011)

Sec. 12.02.012. Duty and authority of police chief to designate construction and maintenance zones.

(a) The police chief shall have authority to establish and designate and to cause appropriate signage or other appropriate traffic-control devices or markings to be erected or placed, that establish zones in which construction or maintenance of streets, utilities or other facilities in city streets or rights-of-way is being conducted, and in which fines for motor vehicles shall be twice the maximum amount when workers are present, as provided in V.T.C.A., Transportation Code, § 542.404.

(b) The police chief shall have authority to reduce the prima facie speed limit on a street within a construction or maintenance zone that has been established when, in the opinion of the chief, a special hazard exists that justifies the reduced speed limit.

(c) In the event that the police chief has reason to believe that the speed limit in a construction or maintenance zone should be altered, but no special hazard exists, he or she shall have authority to conduct or obtain an engineering and traffic investigation to determine if the speed limit should be altered.
(Code 1996, § 12.02.012; Ord. No. 840-07, 3/22/07)

Sec. 12.02.003. Specifications for traffic-control devices.[108]

(a) All signs and signals required hereunder for a particular purpose shall as far as practicable be uniform as to type and location throughout the city. All traffic-control devices so erected and not inconsistent with the provisions of state law or this chapter shall be official traffic-control devices.

(b) Any traffic-control device installed pursuant to the authority of this article shall be in conformity with the Manual on Uniform Traffic Control Devices, Volumes 1 and 2, promulgated by the state department of transportation pursuant to V.T.C.A., Transportation Code, § 544.001 ~~article 6701d, section 29~~ and any other applicable state law or rule.
(Code 1996, § 12.02.003)

Sec. 12.02.005. When traffic devices are required for enforcement purpose.

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[108] **Sec. 12.02.003. Specifications for traffic-control devices.** Citation is corrected as shown.

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No provision of this chapter for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign or other traffic-control device is not in proper position and sufficiently legible to be seen by an ordinarily observant person.
(Code 1996, § 12.02.005)

Sec. 12.02.004. Obedience to official traffic-control devices.[109]

(a) The driver of any motor vehicle shall obey the instructions of any traffic-control device applicable to such vehicle installed in accordance with the provisions of this article, unless otherwise directed by a peace officer, subject to the exceptions granted to the operator of an authorized emergency vehicle in accordance with applicable state law.

(b) Drivers shall comply with traffic-control devices in the manner provided in V.T.C.A., Transportation Code, §§ 544.007—544.013. In addition, when pedestrian right-of-way control signals are installed, pedestrians shall comply with such signals in the manner provided in V.T.C.A., Transportation Code, § 552.002.

~~Sec. 12.02.006. Traffic-control signal legend.~~
~~(a) Whenever traffic is controlled by traffic-control signals exhibiting the word "go," "caution," or "stop" arrows, the following colors only shall be used and said terms and lights indicate and apply to drivers of vehicles and pedestrians as follows:~~
~~(1) Green alone or "go."~~
~~(A) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turns. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.~~
~~(B) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.~~
~~(2) Yellow alone or "CAUTION" when shown following the green or "GO" signal.~~
~~(A) Vehicular traffic facing the signal is thereby warned that the red or "STOP" signal will be exhibited immediately thereafter and such vehicular traffic shall not enter or be crossing the intersection when the red or "STOP" signal is exhibited.~~
~~(B) Pedestrians facing such signal are thereby advised that there is insufficient time to cross the roadway, and pedestrians then starting to cross shall yield the right-of-way to all vehicles.~~
~~(3) Red alone or "STOP."~~
~~(A) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "GO" is shown alone.~~
~~(B) No pedestrian facing such signal shall enter the roadway.~~
~~(b) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this article shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking, the stop shall be made at the signal.~~
~~Sec. 12.02.007. Pedestrian traffic signals.~~
~~Whenever special pedestrian control signals exhibiting the word "walk" or "wait" are in place, such~~

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[109] **Sec. 12.02.004. Obedience to official traffic-control devices.** Sections are combined in new subsection (b) and text of four sections stricken as shown.

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~~signals shall indicate as follows:~~
~~(1) Walk. Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.~~
~~(2) Wait. No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to a sidewalk or safety zone while the "WAIT" signal is showing.~~
~~Sec. 12.02.008. Flashing signals.~~
~~Whenever flashing red or yellow signals are used they shall require obedience by vehicular traffic as follows:~~
~~(1) Flashing red (stop signal). When a red lens is illuminated with rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.~~
~~(2) Flashing yellow (caution signal). When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.~~
(Code 1996, §§ 12.02.003, 12.02.006, 12.02.007, 12.02.008)

Sec. 12.02.009. Display of unauthorized signs, signals or markings.

(a) No person shall place, maintain, or display upon or in view of any highways, roads, streets, boulevards, parkways, and alleyways any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal, and no person shall place or maintain nor shall any public authority permit upon any highways, roads, streets, boulevards, pathways, and alleyways any traffic sign or signal bearing thereon any commercial advertising. This shall not be deemed to prohibit the erection upon private property adjacent to highways, roads, streets, boulevards, pathways, and alleyways of signs giving useful directional information and of a type that cannot be mistaken for official signs.

(b) Every such prohibited sign, signal, or marking is declared to be a public nuisance, and the authority having jurisdiction over the highways, roads, streets, boulevards, pathways, and alleyways is empowered to remove the same or cause it to be removed without notice.
(Code 1996, § 12.02.009)

Sec. 12.02.010. Interference with official traffic-control devices or railroad signs or signals.

No person shall without lawful authority attempt to or in fact alter, deface, injure, knock down, or remove any official traffic-control device or any railroad sign or signal or any inscription, shield, or insignia thereon, or any other part thereof.
(Code 1996, § 12.02.010)

ARTICLE III. SPEED REGULATIONS

Sec. 12.03.001. Speed limit generally.

A person commits an offense if he operates a vehicle on any street within the city at a speed greater than 30 miles per hour or on any public alley at a speed greater than 15 miles per hour, except as provided in this chapter. Any speed in excess of 30 miles per hour on a public street or 15 miles per hour in a public alley, unless otherwise provided by this chapter, shall be prima facie evidence that the speed is not reasonable or prudent and is unlawful.

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(Code 1996, § 12.03.001)

Sec. 12.03.002. Designated speed zones.

A person commits an offense if he operates or drives a vehicle on the following designated streets at a speed greater than the speed designated by this section for such street or portion of such street, and any speed in excess of the limit provided in this section shall be deemed prima facie evidence that the speed is not reasonable or prudent and is unlawful:

Street Name	*Extant*	*Speed*
Bear Creek	Beginning at intersection with I-35, west to the midpoint of the intersection with S. Uhl Road.	45 mph
Bear Creek	From midpoint of the intersection with S. Uhl Road, west to the midpoint of the intersection with Westmoreland Road (except special speed zone).	35 mph
Bear Creek	Beginning at the midpoint of the intersection with Westmoreland Road, west to the west city limits.	45 mph
South Hampton	All portions of the city lots subject to the limits of the safety zone provided below.	35 mph
Westmoreland Road	All portions within the city limits	45 mph
Uhl Road	All portions within the city limits	35 mph
Heritage Boulevard	All portions within the city limits	20 mph
Orvilla Road (FM 664)	Beginning at the east boundary line at S. Uhl Road, west to the west boundary line at S. Hampton Road	50 mph

(Code 1996, § 12.03.002; Ord. No. 808-05, 11/21/05)

Sec. 12.03.003. School zones.

(a) Bear Creek Road. A school zone is established on Bear Creek Road from a point 500 feet west of Heritage Boulevard, east to a point 786 feet east of Heritage Boulevard, subject to the following:

(1) A speed limit of 20 mph shall be in effect in such school zone Monday through Friday every week of the school semesters of the school districts serving the city, when specially marked signs are flashing yellow lights. The school zone shall be marked by means of special signs stating “School - 20 mph when flashing.” The police chief is authorized to coordinate the time of activation of such signs with the appropriate school authorities.

(2) The placement of a traffic-control device by the city shall be prima facie evidence that the device is installed and maintained pursuant to the authority granted herein, in accordance with state law, in proper position and in full force and effect.

(b) FM 664 (Ovilla Road). A school zone is established on FM 664 (Ovilla Road) from a point beginning at milepost 11.676 marking the western boundary of the school zone to milepost 11.546 marking the eastern boundary of the school zone being a total of 686.4 feet, subject to the following:

(1) A speed limit of 35 mph shall be in effect in said school zone Monday through Friday every

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week of the school semester of the school district serving the city, when specially marked signs are flashing yellow lights. The school zone shall be marked by means of special signs stating "School - 35 mph when flashing." The police chief is authorized to coordinate the time of activation of such signs with the appropriate school authorities.

(2) The school zone shall be in effect from 7:10 a.m. until 8:10 a.m. and from 2:40 p.m. to 3:30 p.m. Monday through Friday every week of the school semester.

(3) The placement of a traffic-control device by the city or TXDOT shall be prima facie evidence that the device is installed and maintained pursuant to the authority granted herein, in accordance with state law, in proper position and in full force and effect.

(c) Majestic Meadows Drive. A school zone is established on Majestic Meadows Drive from a point 100 feet north of West Bear Creek Road, north to a point 200 feet north of Wynnewood Drive, subject to the following:

(1) A speed limit of 20 mph shall be in effect in said school zone Monday through Friday every week of the school semester of the school district serving the city, when specially marked signs are flashing yellow lights. The school zone shall be marked by means of special signs stating "School - 20 mph when flashing." The police chief is authorized to coordinate the time of activation of such signs with the appropriate school authorities.

(2) The placement of a traffic-control device by the city or state department of transportation (TXDOT) shall be prima facie evidence that the device is installed and maintained pursuant to the authority granted herein, in accordance with state law, in proper position and in full force and effect.

(d) Wynnewood Drive. A school zone is established on Wynnewood Drive from a point 200 feet west of Majestic Meadows Drive, east to a point 1085 feet east of Majestic Meadows Drive. A speed limit of 20 mph shall be in effect in said school zone Monday through Friday every week of the school semester of the school district serving the city, when specially marked signs are flashing yellow lights. The school zone shall be marked by means of special signs stating "School - 20 mph when flashing." The police chief is authorized to coordinate the time of activation of such signs with the appropriate school authorities.

(e) South Westmoreland Road. A school zone is established on South Westmoreland Road from a point 200 feet north of Wynnewood Drive north to a point 200 feet south of Wynnewood Drive, subject to the following:

(1) A speed limit of 30 mph shall be in effect in said school zone Monday through Friday every week of the school semester of the school district serving the city, when specially marked signs are flashing yellow lights. The school zone shall be marked by means of special signs stating "School - 30 mph when flashing." The police chief is authorized to coordinate the time of activation of such signs with the appropriate school authorities.

(2) The placement of a traffic-control device by the city or TXDOT shall be prima facie evidence that the device is installed and maintained pursuant to the authority granted herein, in accordance with state law, in proper position and in full force and effect.

(Code 1996, § 12.03.002; Ord. No. 724-01, 12/17/01; Ord. No. O-02-10, § 2, 2/ 15/10)

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Sec. 12.03.004. Other speed zones.[110]

Upon the basis of an engineering and traffic investigation made as authorized by the provisions of V.T.C.A., Transportation Code, § 545.356 ~~section 169(b) of article 6701d, Vernon's Texas Civil Statutes~~, the following prima facie speed limits hereafter indicated for vehicles are determined and declared to be reasonable and safe; and such speed limits are fixed at the rate of speed indicated for vehicles traveling upon the named streets and highways, or parts thereof, described as follows:

(1) No motor vehicle shall be operated along and upon F.M. Highway No. 664 within the corporate limits of the city in excess of the speeds set forth in the following limits: beginning at said point (Station 576+10) being the west city limits thence continuing along F.M. 664 in an easterly direction for a distance of 1.129 miles, approximately, said point (Station 635+71) being the east city limits, a maximum speed of 50 miles per hour.

(2) No motor vehicle shall be operated along and upon Interstate Highway No. 35 Southbound (west) Frontage Road within the corporate limits of the city in excess of speeds now set forth in the following limits:

a. Beginning at said point (north of Bear Creek Road at the City of DeSoto/City of Glenn Heights city limits line), approximately 0.50 miles south of Parkerville Road, continuing along the southbound (west) IH-35 Frontage Road south until approximately 0.10 miles south of Bear Creek Road, or a total distance of approximately 0.60 miles, a maximum speed of 45 miles per hour.

b. Beginning at said point, approximately 0.10 miles south of Bear Creek Road, continuing along the southbound (west) IH-35 Frontage Road south until the Dallas County/Ellis County Line, or a total distance of approximately 0.80 miles, a maximum speed of 50 miles per hour.

(3) No motor vehicle shall be operated along and upon Ovilla Road, Highway FM 664, within the corporate limits of the city in excess of the speeds now set forth in the following limits: beginning at the east boundary line at South Uhl Road, west to the west boundary line at South Hampton Road, 55 mph.

(Code 1996, § 12.03.004; Ord No. O-03-12, 1/17/12)

Sec. 12.03.005. Placement of signs.

The police chief or his duly authorized representative is directed to erect appropriate signs giving notice to motorists that the aforesaid streets have been zoned by the city for the aforesaid maximum lawful prima facie speed limit as provided above, said signs to be posted at each end of the aforesaid speed zones so as to be visible to motorists entering such speed zones from either direction.
(Code 1996, § 12.03.005)

ARTICLE IV. STOP INTERSECTIONS

Sec. 12.04.001. Stop signs.

In addition to all other stop signs, stop signs at the intersections enumerated in the following list are

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[110] **Sec. 12.03.004. Other speed zones.** Citation is corrected as shown.

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ordered to be erected and are validated and fully authorized, whether the same have already been placed there heretofore. All streets located in the column under the word "on" are the streets on which stop signs are ordered and authorized at their intersection with the streets listed on the same line and in the column immediately to the right, headed by the word "at."

Direction	*On*	*At*
Eastbound	Abel Drive	Santa Rosa
Eastbound	Andrea Michelle Court	Carrington
Eastbound	Azalea	Carolina Cherry
Eastbound	Barton	Lillian
Eastbound	Blake	Carrington
Eastbound	Bradford	Gateway
Eastbound	Breton	Langley Drive
Eastbound	Brookside	I-35 Frontage Road (Beckley)
Eastbound	Buffalo Drive	Purdue Drive
Eastbound	Buffalo Drive	Berkley Drive
Eastbound	Coolwater	Lakeside
Eastbound	Crest Ridge	Majestic Meadows
Eastbound	Crest Ridge	Turnbridge
Eastbound	Cripple Creek Road	Hampton Road
Eastbound	Devonshire	Majestic Meadows
Eastbound	Eastbrook	Majestic Meadows
Eastbound	Ephraim	3000 Santa Rosa
Eastbound	Fairhaven	Majestic Meadows
Eastbound	Fairhaven	Turnbridge
Eastbound	Fordham Drive	Berkley Drive
Eastbound	Glen Meadow Drive	Sagebrush Drive
Eastbound	Glencoe	Gateway Boulevard
Eastbound	Godwin	Carrington
Eastbound	Golden Bell	Carolina Cherry
Eastbound	Greenmound	South Uhl
Eastbound	Grouse	Bob White
Eastbound	Grove	Overhill
Eastbound	Harvard	Heritage
Eastbound	Highmeadow	Gateway
Eastbound	Hollywood	Sunset
Eastbound	Jacob Drive	Santa Rosa
Eastbound	James Donald Court	Carrington
Eastbound	Joe Top Drive	Hampton Road
Eastbound	Joseph	Santa Rosa
Eastbound	Joseph	Courtney
Eastbound	Kolby	Carrington
Eastbound	London	Windsor
Eastbound	Los Angeles	Sunset
Eastbound	Magnolia	Uhl
Eastbound	Mary Court	Courtney
Eastbound	Meandering Way	Timberbrook
Eastbound	Mesa Drive	Glenn Lane

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Eastbound	Mesa Moor Street	Glenn Lane
Eastbound	Mesa Wood Drive	Glenn Lane
Eastbound	Michelle Court	Courtney
Eastbound	Mountain View	Gateway
Eastbound	Noblewood	Majestic Meadows
Eastbound	Overhill	South Uhl
Eastbound	Parkview Drive	SB IH 35 East Access Road
Eastbound	Pebblebrook	Sagebrush
Eastbound	Pebblebrook	Sagebrush
Eastbound	Princeton Lane	Heritage
Eastbound	Reagen	Ranger
Eastbound	Riley	Gateway
Eastbound	Sage Meadow	Bob White
Eastbound	Sagemeadow	Caleo
Eastbound	Shoreline	Watersedge
Eastbound	Southbrook	Grove
Eastbound	Stargazer	Wave Crest
Eastbound	Stone Creek Boulevard	Hampton Road
Eastbound	Trishia Ln	Wood
Eastbound	Turnbridge	Whitaker Way
Eastbound	Valley View	Gateway
Eastbound	Victoria	Windsor
Eastbound	West Bear Creek Road	Westmoreland
Eastbound	Westminster	Citadel
Eastbound	Westminster Drive	Berkley Drive
Eastbound	Whitaker Way	Majestic Meadows
Eastbound	Willow Creek	Sagebrush
Eastbound	Willow Run	I-35 Frontage Road (Beckley)
Eastbound	Wilshire	Sunset Strip
Eastbound	Wynnewood Drive	Majestic Meadows Drive
Eastbound	Yorkshire	Turnbridge
Northbound	2700 Block Sunset Drive	Wilshire Drive
Northbound	Alpine	Cascade
Northbound	Bentwood Drive	Parkview Drive
Northbound	Berkeley	Westminster
Northbound	Bob White	Mockingbird
Northbound	Carrington Drive	Bear Creek Road
Northbound	Citadel	Westminster
Northbound	Clemson	Harvard
Northbound	Colgate Drive	Bear Creek Road
Northbound	Columbia	Harvard
Northbound	Creekview Drive	Bear Creek Road
Northbound	Dawn Drive	Roaring Springs Drive
Northbound	Dockside	Harvard
Northbound	Dorothy	F.M. 664 (Ovilla Road)
Northbound	Drake	Reagen
Northbound	Dynasty Drive	Bear Creek Road

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Northbound	Gardenridge Drive	Parkview Drive
Northbound	Gateway Boulevard	Bear Creek Road
Northbound	Glenn Lane	Bear Creek Road
Northbound	Glenn Lane	Winnipeg Drive
Northbound	Glenn Lane	Milas Lane
Northbound	Glenn Lane	Mesa Drive
Northbound	Glenn Lane	Milas Lane
Northbound	Jenkins Lane	Bear Creek Road
Northbound	Lake Ridge Road	Cripple Creek Road
Northbound	Lakeshore	Greenmound
Northbound	Lillian	Godwin
Northbound	Majestic Meadows	Wynnewood
Northbound	Manitoba	Victoria
Northbound	Montreal	Victoria
Northbound	Moss Meadow Drive	Meadow Springs Drive
Northbound	Mourning Dove	Blue Quail Run
Northbound	Peck Drive	Parkview Drive
Northbound	Peck Drive	Madison Drive
Northbound	Pond	Glencoe
Northbound	Pool	Saline Creek
Northbound	Ranger	Whitecreek
Northbound	Ridgeview Drive	Parkview Drive
Northbound	Royal Gorge	River Run
Northbound	Sagebrush Drive	Stone Creek Boulevard
Northbound	Santa Rosa	California
Northbound	Spring Moss Drive	Shady Meadow Drive
Northbound	Star	Hollywood
Northbound	Star	Wilshire
Northbound	Tea Olive	Magnolia
Northbound	Timbercreek Drive	Pebblebrook Lane
Northbound	Turnbridge	Daventry
Northbound	Uhl Road	Bear Creek Road
Northbound	Vancouver	Victoria
Northbound	Vine	Hollywood
Northbound	Westmoreland Road	Bear Creek Road
Northbound	Whitaker	Turnbridge
Northbound	Whitaker	Crest Ridge
Northbound	Wildwood	Glencoe
Northbound	Wilshire Court	Wilshire Drive
Northbound	Yorkshire	Fairhaven
Southbound	200 Block Sunset Drive	Wilshire Drive
Southbound	2600 Block Sunset Drive	Wilshire Drive
Southbound	Alpine	Creekside
Southbound	Berkley Drive	Westminster Drive
Southbound	Betsy Court	Moses
Southbound	Blue Sky Drive	Roaring Springs Drive
Southbound	Bob White	Blue Quail Run
Southbound	Bricknell	Turnbridge

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Southbound	Buoy	West Bear Creek
Southbound	Carolina Cherry	Magnolia
Southbound	Cinnamon Springs	F.M. 664 (Ovilla Road)
Southbound	Citadel Drive	Westminster
Southbound	Columbia Drive	Bear Creek Road
Southbound	Dawn Drive	Meadow Springs Drive
Southbound	Drake	Quincy
Southbound	Drake	Quincy
Southbound	Glenn Lane	Bear Creek Road
Southbound	Glenn Lane	Milas Lane
Southbound	Glenn Lane	Mesa Drive
Southbound	Glenn Lane	Craddock
Southbound	Glenn Lane	Windsor
Southbound	Glenn Lane	Milas Lane
Southbound	Harborview	West Bear Creek
Southbound	Hawthorn	Golden Bell
Southbound	Heritage Boulevard	Bear Creek Road
Southbound	Lake Ridge Road	Cripple Creek Road
Southbound	Lakeridge	Cinnamon Springs
Southbound	Langley	Breanna Way
Southbound	Lifton	Daventry
Southbound	Lillian	Godwin
Southbound	Majestic Meadows	West Bear Creek Road
Southbound	Majestic Meadows	Wynnewood
Southbound	Maria Court	Moses
Southbound	Meandering Court	Meandering Way
Southbound	Mesa Wood	Craddock
Southbound	Montclaire	Wynnewood
Southbound	Moss Meadow Drive	Shady Meadow Drive
Southbound	Mourning Dove	East Bear Creek Road
Southbound	Neiman	East Bear Creek
Southbound	Peck Drive	Yukon Drive
Southbound	Peck Drive	Madison Drive
Southbound	Santa Rosa	F.M. 664 (East Ovilla Road)
Southbound	Santa Rosa	Moses
Southbound	Santa Rosa	F.M. 664 (Ovilla Road)
Southbound	Sidney	London
Southbound	Star	Hollywood
Southbound	Sunset	California
Southbound	Sunset Strip Drive	F.M. 664 (Ovilla Road)
Southbound	Swanson	Breanna Way
Southbound	Tea Olive	Magnolia
Southbound	Uhl Road	Bear Creek Road
Southbound	Watersedge	1600 Watersedge
Southbound	Westmoreland Road	Bear Creek Road
Southbound	Whitaker	Turnbridge
Southbound	Wildwood	Riley
Southbound	Windsor	London

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Westbound	1200 Madison Drive	Gateway Boulevard
Westbound	500 Coolwater	1600 Watersedge
Westbound	600 Shoreline	1500 Shady Shore
Westbound	Abel Drive	Santa Rosa
Westbound	Abel Drive	Dorothy Lane
Westbound	Azalea	Carolina Cherry
Westbound	Barton Avenue	Uhl Road
Westbound	Baylor Drive	Colgate Drive
Westbound	Bayou	Westmoreland
Westbound	Bellingham	Bricknell
Westbound	Blake	Dynasty
Westbound	Bradford	Wildwood
Westbound	Breanna Way	South Uhl
Westbound	Breton	Swanson
Westbound	Bricknell	Cockrell Hill
Westbound	Brown Drive	Berkley Drive
Westbound	Buffalo Drive	Berkley Drive
Westbound	Clemson	Columbia
Westbound	Craddock Drive	Hampton Road
Westbound	Creekside	South Uhl
Westbound	Crest Ridge	Turnbridge
Westbound	Devonshire	Whitaker
Westbound	Eastbrook	Whitaker
Westbound	Edinburgh	Bricknell
Westbound	Ephraim	Santa Rosa
Westbound	Ephraim	Dorothy Lane
Westbound	Fairhaven	Turnbridge
Westbound	Fairhaven	Whitaker
Westbound	Fleming	Wildwood
Westbound	Glen Meadow	Briarwood
Westbound	Glencoe	Gateway Boulevard
Westbound	Godwin Avenue	Uhl Road
Westbound	Grouse	Meadowlark
Westbound	Hanson	Highmeadow
Westbound	Hollywood Boulevard	Hampton Road
Westbound	Jacob Court	Santa Rosa
Westbound	Jacob Drive	Dorothy Lane
Westbound	Janice Court	Dorothy Lane
Westbound	Joseph	Santa Rosa
Westbound	Joseph	Dorothy Lane
Westbound	Kolby	Dynasty
Westbound	Lakeview	Harborview
Westbound	London Lane	Hampton Road
Westbound	Los Angeles	Star
Westbound	Magnolia	Juniper
Westbound	Marina Bay	Wave Crest
Westbound	Mesa Drive	Glenn Lane
Westbound	Mesa Drive	Hampton Road

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Westbound	Mesa Moor Street	Hampton Road
Westbound	Mesa Wood Drive	Glenn Lane
Westbound	Mesa Wood Drive	Hampton Road
Westbound	Milas Lane	Hampton Road
Westbound	Mountain View	Creekview
Westbound	Noblewood	Whitaker
Westbound	Overhill	2100 Lakeshore
Westbound	Parkview Drive	Gateway Boulevard
Westbound	Pebblebrook	Dove Creek
Westbound	Princeton Lane	Heritage
Westbound	Quincy	Gateway
Westbound	Reagen	Gateway
Westbound	Redwood Drive	Bentwood Drive
Westbound	Riley	Highmeadow
Westbound	River Run	Westmoreland
Westbound	Roaring Springs Drive	South Westmoreland
Westbound	South Uhl	Cascade
Westbound	Sage Meadow	Meadowlark
Westbound	Sagemeadow	Caleo
Westbound	Sagemeadow	Meadow Lark
Westbound	Sagemeadow	Alpine
Westbound	Sandy Shores	Wave Crest
Westbound	Shady Meadow Drive	South Westmoreland
Westbound	Sidney Drive	Hampton Road
Westbound	Southbrook	2100 Lakeshore
Westbound	Stargazer	Lakeside
Westbound	Tulane	Heritage
Westbound	Turnbridge	Whitaker Way
Westbound	Vine Street	Hampton Road
Westbound	West Bear Creek Road	Westmoreland
Westbound	Wellington	Majestic Meadows
Westbound	Westminster Drive	Berkley Drive
Westbound	Willow Creek	Briarwood
Westbound	Wilshire Drive	Hampton Road
Westbound	Wynnewood	Turnbridge
Westbound	Wynnewood Drive	Majestic Meadows Drive
Westbound	Yale	Heritage
Westbound	Yorkshire	Turnbridge
Westbound	Yorkshire	Turnbridge
Westbound	Yukon Drive	Gateway Boulevard

(Ordinance O-05-17 adopted 6/20/17)

Sec. 12.04.002. Stopping.

When such stop signs are erected, every driver of a vehicle shall stop such vehicle at such a stop sign, and shall remain stopped until the driver can proceed safely.
(Code 1996, § 12.04.002; Ord. No. O-05-17, 6/20/17)

ARTICLE V. PARKING

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DIVISION 1. GENERALLY

Sec. #. Enforcement officers.

Code enforcement officers may assist with the enforcement of parking regulations to the extent not contrary to state law. In addition, to aid in the enforcement of this chapter, an employee designated by the police chief, in the traffic division, may immobilize a vehicle parked in violation of this chapter within the corporate city limits and remove an immobilized vehicle from a public roadway within the corporate city limits.
(Code 1996, § 12.01.002; Ord. No. 748-03, 4/7/03)

Sec. 12.11.006. Designating and placing signs for restricted parking.

(a) Generally. It shall be the duty of the city manager, or other person designated by him, to erect appropriate signs or mark curbs giving notice of the no parking and restricted parking regulations described in this article, and no such regulations shall be effective unless signs are marked or in place at the time of such alleged offense.

(b) School zones. The city manager, or his designee, is authorized to erect signs indicating no parking upon that side of any street adjacent to any school property when such parking would, in their opinion, interfere with traffic or create a hazardous situation.

(c) Designating angle parking. The city manager, or his designee, shall determine upon what streets angle parking shall be permitted and shall mark or sign such streets.

(d) Narrow streets. The city manager, or his designee, is authorized to have signs erected indicating no parking upon any street when the width of the roadway does not exceed 20 feet or upon one side of a street as indicated by such signs when the width of the roadway does not exceed 30 feet.

(e) Hazardous locations. The city manager, or his designee, is authorized to determine and designate by proper signs distances not exceeding 100 feet at places where the stopping or parking of vehicles would cause unusual delay in traffic.

(f) Passenger and freight loading zones. The city manager, or his designee is authorized to determine the location of passenger zones and freight loading zones and shall have erected and maintained appropriate signs indicating the same.

(g) No parking on closed streets during repair. In any case where any street in the city is being torn up, repaired, or paved or where any work is being done upon the same, making necessary the regulation of traffic thereon, the police chief is authorized to prevent parking either altogether or to any extent deemed wise by him for any certain period of time that may be necessary or to close the street to traffic altogether for such period of time.
(Code 1996, § 12.11.006)

Sec. #. Unauthorized parking prohibited; presumption of vehicle ownership.[111]

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[111] **Sec. #. Unauthorized parking prohibited; presumption of vehicle ownership.** Penalty is stricken as duplicative of chapter 1 general penalty.

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(a) No operator of a vehicle shall allow, permit or suffer a vehicle to stand, stop or park upon any street within the corporate city limits in violation of any provision of this chapter regulating the standing, stopping or parking of vehicles.

(b) If any vehicle is found in violation of any provision of this article or of state statute regulating the stopping, standing or parking of a vehicle, and the identity of the driver cannot be determined, the owner or person in whose name such vehicle is registered at the time of the issuance of the citation is presumed to be the person who parked said vehicle at the time and place the offense occurred. This presumption is rebuttable and shall have the effects and consequences set forth in V.T.C.A., Penal Code, § 2.05.

(c) The state department of transportation's computer-generated record of the registered vehicle owner is prima facie evidence of the contents of the record.

~~Any person, firm or corporation violating any provision of this chapter shall be fined, upon conviction, in accordance with the general penalty provision found in section 1.01.009 of this code.~~
(Code 1996, § 12.01.002; Ord. No. 748-03, 4/7/03)

Sec. 12.11.001. Vehicle position.

Except when necessary in obedience to traffic regulations or traffic signs or signals, the driver of any vehicle shall not stop, stand, or park such vehicle in a roadway other than parallel with the edge of the roadway, headed in the direction of traffic, and with the curbside wheels of the vehicle within eighteen inches (18") of the edge of the roadway, except where the streets have been marked for angle or head- in parking to permit head-in parking.
(Code 1996, § 12.11.001)

Sec. 12.11.002. Illegally moving another's vehicle.

No person shall move a vehicle not owned by such person into a prohibited area or away from a curb such distance as is unlawful.
(Code 1996, § 12.11.002)

Sec. 12.11.004. Leaving vehicle unattended; maximum time.

(a) In addition to the provisions set out in section 12.10.002, Violation, no person shall place, park, or leave standing in any public street, public driveway, public right-of-way, public sidewalk or any other public place any vehicle unattended for a longer period of time than 24 hours.

(b) No special motor vehicles, heavy load vehicles or recreational vehicles shall be left unattended or parked for more than 24 hours within any parking lot, parking spaces, drive aisle, vacant or unused property, or pervious/unpaved surface area (except an appropriately zoned and approved and paved parking lot for such vehicles).
(Code 1996, § 12.11.004; Ordinance O-12-10, sec. 4, adopted 6/21/10)

Sec. 12.11.005. Parking for display for sale or for cleaning and maintenance prohibited.

No person shall stand or park a vehicle and no owner shall permit any vehicle belonging to him to stand or park upon any roadway for the purpose of displaying it for sale or for the purpose of washing, greasing, repairing, changing oil, transmission fluid, gear lube, antifreeze or coolant, or other such fluids that may

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spill or overflow onto a public street, alley or right-of-way or other public property, or repairing such vehicle, except repairs necessitated by an emergency.
(Code 1996, § 12.11.005; Ord. No. 748-03, 4/7/03)

Sec. 2.16.003. Parking animal hauler vehicles in residential areas.

It is unlawful for any person to park or leave standing any truck, trailer or, other vehicle that has been used for the hauling of livestock, animals, fish or fowl in a residentially zoned area of the city when notified by the city enforcement agent that such vehicle is creating a public nuisance. Upon such notification, the owner, operator, driver or other person responsible for such vehicle shall abate the public nuisance or move such vehicle to a location outside of any residentially zoned area of the city.
(Code 1996, § 2.16.003; Ord. No. 695-01, 3/5/01)

Sec. 12.11.003. Prohibited locations generally.

No person shall stand or park a vehicle, except when necessary to avoid conflict with other traffic and in compliance with the directions of a police officer or traffic-control device, in any of the following places:

(1) On a sidewalk;

(2) In front of a public or private driveway;

(3) Within an intersection;

(4) Within 15 feet of a fire hydrant;

(5) On a crosswalk:

(6) Within 20 feet of a crosswalk at an intersection;

(7) Within 30 feet of any flashing beacon, yield sign, stop sign, or traffic-control signal located at the side of a roadway;

(8) On a railroad track or within 50 feet of the nearest rail of a railroad crossing;

(9) Within 20 feet of a driveway entrance to any fire station and within 75 feet of the entrance when properly signposted;

(10) Alongside of or opposite any street excavation or obstruction when such stopping, standing, or parking would obstruct traffic;

(11) On the roadway side of any vehicle stopped or parked at the edge of a curb of a street;

(12) On any bridge, or other elevated structure upon a highway, or within a highway tunnel;

(13) Within one foot of a United States mailbox equipped for depositing mail by a passerby;

(14) Upon any street or at a place thereon at any time when signs are painted or erected showing a loading zone, except a vehicle bearing a commercial license plate and in such case, only for the time and purpose of loading or unloading as herein provided;

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(15) At any place where official traffic-control devices prohibit standing or parking;

(16) At any space properly marked and signed and reserved for vehicles transporting persons with disabilities, vehicles displaying the international symbol of access or vehicles of disabled veterans of the United States Armed Forces, it is unlawful for any vehicle to be parked in such space unless such vehicle is being operated by or for the transportation of a person with a disability and it displays either special license plates issued under V.T.C.A., Transportation Code, 504.201, or a placard placed on the rearview mirror of the vehicle's front windshield. The city manager or designee is authorized to direct property owners to erect signs indicating no parking except for disabled individuals. The city manager is further authorized to coordinate with the owners of private property to provide for designations of reserved parking spaces for disabled persons on parking lots made available to the public for the purpose of shopping or other public or semipublic uses;

(17) Within a fire lane.

(Code 1996, § 12.11.003; Ord. No. 748-03, 4/7/03 ; Ordinance O-12-10, sec. 4, 6/ 21/10)

DIVISION 2. PARKING IN RESIDENTIAL DISTRICTS

Sec. 12.05.001. Definitions.[112]

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

Driveway. The continuous improved surface which provides ingress and egress from a garage, carport or off-street parking area to an adjacent street, alley or other improved public way.

Farm tractor. Every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry.

Gravel. Washed or cleaned stones with a nominal diameter of 1-1/2 inches or less.

Implements of husbandry. Every vehicle designed and adopted for use as a farm implement, machinery or tool as used in tilling the soil, but shall not include any passenger vehicle.

Improved surface. The continuous area used for the movement, parking or storage of a vehicles that is overlaid or otherwise paved with 3000 p.s.i. Portland cement concrete with a depth of not less than five inches and reinforced with number 3 reinforcement bar; solid concrete blocks; paving stones; paving bricks or other masonry paving stone suitable for such purpose installed on an approved base course or other hard-surfaced durable material designed to support vehicular weight and approved by the building official.

Park, parking. The standing of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

Privacy fence. A solid or opaque wall or partition at least six feet and not over eight feet in height; or

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[112] **Sec. 12.05.001. Definitions.** A standardized introduction is substituted for consistency.

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vegetation consisting of a solid hedgerow or evergreen shrubs, or trees and shrubs, providing full screening from the ground to a minimum height of six feet; or any combination of the above that effectively conceals the vehicle from public view and accomplishes the required screening height; or any other form of compatible and appropriate screening as so determined by the building official.

Special motor vehicle. Includes boats, boat trailers, travel trailers, pickup campers and coaches (designed to be mounted upon automotive vehicles), motorized dwellings (recreational vehicles), tent trailers and the like as well as cases or boxes used for transporting such vehicles, whether occupied by such vehicles or not.

Unimproved surface. A driveway or parking area covered only with asphalt, bordered gravel or a combination of these.

Unscreened. Not concealed or hidden behind a privacy fence.

Vehicle. Any and every device in, upon or by which a person, persons, or property may be transported, drawn or moved upon a street, highway, waterway or airway and shall include but is not limited to any automobile, bus, truck, tractor, motorhome, farm machinery, motorcycle, scooter, moped, all-terrain vehicle, boat, boat trailer, aircraft, recreational vehicle, golf cart, trailer, fifth wheel trailer, camper, camper shell, camper trailer, wheeled towing frame, semitractor, semitractor trailer, truck bed mounted on a chassis and mobile home. This definition does not include nonmotorized bicycles, small engine lawn mowers, and devices of a similar scale.

Yard, front. A yard located in front of the front elevation of a building and extending across a lot between the side yard lines and being the minimum horizontal distance between the front property line and the outside wall of the main building.

Yard, rear. A yard extending across the rear of a lot measured between the lot lines and being the minimum horizontal distance between the rear lot line and the rear of the outside wall of the main building. On both corner lots and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard.

Yard, side. A yard between the building and sideline of the lot and extending from the front lot line to the rear lot line and being the minimum horizontal distance between a side lot line and the outside wall of the side of the main building.
(Code 1996, § 12.05.001; Ord. No. 748-03, 4/7/03 ; Ord. No. O-12-10, § 2, 6/21/10)

Sec. 12.05.002. Parking in residential districts.[113]

(a) In a residential district within the city:

(1) The parking of any vehicle in the front yard on an unimproved surface is prohibited.

(2) The parking of any vehicle in the side yard must be screened from public or private view behind a minimum six-foot-high privacy fence, unless the vehicle is parked on an improved surface with a minimum clearance of two feet from an adjoining property.

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[113] **Sec. 12.05.002. Parking in residential districts.** Introductory phrases are added as shown.

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(3) The parking of any vehicle in an unscreened rear yard upon any surface other than an improved rear or side entry driveway or required parking surface shall be prohibited. In no case shall more than one vehicle be parked or stored in such an area and such screening shall be by means of a minimum six-foot-high privacy fence.

(4) Recreational vehicles, travel trailers, camper trailers, trailers, boats, boat trailers, motor homes or other recreational vehicles or equipment may not be used for on-site dwelling purposes and shall be parked and stored on an improved surface and behind the rear building facade of the main structure (i.e., the house) and screened from public view at all times of the year by a fence or perennial vegetation.

(5) No such vehicles shall be used for living, sleeping or housekeeping or similar purposes when parked or stored on a residential lot, or in any location not approved for such use, except as specified in this section.

(6) No required parking space, garage, carport, or other automobile storage space shall be used for the storage of any special motor vehicle, limousine, recreational vehicle, trailer, boat, wrecker, truck-tractor rig, trailer, camper or camper shell, or other similar recreational, dwelling or business vehicle.

(7) No heavy load vehicles are allowed to be stored or parked in residential areas on a regular or repetitive basis.

(b) The parking restrictions in subsection (a) of this section shall not apply to the following:

(1) Vehicles actively engaged in service or delivery functions for the period of time actually engaged in the service or delivery activity;

(2) Publicly owned or franchised emergency or utility vehicles making residential repair calls or emergency utility service repairs;

(3) Emergency vehicles;

(4) Street construction and maintenance vehicles; or

(5) Recreational vehicles or equipment being loaded, unloaded, or otherwise prepared for use or storage during a period of time which does not exceed 24 hours.

(Code 1996, § 12.05.002;Ord. No. 748-03, 4/7/03; Ordinance O-12-10, § 2, 6/21/10)

Sec. 12.05.003. Standards for parking surfaces; maintenance.

(a) Parking surfaces in the front and side yards must be contiguous to, and on paved concrete or asphalt surface as defined and according to the city's adopted standard construction details. For parking areas used with residences that had gravel driveways in existence before April 7, 2003, gravel may be used for additional parking spaces. When such a parking area is increased to the extent of fifty percent (50%) or more, in the area used, said surface shall meet the paving requirements of this article. Subsurface preparation for parking areas shall be approved by the building official.

(b) Parking surfaces, other than the approved driveway, shall not extend beyond the property lines,

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nor encroach over or upon any public utility easement or right-of-way.

(c) Parking spaces shall conform to the requirements for the specific district set out in the zoning ordinance and additional parking spaces in excess of the minimum shall minimally be eight by 20 feet in size. It shall not be a sufficient parking space to provide runners or pads under the tires or trailer tongue only.

(d) Parking surfaces must be in conformance with any applicable requirements of the city construction standard details manual, or the city building code. The building official shall establish and maintain a set of standard construction details for parking surfaces and driveway surfaces. Materials, such as roofing scraps, shingles, shredded tires, rubble and similar material may not be used for parking surfaces. The building official must approve any material to be utilized as an approved surface to the extent not otherwise provided herein or by other city ordinance.

(e) All parking surfaces shall be kept free of weeds and other vegetative growth.

(f) Parking areas in the front yard may not exceed 50% coverage of the front yard area. Parking areas in the rear yard may not exceed 30% coverage, and shall be consistent with the applicable requirements of the city's zoning ordinance for the district in which the parking surface is located. To the extent the zoning ordinance provides for different lot coverage, the zoning ordinance controls.

(g) Parking areas may not be used to store junk or inoperative vehicles, as that term is defined by city ordinance.

(h) It is unlawful for an operator of any vehicle to drive over a raised curb to park or stand a vehicle on property used for residential purposes.

(i) It is unlawful to leave, stand or park a vehicle on a public sidewalk or any part of a sidewalk or parkway area including the extension of a public sidewalk across a driveway except when necessary to avoid conflict with other traffic or in compliance with the direction of a peace officer or traffic-control device.

(Code 1996, § 12.05.003; Ord. No. 748-03, 4/7/03; Ordinance O-12-10, § 2, 6/21/10)

DIVISION 3. PARKING OF COMMERCIAL VEHICLES

Sec. 12.10.001. Definitions.[114]

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to

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[114] **Sec. 12.10.001. Definitions.** A standardized introduction is substituted for consistency. A definition of the preferred term "manufactured home" is added and the definition of "mobile home" is replaced, both from V.T.C.A., Occupations Code, § 1201.003. Note that V.T.C.A., Occupations Code, § 1201.004 provides that the 1201.003 definitions are "are binding as a matter of law on each person and agency in this state, including a home-rule municipality or other political subdivision" and "a mobile home is not a HUD-code manufactured home and a HUD-code manufactured home is not a mobile home for any purpose under state law. Those terms may not be defined in a manner that is not identical to the definitions provided by V.T.C.A., Occupations Code, § 1201.003.

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them in this section, except where the context clearly indicates a different meaning:

Boat trailer. A trailer or semitrailer which is designed and constructed to carry a jet ski, barge, sailboat, motorboat or other vessel used upon any body of water.

Bus. Every motor vehicle designed for carrying more than ten passengers and used for the transportation of persons, and every motor vehicle other than a taxicab, designed and used for the transportation of persons for compensation.

Commercial motor vehicle. A motor vehicle designed or used for the transportation of property, or for delivery purposes, not including a passenger bus, passenger automobile, motorcycle, panel delivery truck or pickup truck or vehicle used in the delivery of the United States mail, having a manufacturer rated carrying capacity of one ton or over or a gross vehicle weight of 11,000 pounds or over or having more than two axles.

Farm tractor. Every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry.

Heavy load vehicle. A self-propelled vehicle having a manufacturer's recommended gross vehicle weight (GVW) of greater than 11,000 pounds, such as large recreational vehicles, tractor-trailers, buses, vans, and other similar vehicles. The term "truck" shall be construed to mean "heavy load vehicle" unless specifically stated otherwise.

Implements of husbandry. Every vehicle designed and adopted for use as a farm implement, machinery or tool as used in tilling the soil but shall not include any passenger vehicle.

Manufactured home or manufactured housing means a HUD-code manufactured home or a mobile home.[115]

Mobile home means a structure constructed before June 15, 1976, built on a permanent chassis, designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities, transportable in one or more sections which, in the traveling mode, is at least eight body feet in width or at least 40 body feet in length or, when erected on site, at least 320 square feet. The term includes the plumbing, heating, air conditioning, and electrical systems of the home and does not include a recreational vehicles as defined in 24 CFR § 32.82.8(g). ~~or HUD-code manufactured housing. Structures or vehicles as defined by state law, Texas Revised Civil Statutes Ann. section 5221f, as amended.~~

Park, parking. The standing of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

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[115] **Sec. 12.10.001. Definitions—Contd.** A definition of the preferred term "manufactured home" is added and the definition of "mobile home" is replaced, both from V.T.C.A., Occupations Code, § 1201.003. Note that V.T.C.A., Occupations Code, § 1201.004 provides that the 1201.003 definitions are "binding as a matter of law on each person and agency in this state, including a home-rule municipality or other political subdivision." I recommend that we change both definitions to "the meaning provided in V.T.C.A., Occupations Code, § 1201.003."

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Pole trailer. A vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole, or by being boomed, or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

Recreational vehicle/travel trailer/camper. A vehicular portable structure designed for a temporary or short-term occupancy for travel, recreation or vacation. The term does not apply to mobile homes or HUD-code manufactured housing which are designed for year-round occupancy.

Semitrailer. A vehicle designed with or without motive power, other than a pole trailer, for carrying persons, animals or property, or used with a motor vehicle so that part of the weight of the vehicle and its load rests on, or is carried by, another vehicle.

Trailer. A vehicle that is designed or used to carry a load wholly on its own structure and is drawn or designed to be drawn by a motor vehicle.

Truck-tractor. A motor vehicle designed or used primarily for drawing another vehicle and not constructed to carry a load other than a part of the weight of the vehicle and load to be drawn.

Vehicle. For purposes of this article shall mean any of the enumerated types of vehicles, trailers or trucks stated herein.
(Code 1996, § 12.10.001; Ord. No. 748-03, 4/7/03 ; Ordinance O-12-10, § 3, 6/21/10)

Sec. 12.10.002. Prohibited acts.

(a) Prohibitions and limitations. Except as provided in section 12.10.004 below, it is unlawful for any person or any owner to leave, park or stand any boat or boat trailer, truck-tractor, road tractor, truck trailer, semi-trailer, pole trailer, bus or any other commercial motor vehicle with a rated capacity in excess of one ton according to the manufacturer's classification or over 11,000 pounds gross vehicle weight or over or containing more than two axles, upon any public or private street, parkway, boulevard, or public place within or adjacent to any residence district as may be established in the city zoning regulations. This section shall not prevent the parking or standing of the above-described vehicles in loading zones for the purpose of expeditiously loading and unloading passengers, freight or merchandise.

(b) Blocking traffic. It is unlawful for any person or any owner to leave, park or stand any truck-tractor, road tractor, truck trailer, semi-trailer, pole trailer or any other commercial motor vehicle with a rated capacity in excess of one ton according to the manufacturer's classification or over 11,000 pounds gross vehicle weight or over or containing more than two axles, or any camper, travel trailer, mobile home, house trailer, boat trailer, stock trailer, bus, or any other type of trailer upon any public street, alley, parkway, or boulevard in such a manner as to block the flow of traffic upon the public street, alley, parkway or boulevard.

(c) Exemptions. The provisions of this section shall not apply to:

(1) The temporary parking or standing of vehicles, for the purpose of loading or unloading passengers or contents, including but not limited to buses taking on and discharging passengers at customary bus stops or other vehicles parked in designated loading zones;

(2) The connection or disconnection of such vehicles or trailers;

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(3) Street construction, maintenance and repair equipment;

(4) Trucks, equipment, trailers and vehicles used by public service utilities;

(5) A vehicle with a mechanical defect, making it unsafe to proceed further, in which event it shall be lawful to stand or park the vehicle during the time to make emergency repairs;

(6) The performance of the function for which the vehicle was intended; provided, however, that the permitted activities herein stated shall occur during the hours of 7:00 a.m. to 10:00 p.m. and shall be of only the necessary duration to accomplish the permitted activity;

(7) Public service utility vehicles; and

(8) Emergency vehicles.

(Code 1996, §§ 12.10.002, 12.10.004; Ord. No. 748-03, 4/7/03 ; Ordinance O-12-10, sec. 3, 6/21/10)

ARTICLE VI. TRUCK ROUTES

Sec. 12.12.001. Definitions.[116]

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

Commercial motor vehicle. A motor vehicle or combination of motor vehicles used to transport persons or property that has a gross combination weight rating of 26,001 or more pounds, including a towed unit with a gross vehicle weight rating of more than 10,000 pounds; has a gross vehicle weight rating of 26,001 or more pounds; is designed to transport 16 or more passengers, including the driver; or is transporting hazardous materials and is required to be placarded under 49 C.F.R. part 172, subpart F.

Motor vehicle. Any vehicle that is self-propelled, or a vehicle that is propelled by electric power from overhead trolley wires.

Pole trailer. Any vehicle without motive power designed to be drawn by another vehicle and secured to the other vehicle by means of a reach, pole or boom or other security device to the towing vehicle and ordinarily used for transporting long or irregularly shaped loads, such as poles, pipes, or structural members capable generally of sustaining themselves as beams between the supporting connection.

Semi-trailer. Any vehicle with or without motive power, other than a pole trailer, designed to be drawn by a motor vehicle and to transport persons or property and constructed so that part of the vehicle's weight and load rests on or is carried by another vehicle.

Trailer. Any vehicle with or without motive power, other than a pole trailer, designed to be drawn by a motor vehicle and to transport persons or property and constructed so that no part of the vehicle's weight and load rests on the motor vehicle.

Truck-tractor. Any motor vehicle designed or used primarily for drawing other vehicles, and not so

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[116] **Sec. 12.12.001. Definitions.** A standardized introduction is substituted for consistency.

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constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

Vehicle. A device that can be used to transport or draw persons or property on a highway. The term does not include a device exclusively used on stationary rails or tracks or manufactured housing, as that term is defined in V.T.C.A., Occupations Code, § 1201.003.
(Code 1996, § 12.12.001; Ordinance O-03-19 adopted 5/7/19)

Sec. 12.12.002. Applicability.

No person shall operate or cause to be operated any commercial motor vehicle, truck-tractor, trailer, semi-trailer, pole trailer, or any combination thereof, through the city in inter-city travel having a total gross weight with load in excess of 20,000 pounds without a local destination or point of origin, except upon such streets as are designated as truck routes by this article.
(Code 1996, § 12.12.002; Ordinance O-03-19 adopted 5/7/19)

Sec. 12.12.003. Exceptions.

The provisions of this article, however, shall not apply to any of the following vehicles having a gross weight with load in excess of 20,000 pounds:

(1) A vehicle traveling to or from a truck terminal, garage, place of repair, place of performing a service, or a place of loading or unloading, over the shortest practicable route to or from a point on a truck route; any such vehicle shall be permitted to proceed from one such point not on a truck route to another such point without returning to a truck route, if to so return would unreasonably increase the distance to be traveled between such points; the operator of any such vehicle shall carry evidence of the location of its last stop and of its immediate destination in order for this exception to apply;

(2) An authorized emergency vehicle operating in response to any emergency call;

(3) A vehicle operated by a public utility while cruising in an assigned area for the purpose of inspecting the facilities of said public utility or providing maintenance service to said facilities; and

(4) A vehicle operated for public service, i.e., garbage pickups, street repair and water service and maintenance.
(Code 1996, § 12.12.003; Ordinance O-03-19 adopted 5/7/19)

Sec. 12.12.004. Truck routes designated.

The following streets and parts of streets are designated truck routes under this article:

(1) Interstate Highway—From the north city limits to the south city limits.

(2) 35E FM 664—From the east city limits to the west city limits.

(3) Westmoreland—From the north city limits to the south city limits.
(Code 1996, § 12.12.004; Ordinance O-03-19, 5/7/19)

Sec. 12.12.005. Weighing loaded vehicles.

Any police officer of the city, having reason to believe that the gross weight or axle load of a loaded

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motor vehicle is unlawful, is authorized to weigh the same or cause the same to be weighed by any license and weight inspector of the state department of public safety, or any sheriff or duly authorized deputy sheriff by means of portable or stationary scales furnished or approved by the state department of public safety, or cause the same to be weighed by any public weigher, and to require that such vehicle be driven to the nearest available scales for the purpose of weighing.
(Code 1996, § 12.12.005; Ordinance O-03-19, 5/7/19)

Sec. 12.12.006. Truck route signs.

The traffic engineer or designee shall erect appropriate signs and markings to designate the truck routes established herein.
(Code 1996, § 12.12.006; Ordinance O-03-19, 5/7/19)

Sec. 12.12.007. Violation.

Except as otherwise provided for herein, it is unlawful for any person to drive, operate or move or to cause or permit to be driven, operated or moved on any public street within the city any commercial motor vehicle contrary to this article.
(Code 1996, § 12.12.007; Ordinance O-03-19, 5/7/19)

ARTICLE VII. WRECKER SERVICE REGULATIONS

Sec. 12.07.002. Definitions.[117]

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:

> Auto wrecker. Shall mean any motor vehicle used or designed for the purpose of towing, carrying, pushing, or otherwise transporting a disabled or impounded vehicle.
>
> Disabled vehicle. Shall mean any motor vehicle located on any public street, alley, sidewalk, or sidewalk area which is unable to be driven under its own power due to mechanical breakdown, collision, or for any other reason.
>
> Impounded vehicle. Shall mean any vehicle which police officers are authorized to impound and remove under the provisions of any ordinance of the city or any law of the state.

(Code 1996, § 12.07.002)

Sec. 12.07.001. Annual review by city council.

The city council shall designate and review, on an annual basis, the wrecker service and storage yard for pickup and storage of vehicles disabled or abandoned on public property, or vehicles impounded by the police department.
(Code 1996, § 12.07.001)

Sec. 12.07.003. City manager to contract annually for wrecker service.

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[117] **Sec. 12.07.002. Definitions**. A standardized introduction is substituted for consistency.

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The city manager is authorized to contract for a wrecker service, with storage yard facilities, which shall serve the needs of the city as hereinafter provided.
(Code 1996, § 12.07.003)

Sec. 12.07.004. Storage facility to be fenced and lighted.

The designated city wrecker service shall maintain a suitable place for the storage of not less than 20 vehicles located at a business address or location acceptable to the city. Said storage area shall be fenced by a wooden fence at least six feet in height, if in the city limits, be equipped with reasonable securely locked gates and be lighted at night. A responsible person, agent, or employee of the designated city wrecker service shall be designated by said service to be available for call to allow access to the storage area on a twenty-four-hour basis.
(Code 1996, § 12.07.004)

Sec. 12.07.005. On call service to be provided.

The designated wrecker service shall provide an “on call” 24-hour auto wrecker and driver for the purpose of towing and transporting a disabled or impounded vehicle. The police chief, or his designee, shall contact the designated service as to location and description of the vehicle to be transported and impounded in the storage area.
(Code 1996, § 12.07.005)

Sec. 12.07.006. Transportation and impoundment fees; disposal of vehicles.

The designated wrecker service may charge to the vehicle owner a reasonable fee to transport an impounded vehicle or disabled vehicle to the storage area. A schedule of the towing and impoundment fees to be charged shall be submitted to the city council for approval and remain on file with the city secretary until amended by the designated service or termination of agreement with the city. Charging of fees in excess of those on file shall be an immediate cause for termination of designated wrecker service by city. Failure of owner of vehicle to reclaim or pay towing, transportation and storage fees in full may allow city to dispose of the vehicle in compliance with state law.
(Code 1996, § 12.07.006)

Sec. 12.07.007. Each wrecker and equipment to be maintained in good mechanical condition.

The designated wrecker service shall maintain each auto wrecker, and the equipment contained thereon, in good mechanical condition, and said service shall comply with all state and local regulations governing auto wreckers.
(Code 1996, § 12.07.007)

Sec. 12.07.008. Wrecker service to be bonded independent contractor.

The designated wrecker service shall not be an agent or employee of the city but shall be an independent contractor to the city. Designated wrecker service shall indemnify and hold the city harmless for any loss or damages arising out of its service and shall further give evidence of being bonded in the amount of ten thousand dollars ($10,000.00).
(Code 1996, § 12.07.008)

Sec. 12.07.009. Contracts canceled only for good cause; proposals to be accepted.

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(a) The annual contract shall be reviewed by the city and shall be canceled only for good cause, including but not limited to failure by designated service in maintaining its storage area in reasonably good condition and failure to properly maintain the property entrusted to its care.

(b) The city council shall request proposals from all interested persons or businesses regarding the proposed wrecker and storage contract with the city in accord with this article. The council shall contract with the wrecker company which is in compliance herewith and best meets the public demands and needs for removal and storage of disabled and impounded vehicles.
(Code 1996, § 12.07.009)

Sec. 12.07.010. Liability auto insurance requirements.

The designated wrecker service shall maintain liability auto insurance in the policy amount of $50,000.00.
(Code 1996, § 12.07.010)

Sec. 12.07.011. Disposition of impounded vehicles.[118]

Any motor vehicle impounded pursuant to any city ordinance or state law shall be processed, disposed, auctioned, and sold in accordance with the provisions of V.T.C.A., Transportation Code, ch. 683.
(Code 1996, §§ 12.07.011, 12.08.003)

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[118] **Sec. 12.07.011. Disposition of impounded vehicles.** Sections are combined as indicated in the history note.

Chapter 34[119]

UTILITIES

ARTICLE I. IN GENERAL

Sec. #. Definitions.[120]

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

DWU means the Dallas Water Utilities.

TCEQ means the Texas Commission on Environmental Quality.

Sec. 13.02.009. Unauthorized connections.

Connections to the water and wastewater systems of the city shall be made only under the supervision of the city. No person, other than employees of the city, shall be authorized to connect, turn on, turn off, or disconnect water or wastewater services of the city, or to remove, replace, or repair any equipment connected to such service. Any person violating any provision of this subsection shall be guilty of a misdemeanor, and the city may refuse service to any such person.
(Code 1996, § 13.02.009(d))

Sec. 13.04.001. Mandatory sanitary sewer connections.

(a) *Connection to sewer required.* All owners, agents of owners or occupants of any building required by the housing code to have a water closet and which is situated on any lot or tract of land, the property line of which is situated, approaches or extends to within one hundred twenty-five feet of any sanitary line available now or in the future, are required to connect such building or buildings with such city sanitary sewer, under the supervision of the plumbing inspector of the city. In the case of any building for which a certificate of occupancy has not been issued prior to the time such sewer line is available, connection to such sanitary sewer line shall be a condition precedent to issuance of a certificate of occupancy for such building.

(b) *Septic tanks/* Use of any septic tank located on such property shall be discontinued upon connection of the building with the said sanitary sewer system. In the case of any building for which a certificate of occupancy has previously been issued by the city, connection to the sanitary sewer line shall be completed within nine months of the date such line is available.

(c) *Maintenance of facilities and sewer connection.* It shall be the duty of any such property owner, agent or occupant to keep and maintain any such sewer connection in perfect condition and free from any obstruction.

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[119] **Chapter 34. Utilities.** The various provisions of this chapter have been rearranged for improved cohesion.

[120] **Sec. #. Definitions.** Definitions are created as shown.

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(d) *Use of privies prohibited.* It is unlawful for any person to build or use any privy vault above or below ground in the city.
(Code 1996, §§ 13.04.001—13.04.003)

Sec. 13.02.009. Connection to water and sewer system.[121]

(a) *Application.* Persons desiring water and wastewater service furnished by the city shall make application for the same to the appropriate city authority. Customers must connect to both systems except when one of such services is not available. The application shall contain the applicant's name, address, and the uses for which such water and wastewater service is desired. The city may decline or fail or cease to furnish water and wastewater service to any person who is indebted to the city for any reason except ad valorem taxes and special assessments.

(b) *Security deposit.* The application shall be accompanied by a security deposit in the amount provided in the city fee schedule. All deposits shall be held by the city, without payment of interest thereon, until such service is terminated. Any unpaid balance owed to the city shall be deducted from the deposit and the remainder shall be refunded to the customer.

(c) *Assumption of use.* All premises connected to the water or wastewater system of the city shall be assumed to be using such services, and the owner or occupant shall be charged therefor so long as such premises shall remain connected with the system.
(Code 1996, §§ 13.02.001(b), 13.02.007, 13.02.009)

Sec. 13.02.009. Meters.

(a) Meters for the measurement of water or wastewater services furnished by the city shall be provided, installed by and remain the property of the city. All new construction where water and wastewater are available shall be equipped with two water meters, a water/wastewater meter and an irrigation meter. The water/wastewater meter shall be connected to the building or dwelling and shall measure water and wastewater usage.

(b) The irrigation meter shall be for irrigation purposes only and shall measure water usage only. The installation of an irrigation system for existing dwellings or businesses shall also include the installation and connection to an irrigation meter.
(Code 1996, § 13.02.009(c))

Sec. 13.02.010. Termination of service; reconnection.

(a) *Grounds for termination.* The city shall have the right to disconnect or refuse to connect or reconnect any water or wastewater service for any of the following reasons:

(1) Failure of the customer to meet the applicable provisions of law;

(2) Violation by the customer of rules and regulations pertaining to utility services;

(3) Nonpayment of bills;

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[121] **Sec. 13.02.009. Connection to water and sewer system.** Should solid waste service be added to the application since all utilities are billed together?

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(4) Willful or negligent waste of service due to improper or imperfect pipes, fixtures, appliances, or otherwise;

(5) Molesting any meter, seal, or other equipment controlling or regulating the supply of utility service;

(6) Theft or diversion or use of service without payment therefor; or

(7) Vacancy of premises.

(b) *Notice of termination.* Unless arrangements are made for extended or installment payments, accounts not paid in full within 15 days of the due date are delinquent. As soon thereafter as possible, a written notice shall be sent to the customer by regular mail informing the customer that service is subject to termination if all charges (including the delinquent payment charge) are not paid in full by the 20th day after the bill becomes due. If payment in full is not received by the date specified in the notice, the city shall attempt to leave a tag on the door at the address to be disconnected prior to such disconnection. Failure of the city to so tag the premises shall not be a defense to any termination of service.

(c) *Emergency termination.* The city reserves the right at any time to restrict or prevent the use of any service furnished by the city during periods of emergency or circumstances demanding such restriction or prevention of the use. Water and wastewater services may be cut off without notice in case of an emergency. When any interruption in service is necessary for the maintenance and improvement of the system affected, customers will be notified as circumstances permit.

(d) *Reconnection.* No reconnections shall be made unless all fees and charges have been paid, unless provisions have been made for extended payments. A reconnect fee shall be assessed for all reconnections and shall be paid prior to such reconnection. City personnel shall be available after 5:00 p.m. on weekdays and weekends for reconnections on a standby and rotational basis. Cash payments to employees shall be strictly accounted for, and assignments shall be recorded and verified.
(Code 1996, § 13.02.010)

Sec. 13.02.001. Inspections; right of entry.

Any authorized city inspector shall have access at all reasonable times to premises supplied with water or wastewater services by the city for the purpose of examination to protect the utilities from abusive use.
(Code 1996, § 13.02.001(d))

Sec. 13.02.001. City not liable for damages.

The city shall not be liable for any damage to any utility customer caused by backflow of any wastewater system, failure of supply, interruption of service, or any other cause outside the direct control of the city.
(Code 1996, § 13.02.001(e))

Sec. 13.02.001. Prohibited acts.

It is unlawful for any person to:

(1) Connect to the city's water or wastewater system without the consent of the city;

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(2) Turn on or off any water from a street stop cock or to tap any street main or pipe belonging to the city, or to do any work in any street, alley, or public ground in connection with the installation of service connections without the consent of the city;

(3) Damage or destroy property of the city's water or wastewater systems;

(4) Extend, replace, or repair lateral lines or septic tanks in areas where wastewater service is available;

(5) Tamper with, molest, damage, or trespass upon any equipment or premises belonging to the city's water or wastewater system; or

(6) Fail or refuse to pay the charges for services as provided in this article.

(Code 1996, § 13.02.001(c))

Sec. 13.09.001. Prevention of contamination of city water supply sources.

(a) *Purpose.* The purpose of this article is to protect the water supply sources serving the citizens of the city by means of sanitary control measures designed to prevent contamination.

(b) *Public water system defined.* A public water system is a system providing water to the public for human consumption through pipes or other constructed conveyances having at least 15 service connections or serving at least 25 individuals for at least 60 days out of the year. An individual served by a public water system if he lives in, uses as his place of employment, or works in a place to which drinking water is supplied from the system. The term includes:

(1) Any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system;

(2) Any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system; and

(3) Two or more systems each having a potential to serve less than 15 connections or less than 25 individuals but owned by the same person or entity and located on adjacent land when the total potential service connections in the combined systems are 15 or greater or if the total number of individuals served by the combined systems total 25 or greater at least 60 days out of the year.

(c) *Prohibitions.* The following acts are prohibited:

(1) No person may locate a tile or concrete sanitary sewer, a sewerage appurtenance, a septic tank, a stormsewer, a cemetery, a septic tank perforated drain field, areas irrigated by low dosage, low angle spray on-site sewage facilities, an absorption bed, an evapotranspiration bed, an improperly constructed water well, or an underground petroleum and chemical storage tank or a liquid transmission pipeline which is within 150 feet of a public water source.

(2) No person may locate a sewage treatment plant within 500 feet of a public water source or a sewage wet well, sewage pumping station, or a drainage ditch which contains industrial waste

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discharges or the wastes from sewage treatment systems within 300 feet of a public water source.

(3) No person may locate animal feed lots, solid waste disposal sites, lands on which sewage plant or septic tank sludge is applied, or lands irrigated by sewage plant effluent within 500 feet of a public water source.

(4) No person may allow livestock in pastures within 50 feet of a public water source.

(d) *Violations, penalties, and enforcement.* The city public works director or his designee shall enforce the provisions of this section. Violations of this section constitute misdemeanors punishable upon conviction as provided in section 1.01.009 for a public health and safety offense, provided that:

(1) Misdemeanor penalties shall be in addition to and cumulative of the authority of the city to abate a nuisance and charge the cost thereof against the owner of the property.

(2) In addition to all other remedies available to the city, violation of this section that constitute an immediate danger or threat to the health, safety and welfare of the public may be enjoined in a suit brought by the city for such purpose.

(3) In addition to all other remedies or penalties in this section, the city may enforce this section pursuant to V.T.C.A., Local Government Code, ch. 54, which provides for the enforcement of municipal ordinances.

(4) Allegation and evidence of a culpable mental state is not required for the proof of violation of this section.

(Code 1996, §§ 13.09.001—13.09.005; Ordinance 790-05 adopted 3/21/05)

Sec. 13.11.001. Water well drilling.

(a) *Generally.* No water well may be drilled or installed unless the water supply is protected in accordance with TCEQ rules and regulations for public water systems and this section.

(b) *Permit required; fee.* A city-issued permit is required prior to the drilling and installation of water wells within the territorial limits of the city or its extraterritorial jurisdiction. A permit fee of $100.00 is established to administer and inspect the installation of water wells within the territorial limits of the city or its extraterritorial jurisdiction.

(c) *Installation by licensed drillers only.* Wells may be drilled and installed only by licensed water well drillers and water well pump installers as provided by the state department of licensing and regulation, as those rules and regulations exist and as they may be amended.

(d) *Violations and penalties.* Violations of this section constitute misdemeanors punishable upon conviction as provided in section 1.01.009 for a public health and safety offense, provided that:

(1) Misdemeanor penalties shall be in addition to and cumulative of the authority of the city to abate a nuisance and charge the cost thereof against the owner of the property.

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(2) In addition to all other remedies available to the city, violation of this section that constitute an immediate danger or threat to the health, safety and welfare of the public may be enjoined in a suit brought by the city for such purpose.

(3) In addition to all other remedies or penalties in this section, the city may enforce this section pursuant to V.T.C.A., Local Government Code, ch. 54, which provides for the enforcement of municipal ordinances.

(Code 1996, §§ 13.11.001—13.11.004; Ordinance O-17-08 adopted 6/16/08)

ARTICLE II. RATES, CHARGES, BILLINGS, AND COLLECTIONS

Sec. 13.02.002. Fees and other charges generally.

(a) *Combined utilities bill; partial payment.* Water, wastewater and solid waste collection services shall be treated as one bill; partial payment is unacceptable and will not prevent the entire account from becoming delinquent.

(b) *Customers not receiving water service.* For customers not receiving water services, charges shall be based on 6,000 gallons per month water usage for purposes of calculation.

(c) *Additional fees and charges.* The city may charge the fees and charges in addition to monthly service billings as provided for in the city fee schedule.

(d) *Solid waste charges.* The charges fixed for the removal and disposal of garbage and other refuse shall be levied by the city against all residential water customers in the city. Residential solid waste collection services shall be available to out-of-city water customers at their request.

(e) *Responsibility for multi-unit building charges.* When an apartment house or other building is served water through one meter, the person in whose name the water account stands shall be responsible for payment of all charges.

(f) *Waiver of water tap fee for seniors.* The water tap fee may be waived for new customers that are 62 years of age or older.

(Code 1996, §§ 13.02.001(c), 13.02.002, 13.02.003, 13.02.004, 13.02.006)

Sec. 13.02.005. Voluntary park system development contribution.[122]

Persons who desire to voluntarily contribute to the development of park facilities may include an additional $1.00 or more in their payment for the monthly municipal utilities bill. All voluntary contributions shall be deposited in a segregated fund, separately accounted for, and used by the city council for the development of a parks system within the city. ~~In order to effectuate this provision, the city manager is directed to amend and revise the municipal utilities monthly bill in order to enable individuals or persons desiring to make such contribution to indicate the same thereon.~~

(Code 1996, § 13.02.005)

Sec. 13.02.008. Billing and payment.

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[122] **Sec. 13.02.005. Voluntary park system development contribution.** Unnecessary text is stricken.

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(a) *Mailing.* The city shall mail a monthly bill to all customers of the city's water and wastewater systems and to all residents for solid waste collection charges as provided in section 13.02.001(b) above.

(b) *No water consumption.* Customers with no water consumption during the month will be billed the minimum charge.

(c) *Due date.* Payment of bills is due on the date shown on the billing statement.

(d) *Dishonored checks.* There will be a returned check charge in the amount provided in the city fee schedule for any check in payment of a utilities bill that is returned for any reason. Each check shall be presented twice for payment. If the check is returned, the writer of the check shall be notified by certified mail, return receipt requested, that the amount of the check plus the returned check charge must be made in full within ten days of receipt of the letter. If any charge remains unpaid, the check and all accompanying documentation shall be forwarded to the city attorney for prosecution and collection.

(e) *Delinquency.* A utilities bill not paid in full within 15 days of the due date shall be deemed past due, and a delinquent payment charge in the amount provided in the city fee schedule shall be assessed. When both water and wastewater services are included in a bill, payment in full for both services must be made or otherwise the entire bill will be considered delinquent. Any services for which charges continue to be delinquent for 20 days from the due date are subject to termination by the city. [123]

(f) *No free service.* There shall be no free city utility services provided.

(g) *Installment payments.* In unusual circumstances and in limited cases, the city manager may, at his or her discretion, enter into a written agreement with a customer for extended or installment payments. The agreement shall provide that no fees or charges shall be waived, and failure to make any payment will render the entire amount due.
(Code 1996, § 13.02.008)

Sec. 13.07.001. Natural gas rates.[124]

The general service rate for sales of natural gas rendered to residential and commercial consumers within the city limits shall be as provided in the city fee schedule and shall be binding within the city limits on the city's natural gas franchisee in accordance with the franchise contract.

~~Subject to the following provisos, effective with gas bills rendered on and after 30 days from final date of passage of this article (June 6, 1988), the maximum general service rate for sales of natural gas rendered to residential and commercial consumers within the city limits by Lone Star Gas Company, a division of ENSERCH Corporation, a Texas corporation, its successors and assigns, is fixed and determined as set forth in item A, in the attachment maintained on file in the office of the city secretary, which is incorporated herein. This section approves the elimination of the rate schedule for public free schools N and placement of those customers receiving said rate on the commercial rate set forth in item A in the attachment maintained on file in the office of the city secretary.~~

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[123] **Sec. 13.02.008. Billing and payment.** See subsection (e). Aren't water and wastewater always included in one bill, along with garbage collection?

[124] **Sec. 13.07.001. Natural gas rates.** This section is derived from a 1988 franchise. I assume that it is largely if not completely obsolete. Please review.

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~~Proviso No. 1: If this article is finally passed and approved before the effective date stated in the statement of intent the new rates shall be effective with gas bills rendered on and after 30 days from the final date of passage of this article for the good cause of reducing regulatory lag.~~
~~Proviso No. 2: If this article is finally passed and approved after a period of suspension, the new rates shall be billable immediately in order to reduce regulatory lag. This provision is an exercise of the regulatory authority's discretion to establish the effective date of rates at any time after jurisdiction attached, and its authority pursuant to state law to establish rates for any period of suspension.~~
~~*Gas cost adjustment factor*. The residential and commercial rates shall be adjusted upward or downward from base of $3.5847 per Mcf by a gas cost adjustment factor expressed as an amount per thousand (1,000) feet (Mcf) of natural gas for changes in the intercompany city gate rate charged as authorized by the state railroad commission or other regulatory body having jurisdiction for gas delivered to the DeSoto distribution system, according to item B, in the attachment maintained on file in the office of the city secretary, which is incorporated herein.~~
~~*Tax adjustments*. Company shall also receive tax adjustments according to item C, in the attachment maintained on file in the office of the city secretary, which is incorporated herein.~~
~~*Additional reasonable charges*. In addition to the aforesaid rates, company shall have the right to collect such reasonable charges as are necessary to conduct its business and to carry out is reasonable rules and regulations in effect. The charges set forth in items D and E, in the attachment maintained on file in the office of the city secretary, which is incorporated herein, are approved. Services for which no charge is set out may be performed and charged for by company at a level established by the normal forces of competition.~~
~~*Rate case expense recovery*. In addition to the aforesaid rates, company is authorized to recover the current and any unrecovered prior rate case expense through a surcharge designed for a six-month nominal recovery period. The surcharge per Mcf will be calculated by dividing the rate case expense to be recovered by one-half of the adjusted annual sales volume to residential and commercial customers. The company will provide monthly status reports to account for the collections.~~
~~*Rates subject to amendment*. The rates set forth in this article may be changed and amended by either the city or company in the manner provided by law. Service hereunder is subject to the orders of regulatory bodies having jurisdiction, and to the company's rules and regulations currently on file in the company's office.~~
(Code 1996, §§ 13.07.001—13.07.006)

ARTICLE III. IMPACT FEES

~~Sec. 13.00.000. Short Title. This article shall be known and cited as the Glenn Heights water and wastewater impact fees article.~~[125]
~~(Code 1996, § 13.05.001; Ordinance 800-05 adopted 9/19/05)~~

Sec. 13.05.002. Purpose.

(a) This article is intended to assure the provision of adequate water and wastewater facilities to serve new development in the city by requiring each development to pay its share of the costs of such improvements necessitated by and attributable to such new development. It is not the purpose of this article to collect any money from new development in excess of the actual amount necessary to offset the demand on the city's water and wastewater facilities generated by such new development activity. It is specifically acknowledged that this article has approached the calculation of proportionate share impact

[125] **Sec. 13.00.000. Short Title.** Short titles are unnecessary after codification and should be stricken as shown.

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fees in a conservative and reasonable manner.

(b) It is in the interest of the public's health, safety, and general welfare for the city to regulate development and ensure the adequacy of water and wastewater facilities by requiring payment of proportionate share impact fees.
(Code 1996, § 13.05.002; Ordinance 800-05 adopted 9/19/05)

Sec. 13.05.003. Authority.

This article is adopted pursuant to V.T.C.A., Local Government Code, ch. 395 and the city charter. The provisions of this article shall not be construed to limit the power of the city to utilize all powers and procedures authorized under V.T.C.A., Local Government Code, ch. 395, or other methods authorized under state law or pursuant to other city powers to accomplish the purposes set forth herein, either in substitution or in conjunction with this article. Guidelines may be developed by ordinance, resolution, or otherwise to implement and administer this article.
(Code 1996, § 13.05.003; Ordinance 800-05 adopted 9/19/05)

Sec. 13.05.004. Definitions.[126]

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:

Assessment. The determination of the amount of the maximum impact fee per dwelling unit equivalent which can be imposed on new development pursuant to this article. The amount of the impact fee per dwelling unit equivalent is a measure of the water or wastewater impact on system facilities created by the new development.

Capital improvement. Any water supply, treatment and distribution facilities, or wastewater collection and treatment facilities, which have a life expectancy of three or more years and are owned and operated by or on behalf of the city.

Credit. The amount of the reduction of an impact fee arising from payments made for a capital improvement included in the water and wastewater study and made prior to September 19, 2005.[127]

Final plat approval or approval of a final plat. The point at which the applicant has complied with all conditions of approval and the plat has been released for filing with Dallas or Ellis County, whichever may be applicable.

Final plat recordation or recordation of a final plat. The point at which the applicant has complied with all conditions precedent to recording an approved final plat in Dallas or Ellis County, whichever may be applicable, including any infrastructure or other improvements required by the subdivision ordinance or any other ordinance.

Impact fee. A water or wastewater impact fee.

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[126] **Sec. 13.05.004. Definitions.** A standardized introduction is substituted for consistency.

[127] **Sec. 13.05.004. Definitions—Contd.** Is this definition of credit obsolete?

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Land use assumptions. The projections of population and employment growth and associated changes in land uses, densities and intensities adopted by the city, as may be amended from time to time, upon which the waste and wastewater study is based.

New development. A project involving the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure, or any use or extension of land, which has the effect of increasing the requirements for capital improvements, measured by the number of dwelling unit equivalents to be generated by such activity, and which requires either the approval and filing with Dallas or Ellis County, whichever may be applicable, of a plat pursuant to the city's subdivision regulations or the issuance of a building permit.

Offset. The amount of the reduction of an impact fee designed to fairly reflect the value of system facilities or other capital improvements pursuant to rules herein established or council-approved administrative guidelines, provided by a developer pursuant to the city's subdivision regulations or requirements.

Recoup. To reimburse the city for capital improvements which the city has previously installed or caused to be installed.
(Code 1996, § 13.05.004; Ordinance 800-05 adopted 9/19/05)

Sec. 13.05.005. Applicability.

The provisions of this article apply to all new developments within the corporate boundaries of the city. The provisions of this article apply uniformly within both the water service area and the wastewater service area.
(Code 1996, § 13.05.005; Ordinance 800-05 adopted 9/19/05)

Sec. 13.05.006. Impact fees per dwelling unit equivalent.[128]

(a) Maximum impact fees per dwelling unit equivalent for water and wastewater shall be as set forth in schedule 1 attached to Ordinance 800-05 and on file in the office of the city secretary and made a part of this article by reference.

(b) The water and wastewater impact fee per dwelling unit equivalent which is to be paid by each new development shall be as set forth in schedule 2 attached to Ordinance 800-05 and on file in the office of the city secretary and made a part of this article by reference.

(c) Impact fee schedules 1 and 2 may be amended from time to time pursuant to state law.
(Code 1996, § 13.05.006; Ordinance 800-05 adopted 9/19/05)

Sec. 13.05.007. Assessment of impact fees.[129]

(a) Assessment of the impact fee for any new development shall be made as follows:

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[128] **Sec. 13.05.006. Impact fees per dwelling unit equivalent.** Are Schedules 1 and 2 included in the city fee schedule? If not, could they be?

[129] **Sec. 13.05.007. Assessment of impact fees.** Is subsection (a)(1) of this section obsolete?

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(1) For land which is unplatted at the time of application for a building permit, or for a new development which received final plat approval prior to or on September 19, 2005, and for which no replatting is necessary pursuant to the city's subdivision regulations prior to development, assessment of impact fees shall occur at the time application is made for the building permit, and shall be the amount of the maximum impact fee per dwelling unit equivalent as set forth in schedule 1 then in effect.

(2) For a new development which is submitted for approval pursuant to the city's subdivision regulations after September 19, 2005, or for which replatting results in an increase in the number of dwelling unit equivalents after such date, assessment of impact fees shall be at the time of final plat recordation, and shall be the amount of the maximum impact fee per dwelling unit equivalent as set forth in schedule 1 then in effect.

(b) Following assessment of the impact fee pursuant to subsection (a), the amount of the impact fee assessed per dwelling unit equivalent for that development cannot be increased, unless the owner proposes to change the approved development by the submission of a new application for final plat approval, in which case new assessment shall occur at the schedule 1 rate then in effect.

(c) Following the vacating of any plat or submittal of any replat, a new assessment must be made in accordance with subsection (a)(2).

(d) Approval of an amending plat pursuant to V.T.C.S., Local Government Code, § 212.016, is not subject to reassessment for an impact fee.
(Code 1996, § 13.05.007; Ordinance 800-05 adopted 9/19/05)

Sec. 13.05.008. Payment and collection of impact fees.

(a) For all new developments, impact fees shall be collected at the time of application for a building permit. The impact fees to be paid and collected are listed in schedule 2. The city may enter into an agreement with a developer for a different time and manner of payment of impact fees, in which case the agreement shall determine the time and manner of payment.

(b) The city shall compute the impact fees for new development as set forth in the impact fee calculation section of the water and wastewater study, at pages II-12-14, attached to Ordinance 800-05 and on file in the office of the city secretary, as exhibit 1.

(c) If the building permit for which an impact fee has been paid has expired, and a new application is thereafter filed, the impact fees shall be computed using schedule 2 then in effect, with credits for previous payment of fees being applied against the new fees due.

(d) For a new development which is unplatted at the time of application for a building permit, and for which no replatting is necessary pursuant to the city's subdivision regulations prior to development, collection of impact fees shall occur at the time application is made for the building permit, and shall be the amount of the impact fee per dwelling unit equivalent, as set forth in schedule 2 then in effect.

(e) When the property owner proposes to increase the number of dwelling unit equivalents for a development, the additional impact fees collected for such new dwelling unit equivalents shall be determined by using schedule 2 then in effect, and such additional fee shall be collected at the times prescribed by this section.

(f) For a single-family residential lot of record existing on June 20, 1987, for which no replatting is

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necessary pursuant to the city's subdivision regulations prior to development, collection of impact fees shall be pursuant to schedule 2, and such fees shall be collected at the time of application for a building permit.
(Code 1996, § 13.05.008; Ordinance 800-05 adopted 9/19/05)

Sec. 13.05.009. Offsets and credits against impact fees.[130]

(a) The city shall offset the reasonable value of any water or wastewater system facility which has been dedicated to and has been accepted by the city or credit the amount of any monetary contribution to such facility, against the amount of the water or wastewater impact fees due, in accordance with the rules set forth in this section. The city may agree to offset the reasonable value of any other capital improvement which is not on the impact fee water and wastewater capital improvements plan, but which is on the city's generally adopted water and wastewater facilities plans. The value of an offset or credit may be stated in dollars or dwelling unit equivalents.

(b) This subsection applies only to an offset or credit associated with a capital improvement contributed to the city after September 19, 2005. Offsets or credits associated with a capital improvement contributed to the city prior to September 19, 2005, are addressed in subsection (c).

(1) For purposes of this subsection (b), an offset or credit associated with a capital improvement contributed to the city after September 19, 2005, is created at the time that the city accepts the system facility or other capital improvement for dedication or enters into a binding facilities agreement for the facility pursuant to the city's subdivision regulations.

(2) At the time the offset or credit is created, if no offset agreement exists or the existing agreement does not contain the terms identified herein on such date, the developer shall apply for an offset agreement, and the agreement thereafter shall be enforced in accordance with the following terms, providing:

(A) Identification of the plat with which the offset or credit is to be associated, with the exception of school districts;

(B) The amount of the capacity created by the capital improvement, expressed in dwelling unit equivalents;

(C) A provision stating that the offset or credit may be used to reduce impact fees imposed on new developments contained within the land subject to the associated plat after the effective date of the agreement;

(D) A provision that the amount of the offset or credit shall be determined by estimating the number of dwelling unit equivalents of capacity supplied by the capital improvement, reduced by:

(i) The number of dwelling unit equivalents developed within the plat since the contribution of the water or wastewater facility, using the dwelling unit equivalency table set forth at table II-9 in the water and wastewater study at page II-12; by

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[130] **Sec. 13.05.009. Offsets and credits against impact fees.** I assume the highlighted sentence in subsection (b) is obsolete. Please confirm.

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(ii) The amount of the city's participation in the excess costs of the facility (expressed in dwelling unit equivalents); and by

(iii) The amount of any payments received from other new developments utilizing the facility (expressed in dwelling unit equivalents);

(E) A provision for reimbursement of any unused offsets or credits consistent with section 13.05.009(b)(4); and

(F) A provision stating that the city may elect to buy back outstanding offsets or credits in accordance with section 13.05.009(f).

The developer may assign the offset agreement with the city's consent, but in no event shall the offsets and credits provided for in the agreement be transferred to any development not subject to the plat associated with such offsets and credits with the exception of school districts which may transfer the credits to any future development by the school district.

(3) The developer may petition the city council for offsets for contribution of a water or wastewater capital improvement, which is not identified in the impact fee water and wastewater capital improvements plan, if the improvement will supply capacity to new developments other than to the development seeking the offset, at the time the facility is accepted by the city or a binding facilities agreement for the facility is executed pursuant to the city's subdivision regulations. In no event, however, may offsets attributable to such facility be used to reduce impact fees until the water or wastewater improvements plan has been amended to include all or a portion of the capital improvement. If the petition is granted, the terms shall be incorporated into an offset agreement as provided in section 13.05.009(b)(2). The agreement also shall provide that the amount of the offset shall not exceed the capacity of the capital improvement that is included in the water or wastewater improvements plan.

(4) As provided in the offset agreement required by section 13.05.009(b)(2), the developer may apply for reimbursement of excess offsets or credits following either completion of all development subject to the plat with which the offsets or credits are associated or after ten years following execution of the offset agreement. The following rules apply to such reimbursement, and shall be incorporated into the offset agreement:

(A) The developer must apply for reimbursement within six months following either:

(i) Completion of all development subject to the plat with which the offsets or credits are associated; or

(ii) Ten years after the date of execution of the offset agreement.

(B) The following terms shall be incorporated in the reimbursement agreement and the agreement shall be enforced in accordance with such terms:

(i) A provision stating that the amount to be reimbursed shall be equal to the number of unused offsets (expressed as a number of dwelling unit equivalents) multiplied by a fraction equal to the impact fee per dwelling unit equivalent to be collected, as set forth in schedule 2 in effect on the date of execution of the offset agreement, divided by the maximum impact fee per service unit, as set forth in schedule 1 in effect on the date of execution of the offset agreement;

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(ii) A provision stating that the amount to be reimbursed may be further equitably reduced, if fewer than fifty percent (50%) of the number of dwelling unit equivalents in the plat with which the capital improvement giving rise to the offset have been developed on the date of application for reimbursement;

(iii) A provision stating that repayment shall be made within five years from the date of execution of the reimbursement agreement, from water or wastewater impact fees, subject to the availability of such funds;

(iv) A provision that termination or reduction of the city's authority under state law to impose impact fees for water or wastewater facilities shall terminate or correspondingly reduce any obligation to make payments under the offset agreement; and

(v) A provision stating that, in converting the offsets from dwelling unit equivalents to a dollar value, the number of dwelling unit equivalents shall be multiplied by the value of a dwelling unit equivalent expressed in dollars using schedule 1 in effect at the time the offset agreement was executed.

(C) Execution of a reimbursement agreement shall automatically terminate any offsets or credits associated with a plat pursuant to an offset agreement. Thereafter, new development within the area subject to the plat shall pay water and wastewater impact fees in accordance with schedule 2 then in effect.

(c) This subsection applies only to offsets or credits associated with a capital improvement contributed to the city prior to September 19, 2005, and for which no development agreement exists providing for dedication or construction of system facilities and for offsets or credits against impact fees in proportion thereto. Any person who dedicated a system facility to the city or financed such facility prior to September 19, 2005, or any person who is subject to an impact fee for a new development in a plat associated with the system facility, may create offsets or credits for such facility by entering into an offset agreement within two years of September 19, 2005. [131] The agreement shall be enforced in accordance with the following terms, providing:

(1) Identification of the plat with which the offset or credit is to be associated, with the exception of school districts;

(2) The amount of the capacity created by the capital improvement, expressed in dwelling unit equivalents;

(3) A provision stating that the offset or credit may be used to reduce impact fees imposed on new developments contained within the land subject to the associated plat after the effective date of the agreement;

(4) A provision stating that the amount of the offset or credit shall be determined by estimating the number of dwelling unit equivalents capacity supplied by the system facility, reduced by:

(A) The number of dwelling unit equivalents developed within the plat since the contribution of the water or wastewater facility, using the dwelling unit equivalency table set forth at table II-9 in the water and wastewater study at page II-12; by

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[131] **Sec. 13.05.009. Offsets and credits against impact fees—Contd.** I assume the highlighted text in subsection (c) is obsolete. Please confirm.

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(B) The amount of the city's participation in the excess costs of the facility (expressed in dwelling unit equivalents); and by

(C) The amount of any. payments received from other new developments utilizing the facility (expressed in dwelling unit equivalents);

(5) A provision stating, that offsets or credits created pursuant to the offset agreement shall expire at the time that development subject to the associated plat is completed;

(6) A provision stating that once the offset or credit has expired, no reimbursement for unused offsets or credits shall be due;

(7) A provision stating that, in converting offsets from dwelling unit equivalents to a dollar value, the number of dwelling unit equivalents shall be multiplied by the value of a dwelling unit equivalent expressed in dollars using schedule 1 in effect at the time the offset agreement was executed; and

(8) A provision stating that the city may elect to buy back outstanding offsets or credits in accordance with section 13.05.009(f).

The developer may assign the offset agreement with the city's consent, but in no event shall the offsets and credits provided for in the agreement be transferred to any development not subject to the plat associated with such offsets and credits, with the exception of school districts.

(d) All offsets and credits against water and wastewater impact fees shall be subject to the following limitations and shall be granted based on this article and additional standards promulgated by the city council, which may be adopted as council-approved administrative guidelines.

(1) No offset or credit shall be given for the dedication of land or easements for or the construction of site-related facilities.

(2) No offset or credit shall exceed the documented and city approved costs to the developer of the capital improvement which was dedicated to and accepted by the city, or the amount of the monetary contribution actually made.

(3) The costs or dwelling unit equivalents used to calculate the offsets shall not exceed those assumed for the specific capital improvement included in the impact fees capital improvements plan or the actual costs of that improvement, whichever is less.

(e) Offsets or credits shall be associated with the approved preliminary plat for the new development and shall apply to development of all land subject to such plat, with the exception of school districts. For new developments that are to be developed in phases, offsets or credits may be created sequentially and may be applied to any undeveloped portions of the plat with which the offset or credit is associated. The offset shall be expressed in service unit equivalents. The available offset or credit associated with the plat shall be applied against an impact fee in the following manner:

(1) For single-family residential lots which have received final plat approval, the offset or credit shall be applied to reduce the impact fee equally for all such lots within the final plat at the time of final plat recordation.

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(2) For all other types of new developments, the offset or credit shall be applied to reduce the impact fee at the time of issuance of the first building permit, and thereafter to all subsequently issued building permits, for each new development within the associated plat, until the offset or credit has been exhausted.

(f) Notwithstanding any other provisions of this section relating to offsets and credits, the city in its sole discretion may choose to acquire all or a portion of any outstanding offsets or credits associated with a new development by giving the property owner 60 days written notice of such intent and by tendering the dollar value of such offsets or credits using schedule 1 in effect at the time the applicable offset agreement was executed.

(g) Notwithstanding any other provision of this article to the contrary, for new developments subject to a development agreement predating September 19, 2005, which agreement provides for dedication or construction of system facilities and for offsets or credits against water or wastewater impact fees in proportion thereto, offsets or credits shall apply to the amount of impact fees to be collected for each service unit pursuant to schedule 2 then in effect in accordance with the terms of such development agreement.
(Code 1996, § 13.05.009; Ordinance 800-05 adopted 9/19/05)

Sec. 13.05.010. Use of proceeds of impact fees.

(a) The water and wastewater impact fees collected by the city may be used to finance, pay for or to recoup the costs of any water and wastewater facilities identified in the water and wastewater study, including the construction contract price, surveying and engineering fees, land acquisition costs (including land purchases, court awards and costs, attorney's fees, and expert witness fees), and amounts designated in any reimbursement agreements executed pursuant to section 13.05.009.

(b) Impact fees may be used to pay for the contract services of an independent qualified engineer or financial consultant preparing or updating the water and wastewater improvements plan who is not an employee of the political subdivision.

(c) Impact fees also may be used to pay the principal sum and interest and other finance costs on bonds, notes or other obligations issued by or on behalf of the city to finance such capital improvement.
(Code 1996, § 13.05.010; Ordinance 800-05 adopted 9/19/05)

Sec. 13.05.011. Appeals.

(a) The property owner or applicant for development may appeal the following administrative decisions to the city council:

(1) The applicability of an impact fee to the development;

(2) The amount of the impact fee due;

(3) The availability of, the amount of, or the expiration of an offset or a credit;

(4) The application of an offset or credit against an impact fee due;

(5) The amount of the impact fee in proportion to the benefit received by the new development; or

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(6) Amount of a refund due, if any.

(b) The appellant shall state the basis for the appeal in writing with particularity. The burden of proof shall be on the appellant to demonstrate that the amount of the fee or the amount of the offset or credit was not calculated according to the rules set forth in this article or by administrative guideline. The appellant shall submit any traffic study or other documents upon which he relies to the city with the request for appeal.

(c) The appellant must file a notice of appeal with the city secretary within 30 days following the decision. If the notice of appeal is accompanied by a bond or other sufficient surety satisfactory to the city attorney in an amount equal to the original determination of the impact fee due, the development application may be processed while the appeal is pending.
(Code 1996, § 13.05.011; Ordinance 800-05 adopted 9/19/05)

Sec. 13.05.012. Refunds.

(a) Any impact fee or portion thereof collected pursuant to this article which has not been expended for an authorized purpose within ten years from the date of payment shall be refunded, upon application, to the record owner of the property at the time the refund is paid or, if the impact fee, was paid by another governmental entity, to such governmental entity, together with interest calculated from the date of collection to the date of refund at the statutory rate as set forth in V.T.C.A., Finance Code, § 302.002. The application for refund pursuant to this section shall be submitted in writing within 60 days after the expiration of the ten year period for expenditure of the fee. An impact fee shall be considered expended on a first-in, first-out basis.

(b) An impact fee collected pursuant to this article shall be considered expended if the total expenditures for capital improvements authorized in section 13.05.010 within ten years following the date of payment exceed the total fees collected for such improvements during such period.

(c) If a refund is due pursuant to sections 13.05.012(a) or (b), the city shall prorate the refund by dividing the difference between the amount of expenditures and the amount of the fees collected by the total number of dwelling unit equivalents for the period to determine the refund due per dwelling unit equivalents. The refund to the record owner shall be calculated by multiplying the refund due per dwelling unit equivalents by the number of dwelling unit equivalents for the development for which the fee was paid, and interest due shall be calculated upon that amount.

(d) Upon completion of all the capital improvements identified in the water and wastewater improvements plan, the city shall recalculate the maximum impact fee per dwelling unit equivalents using the actual costs for the improvements or expansions. If the maximum impact fee per dwelling unit equivalent based on actual cost is less than the impact fee per dwelling unit equivalent paid, the city shall refund the difference, if such difference exceeds the impact fee paid by more than ten percent. The refund to the record owner shall be calculated by multiplying such difference by the number of dwelling unit equivalent for the development for which the fee was paid, and interest due shall be calculated upon that amount.

(e) If the building permit for a new development for which an impact fee has been paid has expired, and a modified or new application has not been filed within six months of such expiration, the city shall, upon written application, refund the amount of the impact fee to the applicant. The city may establish guidelines for refunding of impact fees collected for which construction plans have been abandoned.
(Code 1996, § 13.05.012; Ordinance 800-05 adopted 9/19/05)

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Sec. 13.05.013. Relief procedures.

(a) Any person who has paid an impact fee or an owner of land upon which an impact fee has been paid may petition the city council to determine whether any duty required by this article has not been performed within the time so prescribed. The petition shall be in writing and shall state the nature of the unperformed duty and request that the act be performed within 60 days of the request. If the city council determines that the duty is required pursuant to this article and is late in being performed, it shall cause the duty to commence within 60 days of the date of the request and to continue until completion.

(b) The city council may grant a variance or waiver from any requirement of this article, upon written request by a developer or owner of property subject to this article, following a public hearing, and only upon finding that a strict application of such requirement would when regarded as a whole result in confiscation of the property.

(c) If the city council grants a variance or waiver to the amount of the impact fee due for a new development under this section, it may cause to be appropriated from other city funds the amount of the reduction in the impact fee to the account for the water or wastewater benefit area in which the property is located.
(Code 1996, § 13.05.013; Ordinance 800-05 adopted 9/19/05)

Sec. 13.05.031. Facilities land use assumptions and benefits area.[132]

(a) The land use assumptions are adopted as the city's land use assumptions for water and wastewater facilities and system. The land use assumptions are set forth as exhibit A to the impact fee study, a copy of which is attached to Ordinance 800-05 and on file in the office of the city secretary as exhibit 1 and incorporated by reference herein.

(b) There is established one service area for water and wastewater impact fees, as depicted in plates 1 and 2, respectively, of the land use assumptions.

(c) The boundaries of the water and wastewater impact fee service areas may be amended from time to time, or new water or wastewater impact fee service areas may be delineated.
(Code 1996, § 13.05.031; Ordinance 800-05 adopted 9/19/05)

Sec. 13.05.032. Multiyear financial plan.[133]

(a) The financial plan is adopted. The financial plan is set forth as exhibit B to the impact fee study, a copy of which is attached to Ordinance 800-05 and on file in the office of the city secretary as exhibit 1 and incorporated by reference herein.

(b) The financial plan may be amended from time to time.
(Code 1996, § 13.05.032; Ordinance 800-05 adopted 9/19/05)

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[132] **Sec. 13.05.031. Facilities land use assumptions and benefits area.** Is referring to Exhibit A as "on file" still acceptable?

[133] **Sec. 13.05.032. Multiyear financial plan.** Is referring to Exhibit B as "on file" still acceptable?

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Sec. 13.05.033. Impact fee study.[134]

(a) The water and wastewater study is adopted. The water and wastewater study is set forth as exhibit C to the impact fee study, a copy of which is attached to Ordinance 800-05 and on file in the office of the city secretary as exhibit 1 and incorporated by reference herein.

(b) The water and wastewater study may be amended from time to time.
(Code 1996, § 13.05.033; Ordinance 800-05 adopted 9/19/05)

Sec. 13.05.034. Impact fee amounts.

(a) The maximum water and wastewater impact fees per dwelling unit equivalent are adopted and incorporated in schedule 1 attached to Ordinance 800-05 and on file in the office of the city secretary and made a part hereof by reference.

(b) The water and wastewater impact fees per dwelling unit equivalent, which are to be paid by each new development, are adopted and incorporated in schedule 2 attached to Ordinance 800-05 and on file in the office of the city secretary and made a part hereof by reference.

(c) The impact fees per dwelling unit equivalent for water and wastewater facilities may be amended from time to time.
(Code 1996, § 13.05.034; Ordinance 800-05 adopted 9/19/05)

ARTICLE IV. WATER CONSERVATION AND DROUGHT CONTINGENCY PLAN

Sec. I: Policy, purpose, and intent.

(a) The purpose of this article is to conserve the available city 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.

(b) Water uses restricted or prohibited under the drought contingency 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 to penalties as defined in in this article.

(c) The objectives of the drought contingency plan are to:

(1) Conserve the available water supply in times of drought and emergency;

(2) Maintain supplies for domestic water use, sanitation, and fire protection;

(3) Protect and preserve public health, welfare, and safety;

(4) Minimize the adverse impacts of water supply shortages; and

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[134] **Sec. 13.05.033. Impact fee study**. Is referring to Exhibit C as “on file” still acceptable?

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(5) Minimize the adverse impacts of emergency water supply conditions.

(Ord. No. O-10-24, exh. A(I), 6-4-2024)

Sec. II: Public involvement

Opportunity for the public to provide input into the preparation of the plan was provided by the city by means of providing a copy of the draft version of this plan to any person who requested it and convening a public meeting to accept input on the plan.

(Ord. No. O-10-24, exh. A(II), 6-4-2024)

Sec. III: 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 may be provided by means of, but not limited to, an appropriate combination of the following items:

(1) Newspaper and magazine articles and announcements

(2) Press releases, media alerts and social media

(3) Email and telephone notifications to customers

(4) Mailed water bill inserts

(5) Distribution of fact sheets, brochures, and pamphlets

(6) Customer service representatives

(7) Public meetings and hearings

(8) Public education seminars

(Ord. No. O-10-24, exh. A(III), 6-4-2024)

Sec. IV: Coordination with regional water planning groups

The service area of the city is located within the Region C Water Planning Group and the city will provide a copy of this plan to the group.

(Ord. No. O-10-24, exh. A(IV), 6-4-2024)

Sec. V: Authorization

The city manager or his/her designee is 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. or in conjunction with and upon written notice by the supplier. The city manager 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.

(Ord. No. O-10-24, exh. A(V), 6-4-2024)

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Sec. VI: Application.

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.
(Ord. No. O-10-24, exh. A(VI), 6-4-2024)

Sec. VII: Definitions.[135]

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:

Aesthetic water use: water use for ornamental or decorative purposes such as fountains, reflecting pools, and water gardens.

Automatic Irrigation System: means a site-specific system of delivering water, generally for landscape irrigation, via a system of pipes or other conduits installed below ground that will automatically cycle water using landscape sprinklers according to a preset program, whether on a designated timer or through manual operation.

~~city manager: The city manager for the city.~~

Commercial and institutional water use: water use which is integral to the operations of commercial and non-profit establishments and governmental entities such as retail establishments, hotels and motels, restaurants, and office buildings.

Conservation: 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: any person, company, or organization using water supplied by city.

Domestic water use: water use for personal needs or for household or sanitary purposes such as drinking, bathing, heating, cooking, sanitation, or for cleaning a residence, business, industry, or institution.

Even number address: street addresses, box numbers, or rural postal route numbers ending in 0, 2, 4, 6, or 8 and locations without addresses.

Foundation watering: an application of water to the soils directly abutting (within 2 feet) the foundation of a building, structure.

Industrial water use: the use of water in processes designed to convert materials of lower value into forms having greater usability and value.

Landscape irrigation use: water used for the irrigation and maintenance of landscaped areas, whether publicly or privately owned, including residential and commercial lawns, gardens, golf courses, parks,

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[135] **Sec. VII: Definitions.** A standardized introduction is substituted for consistency. Also, self-defining terms and terms duplicative of chapter 1 definitions are stricken.

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and rights-of-way and medians.

Non-essential water use: water uses that are not essential nor required for the protection of public, health, safety, and welfare, including:

(a) irrigation of landscape areas, including parks, athletic fields, and golf courses, except otherwise provided under this plan;

(b) use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle;

(c) use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;

(d) use of water to wash down buildings or structures for purposes other than immediate fire protection;

(e) flushing gutters or permitting water to run or accumulate in any gutter or street;

(f) use of water to fill, refill, or add to any indoor or outdoor swimming pools or Jacuzzi-type pools;

(g) use of water in a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic life;

(h) failure to repair controllable leaks within a reasonable period after having been given notice directing the repair of such leaks; and

(i) use of water from hydrants for construction purposes or any other purposes other than firefighting.

Odd numbered address: street addresses, box numbers, or rural postal route numbers ending in 1, 3, 5, 7, or 9.

Plan: The drought contingency plan adopted by the city.

Recreational water use: Water used for leisure and entertainment purposes. Examples include but are not limited to swimming pools, Jacuzzi-type pools, water theme parks, wading pools and water toys.

Retail customers: Any water customer that receives water supply from the city water supply system.

Supplier: Dallas Water Utilities.

Trigger: A condition that would require certain operating conditions prescribed in the plan.
(Ord. No. O-10-24, exh. A(VII), 6-4-2024)

Sec. VIII: Criteria for Initiation and Termination of Drought Response Stages

1) The city manager and his/her designee shall monitor water supply or demand conditions on a daily basis, or in conjunction with and upon written notice by the supplier and shall determine when conditions warrant initiation or termination of each stage of the plan. Public notification of the response stages shall be by means of signs and posters in public places, or handouts or local media.

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2) After implementation, the city manager shall immediately notify the mayor and city council. Public notification shall be made by handouts, website postings, local news media, signs or posters in public places.

3) Once the authorization has been given, operations shall continue under the drought contingency plan, with progression from one stage to another as determined by the appropriate trigger conditions as notified by the supplier and executed by the city manager or his/her designee. Operations may be returned to normal procedures once the trigger conditions have dissipated and by authorization of the city manager. The mayor and city council will be notified immediately of the return to normal operations.

4) The triggering criteria described below are based on the following:

a. Available water supplies from the supplier, Dallas Water Utilities:

i. DWU determines the total raw water supply in connected lakes (east and west); or the western lakes or the eastern lakes has dropped below 65% (35% depleted) of DWU's share of the total conservation storage of the lakes; or

ii. Water demand has reached or exceeded 85% of delivery capacity for 4 consecutive days; or

iii. Water demand approaches a reduced delivery capacity for all or part of the system, as determined by DWU; or

iv. Natural or manmade contamination of the water supply sources occurs.

b. Demand causes severe stress on water facilities;

c. Equipment failure;

d. Natural disaster; or

e. Contamination of water supply.

Initiation of drought response stage.

1) The supplier or the city manager or his/her designee may order the implementation of a drought response stage or water emergency when one or more of the trigger conditions for that stage is met. The following actions will be taken when a drought stage is initiated:

a) The public will be notified through mail-outs, newsletters, website postings, posters, or the local newspaper.

b) If any mandatory provisions of the drought contingency plan are activated, the city manager will notify the executive director of the TCEQ within five business days.

2) The supplier or the city manager may decide not to order the implementation of a drought response stage or water emergency even though one or more of the trigger criteria for the stage are met. Factors which could influence such a decision include, but are not limited to, the time of the year, weather conditions, the anticipation of replenished water supplies, or the anticipation that additional facilities will

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become available to meet needs.

Termination of drought stage.

1) The supplier or the city manager or his/her designee may order the termination of a drought response stage or water emergency when the conditions for termination are met or at his/her discretion. The following actions will be taken when a drought stage is terminated:

a) The public will be notified through mail-outs, newsletters, website postings, posters or the local newspaper.

b) When any mandatory provisions of the drought contingency plan that have been activated or terminated, the city manager will notify the executive director of the TCEQ within five business days.

2) The supplier or city manager may decide not to order the termination of a drought response stage or water emergency even though the conditions for termination of the stage are met. Factors which could influence such a decision include, but are not limited to, the time of the year, weather conditions, or the anticipation of potential changed conditions that warrant the continuation of the drought stage.

Utilization of alternative water sources or alternative delivery mechanisms:

The city does not have an alternative water source or delivery mechanism.

Stage 1 Triggers

(A) Requirements for initiation

Customers shall be requested to comply with the requirements and restrictions on certain non- essential water uses provided in Section IX of this plan when:

- Water demand has reached or exceeded 85% of delivery capacity for 4 consecutive days; or
- Water demand approaches a reduced delivery capacity for all or part of the system, as determined by the city; or
- Water line breaks or pump or system failures, which impact the ability of the city to provide treated water service; or
- Natural or man-made contamination of the water supply sources occurs; or
- Notification by DWU that Stage 1 of its plan has been activated.

(B) Requirements for termination

- Stage 1 may be terminated when Stage 1 conditions no longer exist and would be unlikely to recur upon termination.

Stage 2 Triggers

(A) Requirements for initiation

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Customers shall be required to comply with requirements and restrictions on certain non-essential water uses provided in Section IX of this plan when:

- Any conditions from Stage 1; or
- Water demand has reached or exceeded 90% of delivery capacity for 3 consecutive days; or
- Water demand equals a reduced delivery capacity for all or part of the system, as determined by the city; or
- Water line breaks or pump or system failures occur, which impact the ability of the city to provide treated water service; or
- Natural or man-made contamination of the water supply sources occurs; or
- Notification by DWU that Stage 2 of its plan has been activated.

(B) Requirements for termination

- Stage 2 may be terminated when Stage 2 conditions no longer exist and would be unlikely to recur upon termination.

Stage 3 Trigger

Customers shall be required to comply with the requirements and mandatory restrictions on certain non-essential water uses provided in Section IX of this plan when:

(A) Requirements for initiation

- Any conditions from Stage 1 or 2; or
- Water demand has reached or exceeded 95% of delivery capacity for 2 consecutive days; or
- Water demand exceeds a reduced delivery capacity for all or part of the system, as determined by the city; or
- Water line breaks or pump or system failures occur, which impact the ability of the city to provide treated water service; or
- Natural or man-made contamination of the water supply sources occurs; or
- Notification by DWU that Stage 3 of its plan has been activated.

(B) Requirements for termination

Stage 3 of the plan may be terminated when the Stage 3 conditions no longer exist and would be unlikely to recur upon termination.
(Ord. No. O-10-24, exh. A(VIII), 6-4-2024)

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Sec. IX: Drought response stages.

The city manager or his/ her designee shall monitor water supply or demand conditions on a weekly basis and, in accordance with the triggering criteria set forth in Section VIII of this plan, shall determine if conditions exist that would trigger any of the designated drought stages, and if so, shall implement the following actions:

Notification of executive director.

As required by the Texas Administrative Code, any mandatory restrictions adopted in this drought contingency plan require notification of the executive director of the TCEQ. Upon initiation of these restrictions, the city manager shall notify the executive director within five business days.

The city manager or his/ her designee shall notify the public by means of:

- Public Service Announcements
- Signs Posted in Public Places
- City Website
- Billing Stuffers

Additional Notification:

The city manager or his/ her designee shall notify directly, or cause to be notified directly, the following individuals and entities:

- Mayor and members of the city council
- Fire chief
- City or county emergency management coordinators
- State disaster district / department of public safety
- TCEQ (required when mandatory restrictions are imposed)
- Critical water users, i.e. hospitals
- Parks / street superintendents & public facilities managers

(1) Stage 1 Response

Upon written notification from DWU, that conditions exist and this level of the drought plan, including but not limited to the rationing of the water supply, has been initiated, the city shall implement the following:

Target: Achieve a 5 percent reduction in total gallons per capita per day.

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Water Use Restrictions for Demand Reduction:

Following is a menu of possible actions. Specific actions taken during any drought situation will be determined by the director of the water department or designee. The director of the water department or designee may also take other actions not listed, if deemed necessary.

All Water Users

Landscape Uses:

A. All water customers are reminded to observe the mandatory maximum 2-days- per-week landscape watering schedule and require watering only during the allowed watering hours of 6:00 pm and 10:00 am as defined in Section VII.

B. Encourage reduction of water use through voluntary maximum 1-day-per-week landscape watering schedule.

C. Discourage planting of new landscapes, including lawns, hydro-seeding and sod.

Swimming Pools and Other Recreational Uses:

(A) Encourage reduction in frequency in draining and refilling of swimming pools.

(B) Prohibit recreational water usage, including the use of faucets, hoses or hydrants, which results in water run-off or other prohibited waste of water.

Foundations:

Foundations may be watered on any day of the week and at any time. Foundations may be watered with a drip irrigation system, soaker hose or a hand-held hose equipped with a positive shutoff nozzle.

Vehicle Washing:

Restrict washing of any motor vehicle, motorbike, boat, trailer, airplane or other vehicle to the use of 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 vehicle wash facility or commercial service station. Companies with an automated on-site vehicle washing facility may wash vehicles at any time.

City Government:

(A) Initiate public education campaign teaching and encouraging reduced water use practices.

(B) Intensify normal leak detection and repair activities on water pipes and mains.

(C) Require reduction of water use through mandatory maximum twice weekly landscape watering schedule for city parks.

(D) Encourage reduction of water use in city-owned ornamental fountains.

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(E) Encourage additional reduction in landscape uses for parks.

(F) Encourage 25 percent reduction in frequency of and city vehicle washing and rinsing.

(G) Increase enforcement efforts through proactive code enforcement.

Commercial Customers:

(A) Identify and encourage voluntary reduction measures by high-volume water users through water use audits.

(B) Require reduction of water use through mandatory maximum twice weekly landscape watering schedule for private parks.

(C) Encourage additional reduction in landscape uses for parks.

(D) Encourage reduction in water use for landscape nursery stock.

(E) Encourage area restaurants to serve customers water by request only.

(2) Stage 2 Response

Upon written notification from DWU that conditions exist and this level of the drought plan, including but not limited to the rationing of the water supply, has been initiated, the city shall implement the following:

Target: Achieve a 15 percent reduction in total gallons per capita per day.

Water Use Restrictions for Demand Reduction:

Following is a menu of possible actions. Specific actions taken during any drought situation will be determined by the director of the water department. The director of the water department may also take other actions not listed, if deemed necessary. All requirements of Stage 1 shall remain in effect during Stage 2, and the following additional measures will be required:

All Water Users:

Landscape Uses:

(A) Irrigation of landscaped areas with hose-end or automatic sprinklers shall be limited to Monday, Wednesday and Friday with even- numbered houses and Tuesday, Thursday and Saturday with odd-numbered houses and further limited to the hours of 6:00 p.m. to 6:00 a.m. Watering is permitted at any time if it is by means of a hand-held hose or a faucet-filled bucket;

Swimming Pools and Other Recreational Uses:

(A) Use of water to fill, refill or add to swimming pools or Jacuzzi-type pools is prohibited except on watering days from 6:00 p.m. to 6:00 a.m.

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(B) Continue to prohibit recreational water usage, including the use of faucets, hoses or hydrants, which results in water run-off or other prohibited waste of water.

Foundations:

Foundations may be watered on any day of the week and at any time. Foundations may be watered with a drip irrigation system, soaker hose or a hand-held hose equipped with a positive shut-off nozzle.

Vehicle Washing:

Restrict washing of any motor vehicle, motorbike, boat, trailer, airplane or other vehicle to the use of a hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle for quick rinses. Vehicle washing may be done at any time on the immediate premises of a commercial vehicle wash facility or commercial service station. Companies with an automated on-site vehicle washing facility may wash vehicles at any time.

City Government:

(A) Initiate engineering studies to evaluate alternatives to mitigate drought conditions should conditions worsen.

(B) Accelerate public education campaign teaching and encouraging reduced water use practices.

(C) Continue intensified leak detection and repair activities on water pipes and mains.

(D) Prohibit flushing of new mains not immediately required to provide service.

(E) City government restricted to mandatory maximum once weekly landscape watering schedule.

(F) Require reduction of water use through mandatory once weekly landscape watering schedule for city parks.

(G) Prohibit operation of city-owned ornamental fountains and water features.

(H) Reduce frequency of city vehicle washing or rinsing by 50 percent.

(I) Increase enforcement efforts through proactive code enforcement.

Commercial Customers:

Require reduction of water use through mandatory maximum once weekly landscape watering schedule for private parks.

(3) Stage 3 Response

Upon written notification from DWU, that conditions exist and this level of the drought plan, including but not limited to the rationing of the water supply, has been initiated, the city shall implement the following:

Target: Achieve a 20 percent reduction in total gallons per capita per day.

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Water Use Restrictions for Reducing Demand:

Following is a menu of possible actions. Specific actions taken during any drought situation will be determined by the Director of the Water Department. The Director of the Water Department may also take other actions not listed, if deemed necessary. All requirements of Stages 1 and 2 shall remain in effect during Stage 3, and the following additional measures will be required:

All Water Users

Landscape Uses:

(A) All water customers are reminded to observe all requirements of the Water Conservation Ordinance, as established in the city Chapter 13 Utilities, Article 13.03 Water Conservation and Drought Contingency Plan Irrigation of landscaped areas shall be limited to one day every seven days between the hours of 6:00 a.m. [to] 10:00 a.m. and 6:00 p.m. to 12:00 a.m. - hose-end or hand-held devices shall be limited to these same hours. Even-numbered houses shall be allowed to water on Tuesday and odd-numbered houses shall be allowed to water on Thursday. (Exceptions: foundations and new plantings (first year) of trees and shrubs may be watered for up to (two) 2 hours during off-peak hours on the watering schedule by a hand-held hose or a soaker hose. Golf courses may water greens and tee boxes without restrictions. Restrictions do not apply to locations using treated wastewater effluents for irrigation.) Requires notification to TCEQ;

(B) Installation of new landscapes or turf areas is prohibited.

(C) Operation of any water feature, ornamental fountain or pond that uses potable water is prohibited except where supporting aquatic life or water quality.

Swimming Pools and Other Recreational Uses:

(A) Prohibit the filling, draining and refilling of existing swimming pools, wading pools, Jacuzzi and hot tubs except to maintain structural integrity, proper operation and maintenance or alleviate a public safety risk. Existing pools may add water to replace losses from normal use and evaporation.

(B) Permitting of new swimming pools, wading pools, water features, Jacuzzi and hot tubs is prohibited.

(C) Continue to prohibit recreational water usage, including the use of faucets, hoses or hydrants, which results in water run-off or other prohibited waste of water.

Foundations:

Foundations may be watered one day per week on the Stage 2 watering schedule within the permitted watering hours. Foundations may be watered with a drip irrigation system, soaker hose or a hand-held hose equipped with a positive shutoff nozzle. Water run-off is absolutely prohibited.

Vehicle washing:

Use of water to wash any motor vehicle, motorbike, boat, trailer or other vehicle not occurring on the premises of a commercial vehicle wash facility or commercial service stations is prohibited. Companies

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with an automated on-site vehicle washing facility may wash its vehicles at any time. Further, such washing may be exempt from these requirements if the health, safety and welfare of the public are contingent upon frequent vehicle cleansing, such as garbage trucks and commercial vehicles used to transport food and perishables.

Impervious surface cleaning:

Hosing and washing of paved areas, buildings, structures, windows or other surfaces is prohibited except by variance

High Demand Surcharge:

(A) Residential Customers A 50 percent rate increase for high water demand users (greater than 15,000 gallons per month per account) shall be initiated to discourage non-essential use.

(B) Commercial Customers A 50 percent rate increase for high water demand users (greater than 10,000 gallons and 1.4 times annual average monthly usage per account) shall be initiated to discourage non-essential use.

New Service: 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 suspended for such time as this drought response stage or a higher-numbered stage shall be in effect.

City Government: City vehicle washing or rinsing is prohibited except for reasons of public health, safety and welfare.

Commercial Customers: Watering of private parks is prohibited. watering hours as defined in Section VII; unless the private park uses a water source other than that provided by the city.
(Ord. No. O-10-24, exh. A(IX), 6-4-2024)

Sec. X: 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 the city manager or his/her designee, in accordance with provisions of this plan.

(B) Any person who violates this plan is guilty of a misdemeanor and, upon conviction shall be punished by a fine of not less than $250.00 and not more than $2,000.00. Each day that one or more of the provisions in this plan is violated shall constitute a separate offense. If a person is convicted of three or more distinct violations of this plan, the city manager or his/her designee shall, upon due notice to the customer, be authorized to discontinue water service to the premises where such violations occur. Services discontinued under such circumstances shall be restored only upon payment of a reconnection charge, established at $150.00, and any other costs incurred by the city in discontinuing service. In addition, suitable assurance must be given to the city that the same action shall not be repeated while the plan is in effect.

(C) Any person, including a person classified as a water customer of the city, who is in apparent

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control of the property where a violation occurs or originates shall be presumed to be the violator, and proof that the violation occurred on the person's property shall constitute a rebuttable presumption that the person in apparent control of the property committed the violation, but any such person shall have the right to show that he/she did not commit the violation. 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 this plan and that the parent could not have reasonably known of the violation.

(D) The police chief or his/her designee or other city employees designated by the city manager or his/her designee may issue a citation to a person he/she reasonably believes to be in violation of this article. The citation shall be prepared in duplicate and shall contain the name and address of the alleged violator, if known, the offense charged and shall direct him/her to appear in the city municipal court on the date shown on the citation for which the date shall not be less than three days nor more than 15 days from the date the citation was issued. The alleged violator shall be served a copy of the citation. Service of the citation shall be complete upon delivery of the citation to the alleged violator, to an agent or employee of a violator, or to a person over 14 years of age who is a member of the violator's immediate family or is a resident of the violator's residence. The alleged violator shall appear in city municipal court to enter a plea of guilty or not guilty for the violation of this plan. If the alleged violator fails to appear in city municipal court, a warrant for his/her arrest may be issued. A summons to appear may be issued in lieu of an arrest warrant. These cases shall be expedited and given preferential setting in the city municipal court before all other cases.
(Ord. No. O-10-24, exh. A(X), 6-4-2024)

Sec. XI: Variances

(A) The city manager or his/her designee may, in writing, grant a temporary variance 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 the health, sanitation, or fire protection for the public or of the person requesting such variance, and if one or more of the following conditions are met:

1. Granting of a variance must not cause an immediate significant reduction in the city's water supply.

2. The health, safety, or welfare of other persons will not be adversely affected by granting of the variance.

3. The applicant must demonstrate that the extreme hardship or need is related to the health, safety, or welfare of the person requesting it.

4. Compliance with this plan cannot be technically accomplished for the duration of the water supply shortage or other condition for which the plan is in effect; or

5. 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 written petition for variance with the city within five days after the plan or a particular drought response stage has been invoked. All petitions for variances shall be reviewed by the city manager or his/her designee until such

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time that the matter can be considered by the city council. A decision by the city council shall be final.

(C) The petition for variance must be in writing and include the following information:

1. Name and address of the petitioners;

2. Purpose of water use;

3. Specific provisions 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 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; and

8. Other pertinent information.

(D) Variances granted by the city shall be subject to the following conditions, unless waived or modified by the city council:

a. A timetable for compliance; or

b. Expiration when the plan is no longer in effect, unless the petitioner has failed to meet specified requirements.

(E) No variance shall be retroactive or otherwise justify a violation of the plan occurring prior to the issuance of the variance.
(Ord. No. O-10-24, exh. A(XI), 6-4-2024)

Sec. XII: Review and Update of Drought Contingency Plan.

The city shall review and update, as appropriate, the drought contingency plan, at least every five years, based on new and updated information, such as the adoption and revision of the regional water plan.
(Ord. No. O-10-24, exh. A(XII), 6-4-2024)

~~**Sec. XIII: Severability.**~~[136]
~~It is declared to be the intention of the city that the sections, paragraphs, sentences, clauses, and phrases of this plan are severable and, if any phrase, clause, sentence, paragraph, or section of this plan 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 plan, since the same would have been enacted by the city without the incorporation into this plan of any such unconstitutional phrase, clause, sentence, paragraph, or section.~~

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[136] **Sec. XIII: Severability.** Section duplicative of chapter 1 general provisions is stricken.

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~~(Ord. No. O-10-24, exh. A(XIII), 6-4-2024)~~

ARTICLE V. CROSS-CONNECTION CONTROL

Sec. 13.08.001. General.[137]

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 state natural resource conservation commission rules and regulations for public water systems (~~TNRCC~~ TCEQ rules) and this article. Water service shall be discontinued by the water purveyor if a required backflow prevention assembly is not installed, maintained and tested in accordance with the ~~TNRCC~~ TCEQ rules and this article.
(Code 1996, § 13.08.001)

Sec. 13.08.002. Backflow prevention assembly installation, testing and maintenance.

(a) All backflow prevention assemblies shall be tested upon installation by a recognized backflow prevention assembly tester and certified to be operating within specifications. Backflow prevention assemblies which are installed to provide protection against health hazards must also be tested and certified to be operating within specifications at least annually by a recognized backflow prevention assembly tester. A test report must be completed by a recognized backflow prevention assembly tester for each assembly tested. The signed and dated original form must be submitted to the city within five working days of the test.

(b) All backflow prevention assemblies shall be installed and tested in accordance with the manufacture's instructions, the American Water Works Association's Recommended Practice for Backflow Prevention and Cross-Connection Control (Manual M14) or the University of Southern California Manual of Cross-Connection Control.

(c) Assemblies shall be repaired, overhauled, or replaced at the expense of the customer whenever said assemblies are found to be defective. Original forms of such tests, repairs, and overhauls shall be kept and submitted to the city within five working days of the test, repair or overhaul of each backflow prevention assembly.

(d) No backflow prevention assembly or device shall be removed from use, relocated, or other assembly or device substituted without the approval of the city. Whenever the existing assembly is moved from the present location or cannot be repaired, the backflow prevention assembly shall be replaced with a backflow prevention assembly or device that complies with this article, the American Water Works Association Manual M14, current edition University of Southern California Manual of Cross-Connection Control, current addition, or the current plumbing code of the city, whichever is most stringent.

(e) Test gauges used for backflow prevention assemblies testing shall be calibrated at least annually in accordance with the American Water Works Association's Recommended Practice for Backflow Prevention and Cross-Connection Control (Manual M14) or the University of Southern California's

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[137] **Sec. 13.08.001. General.** The Texas Natural Resource Conservation Commission (TNRCC) was renamed the Texas Commission on Environmental Quality (TCEQ) in 2001.

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Manual of Cross-Connection Control. The original calibration form must be submitted to the city within five working days after calibration.

(f) A recognized backflow prevention assembly tester must hold a current endorsement from the state natural resource conservation commission.
(Code 1996, § 13.08.002)

Sec. 13.08.003. Customer service inspections.

(a) A customer service inspection shall be completed prior to providing continued 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 water distribution 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 who have completed a commission-approved course, passed an examination administered by the commission or its designated agent and hold current certification or endorsement as a customer service inspector issued by the commission.

(c) Customer service inspection must certify that:

(1) No direct connection between water supply and a potential source of contamination is permitted. Potential sources of contamination shall be isolated from the public water system by an air gap or an appropriate backflow prevention device.

(2) No cross-connection between the public drinking water supply and a private water system is permitted. These potential threats to the public drinking water supply shall be eliminated at the service connection by the installation of an air gap or a reduced pressure zone backflow prevention device.

(3) No connection which allows water to be returned to the public drinking water supply is permitted.

(4) No pipe or pipe fitting which contains more than 8.0% lead may be used for the installation or repair of plumbing at any connection which provides water for human use.

(5) No solder or flux which contains more than 0.2 percent lead can be used for the installation or repair of plumbing at any connection which provides water for human use. A minimum of one lead test shall be performed for each inspection.
(Code 1996, § 13.08.003)

Sec. 13.08.004. Remedies nonexclusive.

The remedies provided for in this article are not exclusive of any other remedies that the city may have under state or federal law or other city ordinances. The city may take any, all, or any combination of these actions against a violator. The city may take more than one enforcement action against any violator. These actions may be taken concurrently.

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(Code 1996, § 13.08.004)

Sec. 13.08.005. Penalty for violation.

Any person or entity violating this division shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by fine in accordance with the general penalty provision found in section 1.01.009 of this code. Every day such violation shall continue shall constitute a separate offense.
(Code 1996, § 13.08.005)

ARTICLE VI. DRAINAGE UTILITY SYSTEM

Sec. 13.12.001. Definitions.

(a) In addition to the definitions set out in V.T.C.A., Local Government Code, § 552.044, the following definitions shall apply when used in this article:

Developed. A parcel which has had improvements, structures, grading, or other construction which increased the natural impervious runoff value from an undeveloped or agricultural land.

Private. Parts of a stormwater system located on land not owned by the city outside of public easements. These partial systems connect to the public stormwater utility but are separate and distinct by ownership and maintenance responsibilities. This definition of “private” includes other government-owned land in the city for the purposes of this article, e.g. Dallas County, Ellis County, state department of transportation, etc.

Service area. The municipal boundaries of the city as those municipal boundaries are altered from time to time in accordance with state law and the charter and ordinances of the city.

Undeveloped. A parcel which has not had a building or structure located within its limits.

(b) Definitions not explicitly stated in this article shall be defined first as within the current TPDES general permit, then as within other sections of this Code. When differences exist, the most stringent of the definitions shall apply.
(Code 1996, § 13.12.001; Ordinance O-08-09, sec. 2, adopted 9/21/09)

Sec. 13.12.002. Adoption and declaration of public utility.

(a) In the interest of public health and safety and a more efficient and economic operation of drainage facilities of the city, by adoption of this article by a majority vote of its governing body, the city council creates a municipal drainage utility system, which shall be a public utility. V.T.C.A., Local Goverment Code, ch. 552, subchapter C, which is adopted and incorporated into this article by reference, and any other provisions of the city’s code relating to drainage shall govern the operation of the utility.

(b) Nothing in this section shall be construed to restrict the city council’s ability to make other rules or policies governing the operation of the utility. The city shall have full authority to operate such municipal drainage utility system. Drainage service will be offered on nondiscriminatory, reasonable and equitable terms within the service area.
(Code 1996, § 13.12.002; Ordinance O-08-09, sec. 3, adopted 9/21/09)

Sec. 13.12.003. Drainage service area.

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The service area of the city's municipal utility drainage system shall be that area within the corporate boundaries of the city.
(Code 1996, § 13.12.003; Ordinance O-08-09, sec. 4, adopted 9/21/09)

Sec. 13.12.004. Incorporation of existing facilities; no assumed liability.

(a) The city incorporates all of the existing drainage facilities with city easements or ownership, materials, and supplies owned and controlled by the city into the drainage utility system.

(b) All other private systems shall remain privately controlled.

(c) In order for a private system to be transferred to the public utility, the drainage structures shall meet current design standards, be inspected by the city engineer or his/her designee and be found to be in acceptable condition according to the current standards. Only then may an easement be filed for approval and acceptance by the city council.

(d) Floods from drainage and stormwater runoff may occasionally occur which exceed the capacity of the drainage system maintained and financed with the drainage charges. In addition, surface water stagnation and pollution arising from non-point source runoff may occasionally occur which exceed the capacity of the drainage system maintained and financed with drainage charges. This article does not imply that properties subject to charges shall always be free from flooding or flood damage, surface water stagnation or non-point source pollution or that all flood control and water treatment projects to control the quantity and quality of runoff can be constructed effectively.

(e) Nothing in this article should be construed as or be deemed to create additional duties on the part of the city to hold the city liable for any damages incurred in a flood or from adverse water quality due to drainage runoff. Nothing in this article shall be deemed to waive the city's immunity under state law or reduce the need or necessity for flood insurance by property owners within or without the city.
(Code 1996, § 13.12.004; Ordinance O-08-09, sec. 5, adopted 9/21/09)

Sec. 13.12.005. Administration; adoption of rules.

(a) The city council must approve municipal drainage system fees and exception rules of section 13.12.008.

(b) The city manager or his/her designees shall be responsible for the administration of this article including, but not limited to adopting rules for the administration of the drainage charge by the utility billing staff and for the drainage utility technical design and construction standards, policies, and permits and consideration of variances.
(Code 1996, § 13.12.005; Ordinance O-08-09, sec. 6, adopted 9/21/09)

Sec. 13.12.006. Creation of drainage utility fund; drainage charges.[138]

(a) A separate fund, within the city's fund structure, shall be created as of the effective date of this article, known as the drainage utility fund, for the purpose of identifying and controlling all revenues and

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[138] **Sec. 13.12.006. Creation of drainage utility fund; drainage charges.** Fee amounts are stricken below and a reference to the fee schedule is inserted here.

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expenses attributable to municipal drainage services.

(b) All drainage fees collected by the city after the effective date of this article and such other monies as may be available by or to the city for the purpose of drainage shall be deposited in the drainage utility fund. Such drainage revenues shall be used for the purpose of the creation, operation, planning, engineering, inspection, construction, repair, maintenance, improvement, reconstruction, administration and other reasonable and customary charges associated with the operation of drainage services of the city. The income derived from the operation of municipal drainage services must be segregated in one or more accounts and completely identifiable from other city accounts.

(c) The city shall charge all benefitted property, except those exempted in section 13.12.008, for drainage service based on area of land related to drainage and on classifications and individual calculations found to be nondiscriminatory, equitable, and reasonable. In accordance with state law, the city has based its methodology on data gathered from the Dallas County Appraisal District and the Ellis County Appraisal District as well as the city's own utility billing information.

(d) The city has adopted a schedule of drainage charges as provided in the city fee schedule ~~as referenced herein~~. The most current drainage fee charges shall also be posted on the city website and available at the utility billing counter. Drainage charges shall be reasonably set in accordance with the capital improvement plan for the city and annual operating costs including the addition of the new stormwater management program requirements.

(e) Billing, nonpayment and deposits. The municipal drainage system fee shall be included on the monthly utility bill, along with water, wastewater and garbage charges. Nonpayment of the municipal drainage utility system fee shall be treated the same as nonpayment of the water, wastewater and garbage bill with delinquent fees and current utility cut-off procedures applied as defined in chapter 13. Water service may be cut off for nonpayment of municipal drainage system fees. The city shall not require a deposit for drainage service as a precondition to accepting surface flow in the drainage utility system.
(Code 1996, § 13.12.006; Ordinance O-08-09, sec. 7, adopted 9/21/09)

Sec. 13.12.007. Appeals process.

(a) If an owner or a person legally authorized to represent a nonresidential property owner wishes to appeal a municipal drainage system fee amount, they may do so by filing a notice of appeal with the city engineer and paying a $100.00 application fee. An appeal can be filed by completing a form that describes the basis for the claimant appealing the data, including the provision of independent engineering reports supporting a more accurate area calculation. The information submitted to the city must be complete in order to conduct an evaluation of the appeal. A response will be provided within 10 days of the receipt of the completed appeal form and supporting material. Any utility billing adjustments made after adoption of this article shall be applied only to the next billing cycle following a decision made by the city.

(b) The city manager shall review and make determinations of area appeals. Further appeals may be heard by the city council.
(Code 1996, § 13.12.007; Ordinance O-08-09, sec. 8, adopted 9/21/09)

Sec. 13.12.008. Exemptions.

Exemptions shall be allowed as listed under the schedule of municipal drainage system fees as adopted herein.

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The following governmental entities and a lot or tract in which the governmental entity holds a freehold interest are exempt from the provisions in this article:

a. State of Texas.

b. Dallas and Ellis County. c. City of Glenn Heights. The following shall also be exempt from the provisions of this article:

a. Property with proper construction and maintenance of a wholly sufficient and privately owned drainage system;

b. Property held and maintained in its natural state, until such time that the property is developed and all of the public infrastructure constructed has been accepted by the city; and

c. A subdivided lot, until a structure has been built on the lot and a certificate of occupancy has been issued by the city.

(Code 1996, § 13.12.008; Ordinance O-08-09, sec. 9, adopted 9/21/09 ; Ordinance O-19-10 adopted 9/7/10)

~~Appendix A. Municipal Drainage System Fees~~

~~Residential properties: $5.08 per month.~~

~~Nonresidential properties are based on lot size as shown below:~~

~~*Property Size*~~	~~*Monthly Fee*~~
~~Less than or equal to 25,000 square feet~~	~~$15.00~~
~~Greater than 25,000 square feet and less than or equal to 43,560 square feet~~	~~$30.00~~
~~Greater than 43,560 square feet and less than or equal to 130,680 square feet~~	~~$50.00~~
~~Greater than 130,680 square feet and less than or equal to 217,800 square~~	~~$100.00~~
~~Greater than 217,800 square~~	~~$175.00~~

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Part III

LAND USE AND DEVELOPMENT

Chapter 50

BUILDINGS AND CONSTRUCTION

ARTICLE I. IN GENERAL

Sec. 3.02.001. Building inspector.

(a) *Position established; appointment; compensation.* The city council has created the position of building inspector. The building inspector shall be appointed by the city manager. The building inspector may receive such financial compensation as may be tendered by the city.

(b) *Duties and authority.* The building inspector is authorized and directed to administer the building code, plumbing code, electrical code, housing code, zoning regulations, and such other codes and ordinances as the council may from time to time specify. The building inspector shall have power as may be necessary in the interest of public health, safety, and general welfare to interpret and implement the provisions of city codes and ordinances and shall have the authority to enter any building or premises within the city for the purpose of inspection or for the prevention of violations thereof.

(c) *Liability.* The building inspector shall not be personally liable while acting for the city, and he is relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his official duties.
(Code 1996, §§ 3.02.001—3.02.005)

Sec. 3.03.001. Fees.[139]

All fees authorized under this chapter shall be in the amount provided in the city fee schedule. ~~The schedule of fees, as provided for in the fee schedule found in appendix A of this code, shall be charged for permits for the construction of buildings inside the city and for the alteration, addition, and repair of existing buildings in the city.~~
(Code 1996, § 3.03.001)

Sec. 3.03.002. Appeals.

The board of adjustment shall hear and determine all appeals arising under the construction codes adopted in this chapter.
(Code 1996, § 3.03.002)

Sec. 3.04.003. Building permits.

(a) *Conditions for issuance.* No building permit shall be issued under this chapter unless the

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[139] **Sec. 3.03.001. Fees.** References to fees in this article have been adjusted based on the inclusion of this section to eliminate duplication.

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improvements set forth and described in the application for a permit demonstrate that the improvements shall comply with all applicable regulations of the city, including but not limited to those regulating housing standards, zoning, building, plumbing, development of additions or subdivisions, and electrical installations.

(b) *Removal of buildings in violation.* Structures erected without first obtaining a building permit or erected in violation of this Code shall be removed.

(c) *Penalty.* In addition to any remedial action or abatement procedure contained in the building code adopted in this article, any person violating any provisions thereof shall be punished as provided for in section 1.01.009 of this Code. Each day of continuance of a violation shall constitute a distinct and separate offense.
(Code 1996, §§ 3.04.003—3.04.005)

ARTICLE II. CONSTRUCTION CODES

DIVISION 1. GENERALLY

Sec. 3.04.001. Technical codes adopted by reference.[140]

(a) The city has adopted the following codes published by the International Code Council (ICC) and National Fire Protection Association (NFPA) subject to the local amendments and additions provided in this article:

(1) ICC International Building Code, 2021 Edition
(2) ICC International Residential Code, 2021 Edition
(3) ICC International Plumbing Code, 2021 Edition
(4) ICC International Mechanical Code, 2021 Edition
(5) ICC International Existing Building Code, 2021 Edition
(6) ICC International Fuel Gas Code, 2021 Edition
(7) ICC International Energy Conservation Code, 2021 Edition
(8) ICC International Swimming Pool and Spa Code, 2021 Edition
(9) ICC International Property Maintenance Code, 2021 Edition including Appendix A
(10) ICC Fire Code, 2021 Edition
(11) NFPA National Electric Code, 2023 Edition

(b) Unless otherwise specifically provided in this article, the amendments to the adopted code approved and recommended by the North Central Texas Council of Governments are adopted by the city as local amendments to the adopted codes. Future updates and revisions to the adopted codes approved and recommended by the council shall be automatically incorporated into the codes adopted in this section.

(c) Copies of the adopted codes and amendments thereto shall be maintained on file in the office of

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[140] **Sec. 3.04.001. Technical codes adopted by reference.** I have regrouped code adoptions and amendments and rewritten the sections to eliminate extensive duplicative provisions. I have also moved the property maintenance adoption into this chapter, but I have stricken the local amendments (at the end of this chapter) in that they amend the 2015 edition while the 2021 edition is adopted. Please review

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the city secretary for permanent record and inspection.

(d) The adopted codes shall be controlling in the construction of all buildings and structures within the corporate limits of the city.
(Code 1996, arts. 3.04—3.08, § 3.13.002)

Sec. 3.04.002. Amendments to adopted codes.[141]

(a) *International Building Code.* The recommended amendments of the North Central Texas Council of Governments adopted in section 3.04.001 shall be those in Option B.

(b) *International Residential Code.* Section M2005.1 shall prohibit all water heaters from being installed in any location except the ground floor or a basement.

(c) *International Plumbing Code.* Chapter 5, section 52.3, of the adopted code shall prohibit all water heaters from being installed in any location except the ground floor or a basement.

(d) *International Fire Code.* The recommended amendments of the North Central Texas Council of Governments adopted in section 3.04.001 shall be those in Option B.

(e) *National Electric Code.* Local amendments are as provided in division 2 of this article.
(Code 1996, arts. 3.04—3.08)

DIVISION 2. LOCAL ELECTRICAL CODE ADDITIONS AND REVISIONS

Sec. 3.06.002. Conflicting provisions.[142]

Except for specific amendments provided in this section, in the event of a conflict between the adopted electrical code and any other provision of this Code, the provisions of this Code shall prevail.
(Code 1996, § 3.06.002)

Sec. 3.06.003. Applicability.

This division shall apply to all installations of electrical conductors, fittings, devices, signs, fixtures, motors, generators, starters, controls, and raceways, hereinafter referred to as "electrical equipment," within or on public and private buildings and premises within the city.
(Code 1996, § 3.06.003)

Sec. 3.06.008. Amendments to adopted code.

(a) *Amended provisions.* The North Central Texas Council of Governments recommended amendments to the 2023 National Electrical Code herein are modified as follows:

(1) Article 590.3(a) – Permit Required. Temporary electrical power and lighting installations

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[141] **Sec. 3.04.002. Amendments to adopted codes.** See preceding footnote.

[142] **Sec. 3.06.002. Conflicting provisions.** Limiting language is added. Without it, this section would negate all amendments to the electric code in this chapter since they are in conflict with the adopted code provisions.

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may be permitted during the period of construction, remodeling, maintenance, repair, or demotion of buildings, structures, equipment, or similar activities where, for good and sufficient causes, it is necessary to have electricity on any such installation before a final certificate can be issued; provided, that all parts to which the current is applied are in safe condition and meet all applicable requirements hereof. A permit will be required for any such temporary service. Application for a temporary service permit shall be made before such permit is issued; a fee as set forth in the fee schedule in appendix A to the Code of Ordinances shall be paid by the applicant.

(2) Article 590.3(b) – Permit Valid for 120 Days. A temporary service permit shall expire after 120 days from the date issued. If at the end of this 120 days, the installation is still incomplete, another permit must be taken out for the next 30 days and each succeeding 30 days while the installation is incomplete.

(b) *Additional provisions.* The National Electric Code adopted herein is amended by the addition of the following provisions:

(1) *General standard.* All electrical equipment installed or used in the city shall be reasonably safe to persons and property in conformity with the standards provided in the codes adopted herein, applicable state statutes, and any rules and regulations issued by authority thereof.

(2) *Knob-and-tube wiring.* Knob-and-tube wiring shall not be permitted when installing or repairing electrical installations.

(3) *Electric power companies not to connect until authorized.* It is unlawful for any electric, light, heat, or power company to do any wiring of any nature in or on any building (except power houses and substations of electric, light, heat, and power companies operating under a franchise granted by the city) or to make any electrical connection to any building or electrical wiring or apparatus until a certificate, stating that electrical wiring has been approved, or written permit authorizing connection, has been issued by the electrical inspector. All firms, corporations, or individuals, whether operating under a regular franchise granted by the city or not, shall upon written notice by the electrical inspector disconnect from any such circuit, including main service wires, branch feeder wires, or distribution as designated by the notice, and shall not reconnect to the installation except upon written notice from the electrical inspector.

(4) *When wires may be ordered disconnected.* Every company, firm, partnership, corporation, or individual owning or controlling electrical wires and apparatus for the transmission of light, heat, or power shall in time of fire or in case of severe climatic conditions or any other emergency wherein lives or property of the citizens of the city may be endangered by the operation of such wires and apparatus, upon notice by the electrical inspector, the mayor, or the chief of the fire department or police chief, disconnect such dangerous wires from current or service as are designated by the electrical inspector.

(5) *Places where electrical metallic tubing required.* All electrical wiring installed in or on all metal buildings, public buildings with a seating capacity of 100 or more, churches, and schools located within the city limits shall be installed in electrical metallic tubing (EMT).

(Code 1996, §§3.06.008—3.06.012)

Sec. 3.06.006. Electrical permits.

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(a) *Required.* No individual, firm, or corporation shall erect, construct, alter, or change any electrical installation, machinery, apparatus, work, or wiring in the city until a permit has been issued by the city. When required by the electrical inspector, plans and specifications for the proposed work must be filed before the permit is granted.

(b) *Exception to permit requirement.* No permit will be required for the installation of wires to operate electrical bells, gas lighting apparatus, house annunciators, burglar alarms, telephones, telegraphs, district messengers, watch clocks, fire alarms, or other similar instruments if current operating is of less than twenty-five (25) volts potential.

(c) *Assumption with regard to use.* When any wiring or apparatus is installed in such a manner that the same could be used for electric light or power purposes under the provisions of this section, it shall be deemed that the wiring or apparatus is to be used for such purposes, and permit shall be required and inspection made as provided for such.
(Code 1996, § 3.06.006)

Sec. 3.06.004. Liability of city.

This division shall not be construed to affect the responsibility or liability of any party owning, operating, controlling, or installing any electrical equipment for damages to persons or property which were caused by any defect in such equipment or in the installation thereof, nor shall the city be held as assuming any liability by reason of the inspection, failure to inspect, or reinspection authorized herein or the certificates of conformance or nonconformance issued as herein provided, or by reason of the approval or disapproval of any equipment authorized herein.
(Code 1996, § 3.06.004)

Sec. 3.06.005. Electrical inspector office established; duties.

(a) Office of electrical inspector created. The office of electrical inspector of the city is hereby created. Such electrical inspector shall be competent to perform the duties of this office and shall be appointed by the city manager and shall receive such compensation as fixed by the city council. The position of electrical inspector may be combined with any other position in the city at the discretion of the mayor.

(b) General duties and authority of electrical inspector. The electrical inspector shall ensure that all provisions of this article are fully complied with and make inspections of electrical installations. He or she shall also keep complete records of all permits issued, inspections made, and any other official work performed.

(c) Enforcement; notice of violations. The electrical inspector shall inspect all electrical wiring and apparatus in the city at any time in order to ascertain whether such electrical wiring or apparatus is in any respect dangerous to life or property and, if any part of the electrical wiring or apparatus shall be found to be defective or in dangerous condition, he shall notify in writing the owner of such wiring or equipment to have the defect corrected within a reasonable time.

(d) Notice to electric current provider to disconnect service. The electrical inspector shall notify the service company, firm, or individual furnishing electric current to defective wiring or equipment to cease to supply electricity to same. Upon receipt of such notice, the service company, firm, or individual furnishing electric current to such defective wiring or equipment shall immediately disconnect the service

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or feed wires and cease to supply current to the defective installation until the defects have been corrected (Code 1996, § 3.06.005)

Sec. 3.06.007. Registration of electricians.[143]

(a) Required. No individual, firm, or corporation shall erect, construct, alter, or change any electrical installation, work, wiring, or setting of electrical machinery or equipment until such individual, firm, or corporation has registered with the city and obtained a registration license therefor. No electrical permit will be issued unless such person performing such work has first registered with the city ~~and paid an annual license fee as provided for in the fee schedule found in appendix A of this code~~. Such registration license shall expire on December 31 next following issuance thereof.

(b) Application for registration license. Any individual, firm, or corporation desiring a registration license shall make application to the city secretary. Such application shall contain the person's name, address, telephone, and any other information that might seem pertinent or necessary. Any changes in address shall be immediately filed with the city secretary. When the holder of a registration license changes the firm name or where additional members are taken into the firm, or where the firm is incorporated, a notice of such change shall be forwarded to the city secretary; otherwise such registration license is liable to be revoked because of its questionable ownership. Applicant must show evidence of being licensed in at least two other cities in order to be granted a license in this city.

(c) Registration license is not transferable. It is unlawful for any individual, firm, or corporation holding a registration license issued by the city to transfer same or to allow the use of the same, directly or indirectly, by any other person for the purpose of obtaining a permit to do any electrical work herein specified.

(d) Revocation. Any failure on the part of the holder of such registration license to comply with the provisions of any section hereof or any other applicable ordinance of the city regulating electrical work or to faithfully carry out the conditions of a contract for electrical work shall be deemed sufficient cause for revoking the registration license, together with all rights and privileges thereunder. The city may also refuse to issue a registration license to any person associated with such previous holder of a revoked registration license.
(Code 1996, § 3.06.007)

ARTICLE III. ADDITIONAL LOCAL BUILDING REGULATIONS

Sec. 3.16.001. Fence construction.

(a) *Permit required.* It is unlawful for any person to construct a fence over two and one-half feet in height on any lot without having first obtained a fence permit therefor from the building inspection department. Adequate plans and specifications, as determined by the building official, must accompany each application for a permit as described hereafter. This article shall apply to all persons constructing

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[143] **Sec. 3.06.007. Registration of electricians.** V.T.C.A., Occupations Code, § 1305.151, requires a state license for most electrical work (subject to exceptions). If the electrician holds a state license the city is prohibited from charging a fee for local licensure (V.T.C.A., Occupations Code, § 1305.201 as amended in 2017). Should this section be changed to simply require state licensure, to require state and local licensure with no local fee, or stricken entirely?

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any such fence, regardless of whether acting as owner, agent or contractor.

(b) *Permit application.* Any person desiring to obtain the issuance of a fence permit shall submit application to the city building inspection department together with the appropriate permit fee.

(c) *Location and height restrictions.* Fencing shall be in compliance with the following location and height restrictions:

(1) No fence shall exceed eight feet in height on any residential lot.

(2) No fence or any part of any fence shall be constructed upon or caused to protrude over public property. All fences must be maintained in a vertical plane so as not to overhang public property.

(3) No fence shall be constructed on any platted residential lot which shall obstruct the right-of-way of any public street within the city.

(4) No fence shall be constructed which will extend further than the front building line of any building on the right-of-way of any public road on any platted lot within the city.

(5) Any fence located within any public easement shall be subject to removal upon request of those agencies having an interest in such easement.

(6) No fences ~~trees, berms or other obstructions~~ shall be constructed, maintained or planted within such distances of the intersections of public streets or at such elevations as to obstruct a motorist's view of oncoming traffic within 50 feet of such intersection.

(d) *Materials.* Materials permitted for fence construction shall be wood, masonry, chain link or other metal suitable for the construction of fences as determined by the building inspector. The use of barbed wire, razor ribbon, sheet metal, plastics or similar material are prohibited, except that barbed wire is permitted in rear and side yards of industrial zoned districts if the barbed wire strands are at least six feet above ground level and located a minimum of 300 feet from any residential district.
(Code 1996, §§ 3.16.001—3.16.004)

Sec. 3.18.001. Green building program standards.

(a) *Program established.* The city has established within the city an energy conservation program to be known as the green building program. The green building program sets forth the minimum standards for energy efficiency, water conservation, indoor air quality, and waste recycling for all single-family residential buildings platted after November 30, 2001 (minimum standards), as provided in this article.

(b) *Energy efficiency standard.* The minimum standard for energy efficiency of single-family residential structures shall be the Environmental Protection Agency's Energy Star designation as it currently stands or may be amended.

(c) *Water conservation standard.* The minimum standards for water conservation are as follows:

(1) Must provide a drought tolerant landscaping option for homebuyers (turf and plants).

(2) Must provide information in models concerning the benefits of xeriscaping and water

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conservation practices.

(3) If bedding areas are installed, they must be mulched (recycled-content mulch or compost).

(4) If an irrigation system is installed, it must include a rain and freeze sensor, installed to manufacturer's specifications.

(5) If an irrigation system is installed, it must be a zoned irrigation system.

(d) *Indoor air quality*. The minimum standards for indoor air quality are as follows:

(1) Mechanical room walls exposed to living area insulated to R-11.

(2) Provide range hood vented to outside.

(3) Unvented fireplaces and gas logs having a fan that blows any portion of the combustion gases into living spaces are not allowed.

(4) One carbon monoxide (CO) detector, hardwired, shall be installed per 1,000 square feet of living space (minimum of one per floor) in all houses where an attached garage or any combustion appliance is used.

(5) All joints in the air distribution system shall be sealed with duct mastic or approved equivalent.

(6) Total duct leakage measured in CFI at 25 Pascal's pressure, shall be less than or equal to 5% of the square footage served by each unit or equal to or less than 10% of the fan flow at high speed for each system installed.

(7) Airflow to each room will match designed airflow calculations to within +/- 10%.

(8) Exterior ventilation system installed per ASHRAE standards must perform at: kitchen - 100 CFM; bathroom - 20 CFM (continuous) or 50 CFM (spot); master bedroom - 20 CFM; other bedrooms -10 CFM.

(9) Provide a furnace or duct-mounted electronic/electrostatic air cleaner option for homebuyers.

(10) If central vacuum system is installed, it must exhaust to the outside.

(11) HVAC plenums on the supply side must be constructed of sheet metal (no duct board) with external insulation (minimum R-6 if located in unconditioned space).

(e) *Waste recycling*. The minimum standards for waste recycling are as follows:

(1) Construction waste (brick and wood) hauled from the building site by the builder shall be taken to a site or facility legally empowered to accept it for recycling as approved by the county and state in which the facility is located.

(2) Construction waste reduction/reuse plan written and followed by builder.

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(3) Donate unwanted building materials to a nonprofit building organization.

(4) Provide a built-in recycling center option with two or more bins (minimum of 5 gallons each) for homebuyers.

(5) Provide a composting system option installed in yard for homebuyer (manufactured or made at site).

(Code 1996, §§ 3.18.001—3.18.005; Ord. No. 720-02, 3/4/02)

ARTICLE IV. MOVING OR DISMANTLING BUILDINGS

Sec. 3.11.001. Permit required.

(a) *Moving structures.* It is unlawful for any person, firm, or corporation to move or cause to be moved a house or building from one location to another within the city, or to move a house or building from without the city to a location within the city, or to move a house or building within the city to a point outside the city, or to move a house or building through or across the city, without giving the city secretary notice of such intent 72 hours prior to such move, and the securing of a permit therefor as provided in this article.

(b) *Wrecking or dismantling structures.* It is unlawful for any person, firm, or corporation to wreck or dismantle any house or building, the value of which exceeds $1,000.00 within the city without securing a permit therefor as provided in this article.

(c) *Exception.* Nothing in this article will be applicable to buildings not exceeding 500 square feet used for storage, hobby, or workshop purposes.

(Code 1996, § 3.11.001)

~~Sec. 3.11.002. Permit fees.~~[144]

~~The city secretary shall issue a permit upon payment of a fee as provided for in the fee schedule found in appendix A of this code.~~

~~(Code 1996, § 3.11.002)~~

Sec. 3.11.003. Bond required.

(a) Any person, firm, or organization who desires to dismantle a building within the city or move a building or house into, within, or through the city is hereby required to post a bond with the office of the city secretary as a guarantee that the following conditions will be met:

(1) That the building moved into or within the city will be restored within 180 days to meet city building, plumbing, housing, and electrical codes, and that the grounds will be completely cleared and cleaned.

(2) That any damage done to the streets belonging to the city or privately owned property within the city shall be repaired and restored to its original condition before the damage was incurred. Such repairs must be made within a period of 30 days from the date of the moving of the building.

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[144] **Sec. 3.11.002. Permit fees.** Duplicative section is stricken as shown.

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(3) That any structure being torn down will be completely dismantled, and the grounds cleared, within 90 days after permit is issued.

(b) The amount of the bond for a house mover shall be $20,000.00. In addition, a performance bond in the amount of $5,000.00 shall be required of any person moving a building into the city or within the city which does not meet city construction codes. Such performance bond shall guarantee that the building will be restored in a manner that meets all city construction codes within 180 days.
(Code 1996, § 3.11.003)

Sec. 3.11.004. Route to be disclosed.

Prior to the securing of a permit to move a structure through or within the city, the proposed route of movement must be disclosed to the city secretary at least 24 hours prior to the move. The city secretary shall inform the police department of the proposed route, and the city secretary and the police chief shall set the time of the move through the city and approve the route.
(Code 1996, § 3.11.004)

Sec. 3.11.005. Construction codes applicable.

Any structure moved from one place to another within the city or any structure moved into the city limits shall be set on concrete slab or pier and beam foundation and shall comply with the city building, plumbing, housing, and electrical code specifications.
(Code 1996, § 3.11.005)

Sec. 3.11.006. Damages.

(a) If within a 30-day period after the building has been moved it shall appear to the city secretary that any damage has been done to the streets, wires, trees, or any other public or private property within the city, the city secretary shall assess the amount of such damage suffered by the city or the owner of such property damaged.

(b) The party who secured the permit to move the building shall be held responsible for any and all damages, and written notice shall be given to the party by certified mail notifying the permit holder that he has 30 days to compensate the city or private property owners for damage or repair, to the satisfaction of the city council, for any damage suffered as a result of the move.

(c) Should compensation or repairs not be made within 30 days, the city shall file suit in the appropriate court to collect damages brought about by the city's loss. In addition, the bond posted for the security of a permit as provided for in this article shall be ordered forfeited, and the sureties on the bond shall be immediately notified of the damages suffered and demand shall be made on the principal and surety of the bond for immediate payment.
(Code 1996, § 3.11.006)

Sec. 3.11.007. Conflicting provisions.

Nothing in this article shall be construed to overcome, modify, or in any way affect city zoning regulations. In the event of ambiguity or conflict arising of the comparison of this article and the zoning regulations, the zoning regulations shall be controlling.
(Code 1996, § 3.11.007)

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ARTICLE V. RENTAL REGISTRATION PROGRAM

Sec. 3.20.001. Purpose and intent.

This article is enacted to provice a residential rental property registration and inspection program within the city to ensure compliance with city and state life safety, health, fire, and zoning codes and to further provide a means to encourage both absentee and local landlords to correct violations and to maintain their residential rental property in a safe and habitable condition for tenants.
(Code 1996, § 3.20.001; Ord. No. O-03-16, 3/1/16)

Sec. 3.20.002. Definitions.[145]

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:

Building. Any structure having a roof that is built, maintained, or intended for use for the shelter or enclosure of persons, animals, or property of any kind.

~~Building official. The building official, or his/her designee, for the City of Glenn Heights, Texas. City. The City of Glenn Heights, Texas, including all areas within its corporate limits.~~
~~City council. The city council of the City of Glenn Heights, Texas.~~
~~City manager. The city manager for the City of Glenn Heights, Texas, or his/her designee.~~

Dwelling. Any enclosed space wholly or partly used or intended to be used for human habitation, living, sleeping, cooking, eating, and sanitation and shall include any outhouse or appurtenance belonging thereto.

Dwelling unit. A room or group of rooms located within a dwelling forming a single habitable unit with facilities used or intended to be used by a single family for human occupancy such as living, sleeping, cooking, and eating purposes.

Family. One or more persons related by blood, adoption or marriage, living and cooking together as a single housekeeping unit. A number of persons, but not exceeding two, living and cooking together as a single housekeeping unit, though not related by blood, adoption or marriage, shall be deemed to constitute a family.

Landlord. Any person who leases, barters, or rents a rental unit to another.

Manufactured home or HUD-code manufactured home. A structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections which, in the traveling mode, is eight body feet or more in width, 40 body feet or more in length, or, when erected on site is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes plumbing, heating, air- conditioning, and electrical systems. The term does not include a recreational vehicle as that term is defined by 24 C.F.R. section 3282.8(9). ~~A structure,~~

[145] **Sec. 3.20.002. Definitions.** A standardized introduction is substituted for consistency and unnecessary and duplicative definitions are stricken as shown.

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~~transportable in one or more sections, which in the traveling mode is 8 body feet (2438 body mm) or more in width or 40 body feet (12 192 body mm) or more in length, or, when erected on site, is 320 square feet (30 m2) or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein. This term shall include any structure that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary (HUD) for such homes. For the purpose of this article, a mobile home shall be considered a manufactured home.~~[146]

Multifamily rental unit. A multifamily structure containing three or more dwelling units located on a single lot designed to be occupied by three or more families living independently of one another, excluding hotels or motels.

Owner. Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

~~Person. An individual, corporation, business trust, estate, trust, partnership or association, two or more persons having a joint interest, or any other legal or community entity.~~

Property manager. The owner or the person appointed or hired by the owner to be responsible for the daily operation of a rental unit.

Rent. The offering, holding out or actual leasing of a rental unit to a person other than the owner and generally involves the payment of an amount of money as consideration for the right to occupy the rental unit, although other forms of consideration or no consideration at all may be involved.

Rental unit. A single-family dwelling, two-family dwelling (duplex), or a multifamily dwelling, or portion thereof that is rented or offered for rent as a residence.

Single-family dwelling. A freestanding building or manufactured home on one lot occupied by not more than one family.

Tenant. Any person who rents or leases a rental unit for living or dwelling purposes.

Two-family dwelling (duplex). A freestanding building or manufactured home on one lot, having separate accommodations for and occupied by not more than two families, one family in each dwelling unit.
(Code 1996, § 3.20.002; Ord. No. O-03-16, 3/1/16)

Sec. 3.20.003. Building official, power and duties.

The building official is shall administer and enforce this article. In addition to the powers and duties otherwise prescribed for the building official, the building official shall have the authority to:

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[146] **Sec. 3.20.002. Definitions—Contd.** V.T.C.A., Occupations Code, § 1201.004 prohibits this definition of manufactured home which deems mobile and manufactured home terms synonymous. See suggested correction.

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(1) Administer and enforce all provisions of this article.

(2) Keep records of all licenses issued.

(3) Adopt rules and regulations, not inconsistent with the provisions of this article, with respect to the form and content of application for registration, the investigation of applicants, and other matters incidental or appropriate to his powers and duties as may be necessary for the proper administration and enforcement of the provisions of this article.

(4) Conduct periodic inspections of residential rental properties throughout the city to ensure compliance with this article and all other city ordinances and state laws related to the purpose or enforcement of this article.

(Code 1996, § 3.20.003; Ord. No. O-03-16, 3/1/16)

Sec. 3.20.004. Registration required.[147]

(a) Each owner of a rental unit within the city shall register each such rental unit with the city in accordance with procedures contained in this article. A separate registration shall be required for each rental unit for each registration. ~~Every owner of a rental unit as of the date of adoption of this article shall complete an initial registration application and pay an initial registration fee on or before May 1, 2016.~~

(b) Unless otherwise provided in this section, each owner of a rental unit within the city shall make application for registration with the city and schedule an inspection of the rental unit with the building official within 30 days after the date of acquiring ownership of a rental unit or within 30 days after the date an owner of a dwelling unit converts the dwelling unit into a rental unit.

(c) Application for rental registration shall be made upon a form provided by the city for such purpose, and shall include, at a minimum, the following information:

(1) Owner's name, address, and work and home telephone number, driver's license number, or identification card number and state of issuance of the owner;

(2) If owner is a partnership, the names of all partners, the principal business address, and telephone number of each partner;

(3) If owner is a corporation, the person registering must state whether the corporation is organized under the laws of this state or is a foreign corporation, and must show the mailing address, business location, telephone number, name of the main individual in charge of the local office of such corporation, if any, and the names of all officers and directors or trustees of such corporation, and, if a foreign corporation, the place of incorporation;

(4) Name, address and telephone number of the property manager or person having the authority to act on behalf of the owner;

(5) Street address of the rental unit; and

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[147] **Sec. 3.20.004. Registration required.** Obsolete text is stricken.

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(6) Signature of the owner or owner's agent.

(d) The city shall, within 30 days after receipt of the registration application, either issue a certificate of registration or notify the owner that the application does not comply with the requirements of this article.

(e) Unless otherwise provided in this article, a certificate of registration shall be valid for each rental unit until such time as there is a change in ownership for that unit. A change in ownership shall be deemed to have occurred upon any of the following:

(1) Any change in the individual ownership of the unit;

(2) Any change in the ownership of any entitys in whose names the current registration for the unit is issued;

(3) Where the unit is managed by a property manager, upon any change in the individual property manager or the property manager's ownership; or

(4) Upon the dissolution of any entity having ownership over the unit or upon the entity petitioning for reorganization under the Bankruptcy Code, being adjudged bankrupt, or becoming insolvent or having a receiver appointed due to the insolvency.

(f) A nonrefundable registration fee ~~in an amount set forth in appendix A of this code~~ shall be paid to the city by the owner with at the same time as the registration application for each rental unit is submitted to the city. Any registration fee required to be paid under this article shall be deemed late if received by the city after the due date established by the article or the building official, as the case may be, and the owner shall be required to submit a nonrefundable late registration fee ~~in an amount set forth in appendix A of this code~~.

(h) A nonrefundable inspection fee ~~in an amount set forth in appendix A of this code~~ shall be paid to the city by the owner for the inspection of each rental unit at the same time the registration fee is paid. A certificate of registration shall not be issued for a rental unit until the registration and inspection fees for the unit are paid in full to the city. The inspection fee shall be required under this article regardless of whether an inspection occurs and regardless of whether the owner or tenant has denied the building official access to the rental unit to complete the inspection.

(i) No rental unit may be occupied by a tenant without first having a valid certificate of registration. It is an offense for an owner of a rental unit within the city to permit or allow a tenant to occupy any rental unit without first being issued a valid certificate of registration for the rental unit in accordance with this article. If an owner is required to register more than one rental unit, the owner's failure to register any individual rental unit shall constitute a separate offense. Every day that the owner continues to fail to register a rental unit within the city shall also constitute a separate offense.

(j) It is unlawful for any person to file a false rental registration application with the city.
(Code 1996, § 3.20.004; Ord. No. O-03-16, 3/1/16)

Sec. 3.20.005. Change of ownership registration.

(a) A certificate of registration issued under this article shall remain in effect until such time as a change of ownership occurs in the manner defined in section 3.20.004(e).

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(b) Upon a change of ownership, the new owner of each rental unit shall complete a change of ownership registration application for each unit in the manner provided by this article and deliver the same together with all applicable registration and inspection fees to the building official's office within 30 days of the change in ownership. A change in ownership registration application submitted after 30 days following the change of ownership shall be considered a late registration and the owner shall pay to the city a nonrefundable late registration fee in an amount set forth in appendix A of this code.

(c) The building official shall not be required to send notice to an owner for a change of ownership registration required under this section.
(Code 1996, § 3.20.004; Ord. No. O-03-16, 3/1/16)

Sec. 3.20.006. Inspection required upon change in occupancy.

(a) The owner shall provide written notice to the building official upon every change in occupancy. A change in occupancy shall mean a change in all tenants occupying a rental unit. The notice required by this section shall clearly indicate whether there was a change in tenants or whether the rental unit was vacated by the previous tenants and is presently unoccupied.

(b) An inspection of the rental unit shall be required upon the city's receipt of written notice of a change in occupancy required to be submitted pursuant to this section. Inspections required under this section shall be performed in the same manner as and in accordance with the applicable inspection procedures established by this article for the rental unit.
(Code 1996, § 3.20.006; Ord. No. O-03-16, 3/1/16)

Sec. 3.20.007. Single, two-family dwellings and manufactured home inspections.

(a) The building official shall annually inspect the exterior of a single-family, two-family or manufactured home rental unit to determine compliance with applicable state and local laws. The building official shall provide written notice of the date and time that the exterior inspection will be conducted. Upon request or consent of the owner if the rental unit is vacant, or tenants if the rental unit is occupied, the building official may conduct an inspection of the interior of a rental unit.

(b) If the owner or tenant fails to make the exterior of the rental unit available for inspection, the building official may conduct the inspection from the public right-of-way. If the owner or tenant does not provide consent for the inspection and the building official must enter onto the property to conduct the inspection, the building official shall be required to obtain a warrant in the manner provided by subsection (c) below prior to entry on the property.

(c) The building official or his agent shall enforce the provisions of this article upon presentation of proper identification to the owner or tenant in charge of any rental unit and with the owner or tenant's permission, may inspect the rental unit in accordance with this section between the hours of 8:00 a.m. and 6:00 p.m. The building official's authority to conduct both exterior and interior inspections is subject to all limitations provided in state and federal law. If entry is refused by the owner or any occupant or if consent to enter the rental unit could not be obtained, the building official is authorized to seek a warrant permitting the building official's entry. Any warrant issued will constitute authority for the building official to enter upon and inspect the premises described therein.
(Code 1996, § 3.20.007; Ord. No. O-03-16, 3/1/16)

Sec. 3.20.008. Multifamily inspections.

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(a) The building official shall inspect all building exteriors, all exterior and interior common areas of multifamily rental units to determine compliance with applicable state and local laws on an annual basis and at any other times necessary to ensure compliance with this article. Upon request or consent of the owner if the rental unit is vacant, or tenants if the rental unit is occupied, the building official may conduct an inspection of the interior of a rental unit.

(b) Within 30 days after the annual registration of a multifamily rental unit, the owner of the unit shall request the building official to conduct an inspection and shall make the unit available for inspection by the building official as provided in subsection (a) above. The owner and the building official shall agree on a reasonable date and time for the required inspection. Upon each inspection by the building official, all building exteriors, all exterior common areas, interior common areas and all other inspected premises of the multifamily rental unit shall be in compliance with all applicable state laws and local ordinances.

(c) The building official or his agent shall enforce the provisions of this article upon presentation of proper identification to the owner or tenant in charge of any rental unit and with the owner or tenant's permission, may inspect the rental unit in accordance with this section between the hours of 8:00 a.m. and 6:00 p.m. The building official's authority to conduct interior inspections is subject to all limitations provided in state and federal law. If entry is refused by the owner or any occupant or if consent to enter the rental unit could not be obtained, the building official is authorized to seek a warrant permitting the building official's entry. Any warrant issued will constitute authority for the building official to enter upon and inspect the premises described therein.
(Code 1996, § 3.20.008; Ord. No. O-03-16, 3/1/16)

Sec. 3.20.009. Penalty.

Any person who violates this article shall be prosecuted within the limits provided by law and, upon conviction, shall be punished by a fine not to exceed $500.00 for each offense. Each day that a violation continues shall constitute a separate offense. Unless otherwise specified in this article, no culpable mental state is required for the commission of an offense under this article.
(Code 1996, § 3.20.009; Ord. No. O-03-16, 3/1/16)

Sec. 3.20.010. Other remedies.

(a) Nothing in this article shall prohibit the city from enforcing any administrative, civil or criminal enforcement remedies concurrently herewith or availing itself of any other remedy allowed by law in connection with the administration or enforcement of this article.

(b) The city may refuse to provide city utility service or approve an application for city utility service for a multifamily rental unit that is vacant at the time a registration application is required to be submitted for the unit until such time as the application is approved by the city and all applicable fees are paid.

(c) The city may initiate termination of city utility services or place a hold on reconnecting or reinstituting utility services that have been terminated, as the case may be, to or for a dwelling unit that is substandard, or unfit for human habitation by certifying, in writing, that the dwelling unit or property is substandard or unfit for human habitation. Upon initiating a utility termination or hold, the city shall promptly notify the owner by written notice. The owner may appeal the request by serving the building official with a written notice of appeal within 5 days from the date the notice was mailed. Upon receipt of a timely appeal, the building official shall promptly review the owner's written notice of appeal for

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sufficiency and shall provide the owner with written information describing the appeal process. The city's determination upon appeal shall be in all things final and the owner shall not be entitled to further appeal under this subsection.
(Code 1996, § 3.20.010; Ord. No. O-03-16, 3/1/16)

~~Sec. 3.13.002. International Property Maintenance Code.~~[148]

~~The International Property Maintenance Code, **2021 edition** with amendments, including appendix A "boarding standard," a copy of which is on file in the office of the city secretary, is hereby adopted and designated as the property maintenance code of the city, the same as though such code were copied in full herein.~~

~~(b) Amendments to the International Property Maintenance Code. The following sections of the International Property Maintenance Code, **2015 edition**, are hereby amended to read as follows:~~

~~101.1 Title. These regulations shall be known as the International Property Maintenance Code of the City of Glenn Heights, Texas.~~

~~(2) Section 101.3; change to read as follows:~~

~~101.3 Intent. This chapter shall be constructed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required within. Repairs, alterations, additions to and change of occupancy in existing buildings shall comply with the building codes as adopted by the city.~~

~~(3) Section 103.4; delete the section.~~

~~(4) Section 103.5; change to read as follows:~~

~~103.5 Fees. The fees for activities and services performed by the department in carrying out its responsibilities under This chapter shall be as indicated in the city's master fee schedule.~~

~~(5) Section 104.1; change to read as follows:~~

~~104.1 General. The building official, code official or the city manager's designee(s) shall enforce the provisions of this chapter.~~

~~(6) Section 106.2; delete the section.~~

~~(7) Section 106.3; delete the section.~~

~~(8) Section 106.4; delete the section.~~

~~(9) Section 106.5; delete the section.~~

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[148] **Sec. 3.13.002. International Property Maintenance Code.** See footnote at section 3.04.001 in article II.

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~~(10) Section 107.1; change to read as follows:~~

~~107.1 Notice to person responsible. Whenever the code official determines that there has been a violation of this chapter or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in sections 107.2 and 107.3 to the person responsible for the violation as specified in this chapter as a matter of due process. Notices for condemnation procedures shall also comply with section 108.3.~~

~~(11) Section 107.5; delete the section.~~

~~(12) Section 110.1; change to read as follows:~~

~~110.1 General. The code official or buildings standards commission shall order the owner of any structure, which in their judgment is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, to demolish and remove such structure.~~

~~(13) Section 111.1; change to read as follows:~~

~~111.1 Application for appeal. Any person directly affected by a decision of the code official or a notice under This chapter shall have the right to appeal to the building standards commission, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the intent of this chapter or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this chapter do not fully apply, or the requirements of this chapter are adequately satisfied by other means. A person's exercise of an appeal does not preclude or abate criminal enforcement for a violation of this chapter.~~

~~(14) Section 111.2 through section 111.8; delete these sections.~~

~~(15) Section 112.4; change to read as follows:~~

~~112.4 Failure to comply. Any person who shall continue any work after having been served with a stop-work order, except such work as that person is directed to perform to remove a violation or unsafe conditions, shall be criminally liable for such offense in a fine amount not to exceed the sum of two thousand dollars ($2,000.00).~~

~~(16) Section 302.4; delete the section.~~

~~(17) Section 303.2; change to read as follows:~~

~~303.2 Enclosures. Private swimming pools, hot tubs and spas, containing water more than 24 inches (610 mm) in depth shall be completely surrounded by a fence or barrier at least 48 inches (1,219.2 mm) in height above the finished ground level measured on the side of the barrier away from the pool. The maximum height for the fence or barrier shall not exceed 96 inches (2,438.4 mm). Gates and doors in such barriers shall be self-closing and self- latching. Where the self-latching device is less than 54 inches (1,372 mm) above the bottom of the gate, the release mechanism shall be located on the poolside of the~~

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~~gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of 6 inches (152 mm) from the gatepost. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.~~

~~(Text of exception unchanged)~~

~~(18) Section 304.3.1 and 304.3.2; add to read as follows:~~

~~304.3.1 Building numbers required. For multifamily dwellings, each building shall have the building number placed in a position to be plainly legible and visible. Each building number shall be illuminated so that the number is plainly visible from the street level at night.~~

~~304.3.2 Unit/apartment numbers on front doors. For multifamily dwellings, each apartment or unit number shall be plainly legible and visible on the front door of each unit. These numbers shall contrast with their background.~~

~~(19) Section 304.14; change to read as follows:~~

~~304.14 Insect screens. Every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition.~~

~~(Text of exception unchanged)~~

~~(20) Section 304.18.1; change to read as follows:~~

~~304.18.1 Doors. Doors providing access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with a deadbolt lock designed to be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort and shall have a lock throw of not less than 1 inch (25 mm). Such deadbolt locks shall be installed according to the manufacturer's specifications and maintained in good working order. For purposes of this section, a sliding bolt shall not be considered an acceptable deadbolt lock. Front doors shall also be equipped with a 180° peephole.~~

~~(21) Section 602.3; change to read as follows:~~

~~602.3 Heat supply. Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat to maintain a temperature of not less than 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms. (Text of exceptions 1 and 2 unchanged)~~

~~(22) Section 602.4; change to read as follows:~~

~~602.4 Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat to maintain a temperature of not less than 65° during the period the spaces are occupied.~~
~~(Code 1996, § 3.13.002; Ord. No. O-10-10, 6/21/10; Ord. No. O-07-22, 6/7/2022; Ord. No. O-12-24, § 8, 6-18-2024)~~

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Chapter 52

DESIGN AND CONSTRUCTION STANDARDS

ARTICLE I. IN GENERAL

Sec. 15.04.001. Building materials.

Notwithstanding any other law, any building product or material may be used in the construction, renovation, maintenance, or other alteration of a residential or commercial building if:

(1) The building product or material is approved for use by a national model code published within the last three code cycles that applies to the construction, renovation, maintenance, or other alteration of the building or

(2) The standard for a building product, material, or aesthetic method in construction, renovation, maintenance, or other alteration of a residential or commercial building is more stringent than a standard for the product material or aesthetic method under a national model code published within the last three code cycles that applies to the construction, renovation, maintenance, or other alteration of the building.

The provisions of this subsection are subject to the exceptions set out in V.T.C.A., Government Code, § 3000.002(b).
(Code 1996, § 15.04.001; Ordinance O-11-19 adopted 11/12/19)

Sec. 15.05.001. Variance and special exceptions.

A person seeking a variance or special exception to any of the requirements of this chapter shall submit a written application for such variance or special exception to the board of adjustment as provided in city zoning regulations. The city zoning board of adjustment is granted authority to determine such applications for variance or special exception.
(Code 1996, § 15.05.001;Ordinance O-03-20 adopted 5/5/20)

ARTICLE II. RESIDENTIAL DISTRICT STANDARDS

Sec. 15.04.002. Mailboxes.

Location, height and distance from the roadway of all mailboxes must be approved by the U. S. Post Office.

(1) Single-unit mailbox. The exterior veneer of the support structure for mailboxes installed to serve a single lot or tract must be constructed of like and similar natural or manmade masonry material to that of the majority of the primary structure located on the lot or tract served by said mailbox.

(2) Multi-unit mailboxes. The exterior veneer of the pedestal and exterior cabinet for each multi- unit mailbox must be 100 percent brick or other such manmade masonry material approved in this division.

(3) Concrete foundation required. Each single-family or multi-unit mailbox must be constructed with a concrete foundation of not less than three inches in thickness and in conformance with the city's adopted standard construction details.

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(Code 1996, § 15.04.002; Ordinance O-03-09, adopted 4/20/09 ; Ordinance O-19-11, sec. 4(3) adopted 12/5/11)

Sec. 15.04.003. Accessory buildings.

Accessory buildings, other than agricultural structures, with a floor area of 250 square feet or larger must be "site built" and conform to the following conditions:

(1) The exterior must be constructed of like and similar materials to those of the primary structure.

(2) In single-family residential districts A, SF-E and SF-1 the accessory building, including any item attached to its roof, shall not exceed a maximum height of 15 feet at its tallest point. In SF-2, SF-3, SF-4 and MH the maximum height shall be ten feet at its tallest point.

(3) The accessory building shall be constructed with a roof pitch matching that of the primary structure.

(4) Accessory buildings located closer than ten feet from a side or rear lot line of a corner lot, must be screened from the side and rear with an opaque fence of a minimum six feet in height.
(Code 1996, § 15.04.003; Ordinance O-03-09, adopted 4/20/09 ; Ordinance O-19-11, sec. 4(3) adopted 12/5/11)

Sec. 15.04.004. Driveways.

(a) Driveways must contain a minimum concrete paved width of 12 feet from the curb to the required driveway apron.

(b) No garage shall open to the road frontage giving public view into the interior. Front-entry, J-lot garages must be side-loaded and not swing-loaded (i.e., the garage entrance is located away from the front door of the home such that a vehicle entering the garage, or parking in front of it, does not pass/park in front of the front door, the garage door faces a side lot line rather than the front door of the residence).

(c) A concrete paved area ("driveway apron") must be constructed immediately adjacent to the entry of each garage. Each driveway apron must have a minimum concrete paved width of 25 feet as measured parallel to the garage door opening and a minimum concrete paved depth of 25 feet as measured perpendicular to the garage door opening. Driveway apron construction must meet or exceed the city's adopted building regulations for paving of residential driveways.

(d) A minimum distance of 27 feet as measured from the side lot line to the garage door opening is required in addition to an adequate, paved turnaround (e.g., hammerhead) for on-site maneuvering.

[GRAPHIC - Entry diagram]

(Code 1996, § 15.04.004; Ordinance O-03-09, adopted 4/20/09 ; Ordinance O-19-11, sec. 4(3) adopted 12/5/11)

Sec. 15.04.005. Sidewalks.

(a) In all single-family residential districts except agricultural "A" and the provisional districts, SF-4 and MH, an uninterrupted concrete sidewalk, a minimum width of four feet, shall be constructed parallel

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with the residential street connecting one property with the next for a continuous pedestrian walking path. In the MF provisional district the sidewalk paralleling the parking lot shall be a minimum of six feet wide allowing for head-in parking and a two-foot bumper overhang.

(b) In all single-family residential and provisional districts a concrete walkway with a minimum paved width of four feet shall either be constructed from the front sidewalk to the front door of each primary structure or may be constructed to attach to the driveway if the driveway is increased in width by an additional three feet in concrete paved width.
(Code 1996, § 15.04.005; Ordinance O-03-09, adopted 4/20/09 ; Ordinance O-19-11, sec. 4(3) adopted 12/5/11)

Sec. 15.04.007. Special requirements.

(a) Recreational vehicles, travel trailers, camper trailers, campers, trailers, boats, boat trailers, motor homes or other recreational vehicles or equipment may not be used for on-site dwelling purposes, and shall be parked and stored on an improved surface and behind the rear building facade of the main structure (i.e., the house) and screened from public view at all times of the year by a fence or perennial vegetation.

(b) Electrical fencing and barbed wire allowed in the agricultural "A" district on parcels of three acres or larger for containment of farm animals and is prohibited in any other zoning district.

(c) Open storage is prohibited (except for usable materials for the resident's personal use or consumption such as firewood, garden materials, farm equipment that is in usable and running condition, etc., which cannot be stored in any required setback and which shall be screened from view of public streets and neighboring properties).

(d) The elimination of any required garage space by enclosing the garage with a stationary building wall shall be prohibited unless another garage of the then-required size (i.e., that has the same number of parking spaces) is built elsewhere, simultaneously with the garage enclosure, on the same lot as the primary structure within the proper setbacks, not exceeding the maximum lot coverage, etc.

(e) Swimming pools, spas and hot tubs shall comply with the International Swimming Pool and Spa Code adopted by the city ~~Standard Swimming Pool Code and the Uniform Swimming Pool, Spa and Hot Tub Code, as adopted and as may be amended,~~ and provisions of this Code pertaining to same. All swimming pools shall be enclosed behind the main structure.[149]

(f) Site plan approval shall be required for any nonresidential use (e.g., school, church, childcare center, private recreation facility, etc.) within a residential district. Any nonresidential land use which may be permitted in this district shall conform to the "NS" - neighborhood service district standards with respect to building setbacks, landscaping, exterior building construction, screening requirements, lighting, signage, etc.

(g) All utility service lines shall be constructed underground.
(Code 1996, § 15.04.007; Ordinance O-03-09, adopted 4/20/09 ; Ordinance O-19-11, sec. 4(3) adopted 12/5/11)

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[149] **Sec. 15.04.007. Special requirements.** Reference to current swimming pool and spa code is corrected as shown.

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ARTICLE III. NON-RESIDENTIAL DISTRICT STANDARDS

Sec. 15.04.031. Driveway spacing.[150]

(a) The following standards shall apply to driveway spacing in nonresidential districts:

(1) Arterial street. One driveway per 200 linear feet of frontage.

(2) Collector street. One driveway per 100 linear feet of frontage.

(3) Local street. One driveway per 50 linear feet of frontage, unless a platted lot's frontage is less than 50 feet but is in conformance with the minimum lot frontage, in which case one driveway shall be allowed per platted lot.

(4) Minimum distance from driveway to street corner. 200 linear feet for arterial or collector streets or 75 linear feet local/residential streets as measured from the street corner radius point of tangency.

(b) Anything less than the minimum distances provided in this section may be permitted via site plan approval by city council, upon recommendation by the planning and zoning commission, provided that the lesser distance is subject to generally established engineering practices and is approved in writing by the city manager or his/her designee (such as the city's police chief) or, if located on a state roadway, it is approved in writing by the local representative of the state department of transportation.

(c) In the event lots are too narrow to accommodate the required driveway spacing the city will require shared driveways between projects and encourages shared parking lots.
(Code 1996, § 15.04.031; Ordinance O-03-09, adopted 4/20/09 ; Ordinance O-19-11, sec. 4(3) adopted 12/5/11)

Sec. 15.04.032. Sidewalks.

In all nonresidential districts, including all planned developments, an uninterrupted concrete sidewalk, a minimum width of six feet shall be constructed parallel with all streets and thoroughfares.
(Code 1996, § 15.04.032; Ordinance O-03-09, adopted 4/20/09 ; Ordinance O-19-11, sec. 4(3) adopted 12/5/11)

~~**Sec. 15.04.033. Building materials.**[151]~~
~~Notwithstanding any other law, any building product or material may be used in the construction, renovation, maintenance, or other alteration of a residential or commercial building if the building product or material is approved for use by a national model code (e.g. IRC, IBC) published within the last three code cycles that applies to the construction, renovation, maintenance, or other alteration of a residential or commercial building if the standard is more stringent than a standard for the product, material, or aesthetic method under a national model code published within the last three code cycles that applies to the construction, renovation, maintenance, or other alteration of the building. The provisions of this section are subject to the exceptions set out in section 3000.002(b) of the Government Code.~~

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[150] **Sec. 15.04.031. Driveway spacing.** Introductory text is added as shown.
[151] **Sec. 15.04.033. Building materials.** Duplicative text is stricken. See article I.

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~~(Code 1996, § 15.04.033; Ordinance O-01-20, sec. 1, adopted 3/17/20)~~

Sec. 15.04.034. Swimming pools, spas, and hot tubs.[152]

Swimming pools, spas and hot tubs shall comply with the International Swimming Pool and Spa Code adopted by the city ~~Standard Swimming Pool Code and the Uniform Swimming Pool, Spa and Hot Tub Code, as adopted and as may be amended,~~ and provisions of this Code pertaining to same. All swimming pools shall be enclosed behind the main structure.
(Code 1996, § 15.04.034; Ordinance O-03-09, adopted 4/20/09 ; Ordinance O-19-11, sec. 4(3) adopted 12/5/11)

Sec. 15.04.035. Site plan review.

Review and approval of a site plan by the planning and zoning commission and the city council (in accordance with section VIII.13 of the city zoning regulations) shall be required for any tract/lot within the nonresidential district. No certificate of occupancy shall be issued unless all construction and development conforms to the site plan as approved by the city council.
(Code 1996, § 15.04.035; Ordinance O-03-09, adopted 4/20/09 ; Ordinance O-19-11, sec. 4(3) adopted 12/5/11)

Sec. 15.04.036. Building facade plans (elevations).

Building facade (i.e., elevation) plans shall be submitted for review and approval along with the site plan. Facade plans shall clearly show how the buildings will look from all sides, with particular detail given as viewed from the major thoroughfare upon which the property faces or sides, and will portray a reasonably accurate depiction of the materials and colors to be used. The city manager or his/her designee may, as he/she deems appropriate, require submission of additional information and materials (possibly actual samples of materials to be used) during the site plan review process. Building facade plans (elevations) shall be acted upon by the planning and zoning commission and require approval of the city council. The plans shall be made an exhibit to the ordinance approving the zoning or project.
(Code 1996, § 15.04.036; Ordinance O-03-09, adopted 4/20/09 ; Ordinance O-19-11, sec. 4(3) adopted 12/5/11)

Sec. 15.04.037. Specific on-site storage prohibited.

Recreational vehicles, travel trailers, motor homes or storage units may not be used for on-site dwelling, residential or nonresidential purposes and shall not be stored on premises. In the commercial “C” and industrial “I” districts the storage of any of these items require a specific use permit (SUP).
(Code 1996, § 15.04.037; Ordinance O-03-09, adopted 4/20/09 ; Ordinance O-19-11, sec. 4(3) adopted 12/5/11)

Sec. 15.04.038. Signs.

All signs shall comply with the city’s sign regulations.
(Code 1996, § 15.04.038; Ordinance O-03-09, adopted 4/20/09 ; Ordinance O-19-11, sec. 4(3) adopted 12/5/11)

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[152] **Sec. 15.04.034. Swimming pools, spas, and hot tubs.** Reference to current swimming pool and spa code is corrected as shown.

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Chapter 54[153]

FLOODPLAIN MANAGEMENT

ARTICLE I. IN GENERAL

Sec. 3.12.001. Findings and purpose.

(a) Purpose. The Flood Control and Insurance Act, V.T.C.A., Water Code, § 16.311 et seq. ~~Texas Water Code, section 16.315~~, requires local governmental units to adopt regulations designed to minimize flood losses.

(b) Findings of fact.

(1) The flood hazard areas of the city are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

(2) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

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

(1) Protect human life and health;

(2) Minimize expenditure of public money for costly flood control projects;

(3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) Minimize prolonged business interruptions;

(5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;

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

(7) Ensure that potential buyers are notified that property is in a flood area.

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

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[153] **Chapter 54. Floodplain Management.** I note that this model ordinance is more than a decade old. The city may wish to adopt a more recent model.

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following methods:

(1) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;

(2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;

(4) Control filling, grading, dredging and other development which may increase flood damage;

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
(Code 1996, § 3.12.001; Ord. No. O-05-13, 3/19/13)

Sec. 3.12.002. Definitions.[154]

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:

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

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

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

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

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

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

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

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[154] **Sec. 3.12.002. Definitions.** A standardized introduction is substituted for consistency.

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

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

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

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

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

Elevated building. For insurance purposes, a nonbasement building, which has its lowest elevated floor, raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

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

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

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

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

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

Flood insurance study (FIS). See flood elevation study.

Flood or flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters or the unusual and rapid accumulation or runoff of surface waters from any source.

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

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

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

Floodplain or floodprone area. Any land area susceptible to being inundated by water from any source (see definition of flooding).

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

Floodway. See regulatory floodway.

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

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

Historic structure. Any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary [of the Interior] to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the secretary of the interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the secretary of the interior or directly by the secretary of the interior in states without approved programs.

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

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

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

Manufactured home. A HUD-code manufactured home, which is a structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections which, in the traveling mode, is eight body feet or more in width, 40 body feet or more in length, or, when erected on site is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes plumbing, heating, air- conditioning, and electrical systems. The term does not include a recreational vehicle as that term is defined by 24 C.F.R. section 3282.8(9). ~~A structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle."~~[155]

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

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

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

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

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[155] **Sec. 3.12.002. Definitions—Cntd.** The mandatory definition is substituted and is consistent with the manufactured home chapter definition. See footnotes in that chapter.

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Recreational vehicle. A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projections, designed to be self-propelled or permanently towable by a light duty truck, and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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

Riverine. Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc. Special flood hazard area. See area of special flood hazard.

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

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

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

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

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

(2) Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

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

Violation. The failure of a structure or other development to be fully compliant with the community’s

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

Water surface elevation. The height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.
(Code 1996, § 3.12.002; Ord. No. O-05-13, 3/19/13)

Sec. 3.12.019. Penalties for noncompliance.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this article and other applicable regulations. Violation of the provisions of this article by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this article or fails to comply with any of its requirements shall upon conviction thereof be fined not more than $500.00 for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.
(Code 1996, § 3.12.019; Ord. No. O-05-13, 3/19/13)

Sec. 3.12.003. Lands to which this article applies.

This article shall apply to all areas of special flood hazard within the jurisdiction of the city.
(Code 1996, § 3.12.003; Ord. No. O-05-13, 3/19/13)

Sec. 3.12.004. Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering report entitled, “The Flood Insurance Study (FIS) for Ellis County, Texas and Incorporated Areas,” dated June 3, 2013, with accompanying flood insurance rate maps (FIRM) dated June 3, 2013, and “The Flood Insurance Study (FIS) for Dallas County, Texas and Incorporated Areas,” dated August 23, 2001, with accompanying flood insurance rate maps (FIRM) dated August 23, 2001, and any revisions thereto are hereby adopted by reference and declared to be a part of this article.
(Code 1996, § 3.12.004; Ord. No. O-05-13, 3/19/13)

Sec. 3.12.005. Establishment of development permit.

A floodplain development permit shall be required to ensure conformance with the provisions of this article.
(Code 1996, § 3.12.005; Ord. No. O-05-13, 3/19/13)

Sec. 3.12.006. 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.
(Code 1996, § 3.12.006; Ord. No. O-05-13, 3/19/13)

Sec. 3.12.007. Abrogation and greater restrictions.

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This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
(Code 1996, § 3.12.007; Ord. No. O-05-13, 3/19/13)

Sec. 3.12.008. Interpretation.

In the interpretation and application of this article, all provisions shall be considered as minimum requirements, liberally construed in favor of the governing body, and deemed neither to limit nor repeal any other powers granted under state statutes.
(Code 1996, § 3.12.008; Ord. No. O-05-13, 3/19/13)

Sec. 3.12.009. Warning and disclaimer of liability.

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by manmade or natural causes. This article does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder.
(Code 1996, § 3.12.009; Ord. No. O-05-13, 3/19/13)

Sec. 3.12.010. Designation of the floodplain administrator.

The director of public works is appointed the floodplain administrator to administer and implement the provisions of this chapter and other appropriate sections of 44 CFR (Emergency Management and Assistance - National Flood Insurance Program regulations) pertaining to floodplain management.
(Code 1996, § 3.12.010; Ord. No. O-05-13, 3/19/13)

Sec. 3.12.011. Duties and responsibilities of the floodplain administrator.

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

(1) Maintain and hold open for public inspection all records pertaining to the provisions of this article.

(2) Review permit applications to determine whether to ensure that the proposed building site project, including the placement of manufactured homes, will be reasonably safe from flooding.

(3) Review, approve or deny all applications for development permits required by adoption of this article.

(4) Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies (including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.

(5) Where interpretation is needed as to the exact location of the boundaries of the areas of special

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flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the floodplain administrator shall make the necessary interpretation.

(6) Notify, in riverine situations, adjacent communities and the state coordinating agency which is the Texas Water Development Board (TWDB), 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 3.12.004, 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 sections 3.12.014 through 3.12.018.

(9) When a regulatory floodway has not been designated, the floodplain administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(10) Under the provisions of 44 CFR chapter 1, section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than 1 foot, provided that the community first completes all of the provisions required by section 65.12.
(Code 1996, § 3.12.011; Ord. No. O-05-13, 3/19/13)

Sec. 3.12.012. Permit procedures.

(a) Application for a floodplain development permit shall be presented to the floodplain administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

(1) Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;

(2) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;

(3) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of section 3.12.015(2);

(4) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;

(5) Maintain a record of all such information in accordance with section 3.12.011(1);

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(b) Approval or denial of a floodplain development permit by the floodplain administrator shall be based on all of the provisions of this article and the following relevant factors:

(1) The danger to life and property due to flooding or erosion damage;

(2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(3) The danger that materials may be swept onto other lands to the injury of others;

(4) The compatibility of the proposed use with existing and anticipated development;

(5) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(6) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;

(7) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;

(8) The necessity to the facility of a waterfront location, where applicable;

(9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.

(Code 1996, § 3.12.012; Ord. No. O-05-13, 3/19/13)

Sec. 3.12.013. Variance procedures.

(a) The appeal board, as established by the community, shall hear and render judgment on requests for variances from the requirements of this article.

(b) The appeal board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this article.

(c) Any person or persons aggrieved by the decision of the appeal board may appeal such decision in the courts of competent jurisdiction.

(d) The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

(e) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this article.

(f) Variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in section 3.12.012(b) have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance

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increases.

(g) Upon consideration of the factors noted above and the intent of this article, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this article (section 3.12.001(c)).

(h) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(i) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(j) Prerequisites for granting variances:

(1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(2) Variances shall only be issued upon:

(A) Showing a good and sufficient cause;

(B) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(C) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(3) Any application to which a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(k) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

(1) The criteria outlined in subsections (a)–(i) of this section are met; and

(2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
(Code 1996, § 3.12.013; Ord. No. O-05-13, 3/19/13)

ARTICLE II. STANDARDS AND SPECIFICATIONS

Sec. 3.12.014. General standards for flood hazard reduction.

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

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(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 or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

(6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters; and

(7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
(Code 1996, § 3.12.014; Ord. No. O-05-13, 3/19/13)

Sec. 3.12.015. Specific standards for flood hazard reduction.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in sections 3.12.004, 3.12.011(8), or 3.12.016(c), the following provisions are required:

(1) Residential construction. New construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to or above the base flood elevation. A registered professional engineer or land surveyor shall submit a certification to the floodplain administrator that the standard of this subsection as proposed in section 3.12.012(a)(1), is satisfied.

(2) Nonresidential construction. New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to 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 or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the floodplain administrator.

(3) Enclosures. New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic

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flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

(A) A minimum of two openings on separate walls having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided.

(B) The bottom of all openings shall be no higher than 1 foot above grade.

(C) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(4) Manufactured homes.

(A) Require that all manufactured homes to be placed within zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

(B) Require that manufactured homes that are placed or substantially improved within zones A1-30, AH, and AE on the community's FIRM on sites:

(i) Outside of a manufactured home park or subdivision;

(ii) In a new manufactured home park or subdivision;

(iii) In an expansion to an existing manufactured home park or subdivision; or

(iv) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood; be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(C) Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of subsection (4) of this section be elevated so that either:

(i) The lowest floor of the manufactured home is at or above the base flood elevation; or

(ii) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(5) Recreational vehicles. Require that recreational vehicles placed on sites within zones A1-30, AH, and AE on the community's FIRM either:

(A) Be on the site for fewer than 180 consecutive days;

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(B) Be fully licensed and ready for highway use; or

(C) Meet the permit requirements of section 3.12.012(a), and the elevation and anchoring requirements for "manufactured homes" in subsection (4) of this section.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.
(Code 1996, § 3.12.0152; Ord. No. O-05-13, 3/19/13)

Sec. 3.12.016. Standards for subdivision proposals.

(a) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with sections 3.12.001(b), (c), and (d) of this article.

(b) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet floodplain development permit requirements of section 3.12.005; section 3.12.012; and the provisions of sections 3.12.014–3.12.018 of this article.

(c) Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to section 3.12.004 or section 3.12.011(8) of this article.

(d) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

(e) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
(Code 1996, § 3.12.016; Ord. No. O-05-13, 3/19/13)

Sec. 3.12.017. Flood hazard reduction standards for areas of shallow flooding (AO/AH zones).

Located within the areas of special flood hazard established in section 3.12.004, are areas designated as shallow flooding. These areas have special flood hazards associated with flood depths of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

(1) All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified).

(2) All new construction and substantial improvements of nonresidential structures;

(A) Have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified); or

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(B) Together with attendant utility and sanitary facilities be designed so that below the base specified flood depth in an AO zone, or below the base flood elevation in an AH zone, level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

(3) A registered professional engineer or architect shall submit a certification to the floodplain administrator that the standards of this section, as proposed in section 3.12.012 are satisfied.

(4) Require within zones AH or AO adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.
(Code 1996, § 3.12.017; Ord. No. O-05-13, 3/19/13)

Sec. 3.12.018. Floodways.

Floodways located within areas of special flood hazard established in section 3.12.004, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

(1) Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

(2) If subsection (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of sections 3.12.014–3.12.017.

(3) Under the provisions of 44 CFR Chapter 1, section 65.12, of the National Flood Insurance Program regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first completes all of the provisions required by section 65.12.
(Code 1996, § 3.12.018; Ord. No. O-05-13, 3/19/13)

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Chapter 56

GAS AND WELL DRILLING

ARTICLE I. IN GENERAL

Sec. 4.09.001. Purpose.

The exploration, development and production of gas in the city are activities which necessitate reasonable regulation to ensure that all property owners, mineral and otherwise, have the right to enjoy their property and its benefits and revenues. It is hereby declared to be the purpose of this article to establish reasonable and uniform limitations, safeguards and regulations for operations related to the exploring, drilling, developing, producing, transporting and storing of gas and other substances produced in association with gas within the city to protect the health, safety and general welfare of the public, minimize the potential impact to property and mineral rights owners, protect the quality of the environment and encourage the orderly production of available mineral, and gas resources.
(Code 1996, § 4.09.001; Ord. No. O-18-08, 6/16/08)

Sec. 4.09.002. Definitions.[156]

All technical industry words or phrases related to the drilling and production of gas wells not specifically defined in this article shall have the meanings customarily attributable thereto by prudent and reasonable gas industry operators. In addition, the following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandonment. Means “abandonment” as defined by the state railroad commission and includes the plugging of the well and the restoration of any well site as required by this article and applicable state law.

All-weather hard surface. A permanent surface that as a minimum is a base course constructed such that it meets the requirements of the International Fire Code be at least twenty feet (20') wide, have an overhead clearance of fourteen feet (14'), drains appropriately, remains water resistant, is free of litter, debris, weeds, grass or other objectionable materials or objects and is visibly dust free.

Base flood. The flood having a one percent (1%) chance of being equaled or exceeded in any given year.

Berm. A mound of soil, either natural or manmade, used to obstruct a view. The side slope shall not exceed a three-foot (3') horizontal and a one-foot (1') vertical slope.

Blowout preventer. A mechanical, hydraulic, pneumatic or other device or combination of such devices secured to the top of a well casing, including valves, fittings and control mechanisms connected therewith, which can be closed around the drill pipe, or other tubular goods which completely close the top of the casing and are designed for preventing blowouts.

Building. Any primary structure used or intended for supporting or sheltering any use or occupancy. The

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[156] **Sec. 4.09.002. Definitions.** Self-defining terms and terms duplicative of chapter 1 provisions are stricken as shown.

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term “building” shall be construed as if followed by the words “or portions thereof.”

Cathodic protection. An electrochemical corrosion control technique accomplished by applying a direct current to the structure that causes the structure potential to change from the corrosion potential to a protective potential in the immunity region. The required cathodic protection current is supplied by sacrificial anode materials or by an impressed current system.

~~City. The City of Glenn Heights, Dallas and Ellis County, Texas.~~

~~City attorney. The city attorney of the City of Glenn Heights, Texas.~~

~~City code. The Code of Ordinances of the City of Glenn Heights, Texas, as adopted and as may be amended.~~

~~City council. The governing body of elected officials for the City of Glenn Heights, Texas. City manager. The city manager of the City of Glenn Heights, Texas.~~

Closed loop system. A series of tanks including filters, separators and shakers on the discharge side of the drilling process that contains byproducts of drilling such as cuttings and earthen materials. The means to contain the byproducts and recycle usable materials for reuse in the drilling process.

Commission. The state railroad commission.

Community development department. The community development department of the city.

Completion. The date the work is completed for the drilling, re-drilling or re-working of a well and the crew is released by completing its work or contract or by its employer. Once all phases have been completed and natural gas is put into the pipeline.

Day. A calendar day.

Derrick. Any portable framework, tower, mast or structure which is required or used in connection with drilling or re-working a well for the production of gas.

Development review committee (DRC). An internal staff review committee that includes, but is not limited to, representatives of the community development department, inspections, municipal services, fire, police, parks and recreation, neighborhood services, economic development, and the gas inspector.

Drilling. Digging or boring a new well for the purpose of exploring for, developing or producing gas or for the purpose of injecting gas, water or any other fluid or substance into the earth.

Drilling equipment. The derrick, together with all parts of and appurtenances to such structure, [and] every piece of apparatus, machinery or equipment used or erected or maintained for use in connection with drilling.

Drill site. The immediate area used during the drilling, re-drilling or re-working of a well.

Emergency response plan. A plan put in place to deal with emergency situations that may occur at the site during all stages of the drilling and production process.

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Exploration. Geologic or geophysical activities, including seismic surveys, related to the search for gas or other subsurface hydrocarbons.

Filed. For purposes herein shall mean administratively complete and all technical requirements have been met for purposes of review by the appropriate authority as stated herein, including the payment of all required fees.

~~Fire chief. The fire chief of the City of Glenn Heights, Texas.~~

~~Fire department. The fire department of the City of Glenn Heights, Texas.~~

Flaring. The burning of unwanted gas through a pipe (also called a flare). Flaring is a means of disposal used when there is no way to transport the gas to market and the operator cannot use the gas for a another purpose.

Flow-back operations. To include work over and means necessary to expel water from the drilling hole in order to facilitate the production of gas.

Frac tank. A manmade water storage tank designed using earthen berms to contain approximately 4 million gallons of water. These can be from existing ponds or other water storage tanks. Manmade tanks shall be lined with plastic with an appropriate mil spec rating.

Fracturing. The injecting of a fluid into a well to cause pressure that “cracks” or opens up fractures already present in the formation.

Gas. Any fluid, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarefied state at standard temperature and pressure conditions or the gaseous components or vapors occurring in or derived from petroleum or natural gas.

Gas inspector. An individual designated by the city manager or any other person or entity so designated as an inspector by the city manager. The gas inspector shall report to the office of the fire marshal.

Gas well. Any well drilled, to be drilled, or used for the intended or actual production of natural gas.

Generator plant. The electrical service generated on-site servicing the drilling rig and all associated equipment including personal living quarters.

Grounding and bonding. The means to ground all power and equipment on the drilling site to prevent electrical discharges and lighting protection.

Hazardous material. A “hazardous substance” as that term is defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1988, as enacted and a may be amended.

~~Municipal services department. The municipal services department of the City of Glenn Heights, Texas.~~

Operation site. The area used for development and production and all operational activities associated with gas after drilling activities are complete.

Operator. For each well, the person listed on the commission’s Form W-1 or Form P-4 for a gas well that is, or will be actually in charge and in control of drilling, maintaining, funding, operating, pumping or

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controlling any well, including, without limitation, a unit operator; provided, however, any such person, whether listed on the commission's W-l Form or Form P-4 that provides funding, drilling or operation of the well, at any time, shall be identified and considered an operator for all purposes under this article. If the operator, as herein defined, is not the lessee under a gas lease of any premises affected by the provisions of this article, then such lessee shall also be deemed to be an operator. In the event that there is no gas lease relating to any premises affected by this article, the owner of the fee mineral estate in the premises shall be deemed an operator.

Permit. Any written license granted by the city for the exploration, development, and production of gas wells issued pursuant to rules and regulations of this article, including but not limited to a special use permit or specific use permit, as defined herein.

~~Person. Means both the singular and the plural and means a natural person, a corporation, association, guardian, partnership, receiver, trustee, administrator, executor, and fiduciary or representative of any kind.~~

~~Planning and zoning commission. The planning and zoning commission of the City of Glenn Heights, Texas.~~

Production. The period between completion of drilling and the abandonment of the well, after the fracturing and flow-back operations have been completed and natural gas has been run through a series of separators and tank batteries to metering devices and into the pipeline.

Public building. All buildings used or designed to and intended to be used for the purpose of assembly of persons for such purposes as deliberation, entertainment, amusement, or health care. Public buildings include, but shall not be limited to, theaters, assembly halls, auditoriums, armories, mortuary chapels, dance halls, exhibition halls, museums, gymnasiums, bowling lanes, libraries, skating rinks, courtrooms, restaurants, and hospitals.

Public park. Any land area dedicated to or maintained by the city for traditional park-like recreational purposes, but shall not include privately owned amusement parks or privately owned golf courses or HOA community parks.

Re-drill. Re-completion of an existing well by deepening or sidetrack operations extending more than one hundred fifty feet (150') from the existing well bore.

Religious institution. Any building in which persons regularly assemble for religious worship and activities intended primarily for purposes connected with such worship or for propagating a particular form of religious belief.

Residence. A house, duplex, apartment, townhouse, condominium, HUD-code manufactured home or other building designed for dwelling purposes, including those for which a building permit has been issued on the date the application for a gas well permit is filed and accepted by the community development department.

Re-working. Re-completion or re-entry of an existing well within the existing bore hole or by deepening or sidetrack operations which do not extend more than one hundred fifty feet (150') from the existing well bore, or replacement of well liners or casings.

Rig-down. The day drilling has been completed and the rig is disassembled and all equipment prepared

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from movement from the pad site.

Rig-up. The process of setting up equipment and the drilling rig in order to start the drilling process.

Right-of-way. Any area of land within the city that is acquired by, dedicated to, or claimed by the city in fee simple, by easement, by prescriptive right or other interest and that is expressly or impliedly accepted or used in fact or by operation of law as public roadway, sidewalk, alley, utility, drainage, or public access easement or used for the provision of governmental services or functions. The term includes the area on, below, and above the surface of the public right-of-way. The term applies regardless of whether the public right-of-way is paved or unpaved.

Right-of-way maintenance agreement. A written agreement obligating the operator to repair damage, excluding ordinary wear and tear, if any, including but not limited to, public streets, sidewalks, pathways, trails, and bridges, caused by the operator or its employees, agents, contractors, subcontractors, or representatives in the performance of drilling or production of gas wells authorized by the city.

School. Any public or private, primary and secondary educational facilities providing education up through and including the twelfth grade level and any licensed day care centers, meaning a facility licensed by the state or by the city that provides care, training, education, custody, treatment or supervision for more than six children under 14 years of age, and for less than 24 hours per day.

Special use permit. A permit issued from the office of the fire marshal for specific uses such as perforating operations, wire line logging and welding.

Specific use permit. The use permit recommended by the planning and zoning commission, and approved by council, subject to situational suitability as provided by the city's zoning ordinance, as approved and as it may be amended.

Street. Any street, highway, sidewalk, alley, avenue, recessed parking area or other public right-of- way, including the entire right-of-way.

Tank. A container, covered or uncovered, used in connection with the drilling or production of gas or other hydrocarbons for holding or storing fluids.

Technical advisor. Such persons familiar with and educated in the gas industry or the law as it relates to gas matters who may be retained from time to time by the city, as provided in section 4.09.018 of this article.

Thoroughfare plan. The thoroughfare plan approved by the city.

Well. Any single hole or bore to any horizon, formation, or strata, for the purpose of producing gas, liquid hydrocarbons, brine water or sulphur water, or for use as an injection well for secondary recovery, disposal or production of gas, or other hydrocarbons from the earth. For each separate new hole a gas well permit is required.

Wire line logging. The use of radioactive isotopes which are used when measuring formations within the immediate vicinity of the drilling hole.
(Code 1996, § 4.09.002; Ord. No. O-18-08, 6/16/08)

Sec. 4.09.003. City oversight.

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(a) The city council shall retain the services of a gas inspector who shall enforce the provisions of this article. The gas inspector may have a degree in petroleum engineering with a background in drilling and production or demonstrate a proven background in the drilling, production, and operation of gas wells; provided, however, said gas inspector shall possess all required state law certifications and licenses. The gas inspector and other city officials shall have the authority to issue any orders or directives required to carry out the intent and purpose of this article and its particular provisions. Failure of any person to comply with any such order or directive shall constitute a violation of this article. The gas inspector shall report to the office of the fire marshal.

(b) The gas inspector shall have the authority to enter and inspect any premises covered by the provisions of this article to determine compliance with the provisions of this article and all applicable laws, rules, regulations, standards or directives of the city or state. Failure of any person to permit access to the gas inspector shall constitute a violation of this article.

(c) The gas inspector shall have the authority to request and receive any records, including any records sent to the commission, logs, reports and the like, relating to the status or condition of any permitted well necessary to establish and determine compliance with the applicable permit. Failure of any person to provide any such requested material shall be deemed a violation of this article.

(d) The gas inspector shall conduct periodic inspections at least once a year of all permitted wells in the city to determine that the wells are operating in accordance with proper safety regulations as set out in this article and in regulations of the commission.

(e) The gas inspector and other city officials authorized to enforce the provisions of this article or other ordinances and codes adopted by the city council shall have the authority to issue any orders, citations, notices of violation or directives required to carry [out] the intent and purpose of this article and its provisions.

(f) The gas inspector shall ensure that the drilling site meets all site plan conditions as approved in the drilling permit. The gas inspector shall have the authority to recommend changes to any site plan in order to preserve and protect the health, safety and welfare of the citizens of the city, including but not limited to public infrastructures, such as roads and utilities.
(Code 1996, § 4.09.003; Ord. No. O-18-08, 6/16/08)

Sec. 4.09.004. Operator's agent.

Every operator of any well shall designate an agent, who is a resident of the state, upon whom all orders and notices provided in this article may be served in person or by registered or certified mail. Every operator designating such agent shall within ten days notify the city manager or the city manager's designee, in writing, of any change in such agent or such mailing address unless operations within the city are discontinued. Failure to do so shall be deemed a violation of this article.
(Code 1996, § 4.09.004; Ord. No. O-18-08, 6/16/08)

ARTICLE II. PERMITS

Sec. 4.09.005. Seismic survey permit requirements.

A permit shall be required for seismic surveys. No seismic survey permit shall be granted unless the applicant shows proof of lease of mineral property within 200 feet of the right-of-way on which the

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survey is to be conducted. All seismic survey permit applications shall be submitted to the city manager or the city manager's designee for approval. The seismic survey shall not begin prior to the issuance of a seismic survey permit from the city. Failure to obtain a permit consistent with this section, or commencing work without a permit, shall be deemed a violation of this article. A permit shall include, but is not limited to, the following information:

(1) Operator/applicant name, phone number, fax number, physical address, and, if possible, e-mail address; if the operator is a corporation, the state of the incorporation, and if the operator is a partnership, the names and addresses of the general partners shall be provided.

(2) Detailed mapping of location and extent of seismic survey.

(3) Date and time the seismic survey will be conducted and completed.

(4) Detailed explanation of the seismic survey method to be used on-site.

(5) If the seismic survey is conducted in any city right-of-way then the operator must reimburse all costs to the city for any damages associated with the seismic survey.

(6) The permit fee for a seismic survey on city property shall be set by the city council on a case-by-case basis, calculated based upon a minimum $0.25 per linear foot, plus the costs of barricade rental and personnel required to direct and divert traffic if city forces and materials are used.

(7) An operator must submit a traffic safety and management plan with the application for a specific use permit with all seismic surveys that are conducted within the right-of-way.

(8) Under no circumstances may explosive charges, including, but not limited to, the use of dynamite, be used in any way related to the preparation or operation of conducting a seismic survey. (Code 1996, § 4.09.005; Ord. No. O-18-08, 6/16/08)

Sec. 4.09.006. Gas well permit requirements.

(a) A person wanting to engage in or operate gas production activities shall apply for and obtain a gas well permit under this article and shall indicate what type of well permit is requested. It is unlawful for any person acting either for himself or acting as an agent, employee, independent contractor, or servant for any person to drill any well, assist in any way in the site preparation, re-working, fracturing or operation of any such well or to conduct any activity related to the production of gas without first obtaining a gas well permit issued by the city in accordance with this article. Such activities include, but are not limited to, reworking, initial site preparation, drilling, operation, construction of rigs or tank batteries, fracturing and pressurizing.

(b) The operator must apply for and obtain a gas well permit for the drilling of each well. The operator shall neither apply nor obtain a "blanket" permit for more than one well if multiple wells are located on the same tract of land. Each new well established at the ground surface will be considered and require a new gas well permit.

(c) An existing gas well permit shall not constitute authority for the re-entering and drilling of an abandoned well. An operator shall obtain a new well permit in accordance with the provisions of this article if the operator is re-entering and drilling an abandoned well.

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(d) When a gas well permit has been issued to the operator for the drilling, reentering, activating or converting of a well, such gas well permit shall constitute sufficient authority for drilling, operation, production gathering or production maintenance, repair, re-working, testing, plugging and abandonment of the well or any other activity associated with mineral exploration at the site of such well. An amended gas well permit shall be obtained before such well may be modified for purposes of re-drilling, deepening or converting such well to a depth or use other than that set forth in the then-current permit for such well.

(e) Any person who intends to re-work a permitted well using a drilling rig to fracture stimulate (fracturing) a permitted well after initial completion or to conduct seismic surveys or other exploration activities shall give written notice to the gas inspector no less than ten days before the activities begin. The notice must identify where the activities will be conducted and must describe the activities in detail, including, but not limited to, whether explosive charges will be used, the duration of the activities and the time the activities will be conducted. The notice must also provide the address and 24 hour telephone number of the person conducting the activities. The person conducting the activities shall post a sign on the property giving the public notice 48 hours in advance of the fracturing activities. The sign shall comply with the requirements of section 4.09.014, “On-site and technical regulations,” (z), Signs, (1).

(f) Well setbacks for gas well permits.

(1) It is unlawful to drill, re-drill, deepen, re-enter, activate or convert any well, the center of which, at the surface of the ground, is located:

(A) Within six hundred feet (600') from any playgrounds, competition athletic fields, swimming pools, water slides and playgrounds, concession stands, pavilions or picnic areas within a public park;

(B) Within six hundred feet (600') from any residence, religious institution, public building, retail or commercial building, hospital building or school for which a building permit has been issued on the date of the application for a gas well permit is filed with the community development department;

(C) Within seventy-five feet (75') of any public street, road, highway, or right-of-way line;

(D) Within two hundred feet (200') of any existing potable water well.

(E) Within one hundred fifty feet (150') of any property line.

(F) The measurement of all distances shall be calculated from the proposed well bore, in a straight line, without regard to intervening structures or objects, to the closest exterior point of the object listed in items A through E, above. The above calculations shall be prepared by a registered professional land surveyor and contain his/her professional seal.

(2) Tank batteries, separators and compressors shall be located at least three hundred feet (300') to six hundred feet (600') from any public playground, competition athletic field, picnic area within a public park, or from any residence, religious institution, public building, hospital building or school, or any other building used, or designed and intended to be used, for human occupancy, for which a building permit has been issued on the date of the application for a gas well permit is filed. The distance shall be calculated from the closest tank batteries, separators or compressors, in a straight line, without regard to intervening structures or objects, to the closest part of the playground, competition athletic field, picnic area, residence, religious institution, public building, hospital building or schools, or any other building used or designed and intended to be used for human occupancy.

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(3) The distances set out in subsection 4.09.006(f)(1) and (2) above may be reduced at the discretion of the city council pursuant to section 4.09.019, "Appeals," of this article, but never less than three hundred feet (300') except as provided by (4) below. All distance reductions shall be documented as exceptions to the requested permit prior to issuance.

(4) Notwithstanding the provisions of this section, wells may be drilled no closer than one hundred fifty feet (150') from existing residences that are occupied by persons who in writing consent to the request to drill the well if approved by a majority vote of the city council pursuant to section 4.09.019 of this article. Said written consent is required from all residences occupied by persons within three hundred feet (300') of a proposed well bore prior to an application for a well permit being processed by city staff. Wells may be re- drilled, deepened, re-entered, activated or converted if no closer than one hundred fifty feet (150') from any residence constructed after the well was originally drilled without such consent. For purposes of the consent required by this subsection [consent] shall mean the written consent of every adult claiming an ownership or leasehold interest in such residence.

(5) Notwithstanding the provisions of this section, new residences may be built no closer than one hundred and fifty feet (150') from an existing well.

(g) A gas well permit shall automatically terminate, unless extended, if drilling is not commenced within 90 days from the date of the issuance of the permit. A well permit may be extended by the gas inspector for an additional 90 days upon written request by the operator and proof that the regulatory standards of the requested permit for such location have not changed.

(h) Permits required by this article are in addition to and are not in lieu of any permit which may be required by any other provision of the city code or by any other governmental agency.

(i) No gas well permit shall be issued for any well to be drilled within the floodway identified by the Federal Emergency Management Agency (FEMA) on the most current federal [flood] insurance rate map (FIRM). Gas wells proposed in the floodplain outside of the floodway shall comply with the requirements for development in the city code, chapter 58 [article 3.12]: "Flood Damage Prevention."

(j) No gas well permit shall be issued for any well to be drilled that is not in compliance with any standard, provision, procedure, or recommendation as described in the city's public works design manual as adopted and as may be amended.

(k) By acceptance of any permit issued pursuant to this article, the operator expressly stipulates and agrees to be bound by and comply with the provisions of this article. The terms of this article shall be deemed to be incorporated in any permit issued pursuant to this article with the same force and effect as if this article was set forth verbatim in such permit.
(Code 1996, § 4.09.006; Ord. No. O-18-08, 6/16/08)

Sec. 4.09.007. Gas well permit application; specific use permit.

(a) Every application for a gas well permit issued pursuant to this article shall be in writing signed by the operator, or some person duly authorized to sign on his behalf, and filed with the city manager, or the city manager's designee, and shall be processed consistent with the city's zoning ordinance for specific use permits, as adopted and as may be amended, and incorporated therein for all purposes.

(b) Every application shall be accompanied by a permit fee in the amount established in section 4.09.020 of this article. The application shall include the following information:

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(1) The date of the application and type of permit requested.

(2) An accurate legal description of the lease property to be used for the operation site, the parcel and the production unit and name of the geologic formation as used by the commission. Property recorded by plat shall reference subdivision, block and lot numbers.

(3) Map showing proposed transportation route and roads for equipment, chemicals or waste products used or produced by the gas operation. This proposed truck route shall include a traffic management plan, and identify all on- and off-site city thoroughfares and infrastructure.

(4) Proposed well name and well depth.

(5) Surface owner names, telephone numbers, fax numbers, physical addresses, and, if possible, e-mail addresses, of the lease property.

(6) Mineral lessee name, telephone number, fax number, physical address, and, if possible, e- mail address.

(7) Operator/applicant name, telephone number, fax number, physical address, and if possible, e-mail address and if the operator is a corporation, the state of incorporation, and if the operator is a partnership, the names and addresses of the general partners.

(8) Name, telephone number, fax number, physical address of individual designated to receive notice, or registered agent, and, if possible, e-mail address.

(9) Names and address of representatives or operator’s agent with supervisory authority over all gas operation site activities and a 24-hour telephone number.

(10) Location and description of all improvements and structures within eight hundred feet (800') of the well. Name of the owner and address of each parcel of property within six hundred feet (600') of proposed site. Such locations and descriptions shall be prepared by a registered professional land surveyor and shall contain his/her professional seal.

(11) A site plan of the proposed operation site showing the location of all improvements and equipment, including the location of the proposed wells and other facilities including, but not limited to, tanks, pipelines, compressors, separators and storage tanks or storage sheds. All site plans must include the following criteria and shall be submitted for approval as part of the specific use permit:

(A) Property boundaries with dimensions and setback lines.

(B) Location of proposed buildings and structures indicating sizes in square feet.

(C) The location and intensity of exterior lighting fixtures.

(D) The location of mechanical equipment.

(E) Outside storage areas.

(F) Curb cut locations.

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(G) Parking, loading, and maneuvering areas.

(H) The location, materials and dimensions of screening improvements as required by section 4.09.015, “Screening,” (a)(1), herein.

(I) A separate plan sheet showing the location, materials and dimension of all screening improvements as required by section 4.09.015, “Screening,” (a)(2), herein.

(J) Waste disposal locations with screening.

(K) Adjacent property lines, streets, easements immediately adjacent to the operation site.

(L) Names of owners of property immediately adjacent to the operation site.

(M) Names of subdivisions immediately adjacent to the operation.

(N) Site plans shall be submitted on a sheet size of 24" x 36" minimum.

(O) City boundaries where applicable.

(P) Date the drawing was prepared with name, address, and phone number of preparer.

(Q) Location, width, purpose of all existing easements.

(R) North arrow, at a maximum scale of 1:50 immediately adjacent to the operation site.

s All existing street names immediately adjacent to the operation site.

(T) Dimensions of all existing rights-of-way as specified on the city’s thoroughfare plan.

(U) Title block identifying gas well site location.

(V) Vicinity location map at 1" = 2000'.

(W) Zoning classifications of all properties shown on the site plan.

(X) Location of 100-year flood limits where applicable.

(Y) Texas NAD83 state plane coordinates for at least two corners.

(Z) As a minimum, a preliminary drainage study as identified in the public works design manual.

(12) Name, address and 24-hour phone number of the person to be notified in case of emergency.

(13) Exact acreage and number of wells, if applicable, included in the gas well permit application.

(14) Copies of all reports required by the commission, specifically including a copy of the approved commission Form W-l or P-4.

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(15) A signed right-of-way maintenance agreement supplied by the city that provides that the operator shall repair, at his own expense, any damage caused by any activity associated with the preparation, drilling, production, and operation of wells.

(16) A description of public utilities required during drilling and site operations.

(17) A description of the water source to be used during drilling.

(18) A copy of the stormwater pollution prevention plan (SWPPP) as required by the commission, the state commission on environmental quality (TCEQ), the United States Environmental Protection Agency (USEPA) or the city. A copy of the notice of intent (NOI) shall be submitted to the municipal services department at least three days prior to the commencement of any on-site activity.

(19) A copy of the determination by the TCEQ of the depth of usable quality groundwater.

(20) Evidence of insurance and security requirements under this article.

(21) A statement, under oath, signed by the operator or designated representative, that the information submitted with the application is, to the best knowledge and belief of the operator or designated representative, true and correct, and as such is a government record.

(22) All required application and permit fees.

(23) A tree preservation plan that conforms to the city's ordinance.

(24) A copy of a hazardous materials management plan and additionally, all material safety data sheets (MSDSs) for all hazardous materials that will be located, stored, transported or temporarily used on the drilling site shall be provided to the gas inspector and the fire department.
(Code 1996, § 4.09.007; Ord. No. O-18-08, 6/16/08)

Sec. #. Building permit required.

(1) No building or structure regulated by the current city code shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted, or demolished unless a separate permit for each building or structure has first been obtained from the director of the community development department, or the director's designee. No subdivision plat will be required.

(2) It shall be the responsibility of any person, firm, or corporation, upon submittal of an application for a building permit for work regulated by the current city code, to register as a general contractor with the city. Work regulated includes, but is not limited to, construction of gates, fencing, plumbing, irrigation, electricity, roadways, entrances, compressors, flow lines, pipelines, gathering lines, tank batteries, and buildings. Such registration shall be upon forms supplied by the director of the community development department, or the director's designee, and shall become null and void on December 31st of each year. An appropriate fee for registration shall be assessed in accordance with the city fee schedule. Copies of any and all state licenses required for the performance of any activity to be conducted shall be submitted with the application.
(Code 1996, § 4.09.007; Ord. No. O-18-08, 6/16/08)

Sec. 4.09.008. Gas well permit conditions; notice.

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(a) A gas well permit shall be required in accordance with the provisions of this section.

(b) Notice for a gas well permit.

(1) At least ten days prior to the date of filing of an application for a gas well permit with the gas inspector under this article, the operator shall notify, at the expense of the operator, each surface owner of property, as shown by the current tax roll, within six hundred feet (600') of the proposed well not owned by or under lease to the operator. Such notice, as outlined below, shall be by depositing the same, properly addressed and postage paid, in the United States mail. The operator shall file with the application an affidavit showing the name and last known address, as identified by the current tax roll, of each owner of property to whom notice was mailed and the names of each owner of property to whom notice is required to be given, but whose address is unknown. Notice shall be sent to all registered neighborhood associations within one-half (1/2) mile of the proposed drill site.

(2) At least ten days prior to the date of filing of an application for a gas well permit under this article with the gas inspector, the operator shall publish a copy of the notice as outlined below, at the expense of the operator, in one issue of a daily newspaper of the city for ten consecutive days. An affidavit by the printer or publisher of the newspaper indicating publication of the notice shall be filed with the application and will be prima facie evidence of such publication. The notice shall read as follows: Notice is hereby given that, acting under and pursuant to the Ordinances of the City of Glenn Heights, Texas, on the day of , 20 , will file with the gas inspector of the City of Glenn Heights, an application to drill, complete and operate a well for gas upon property located at , Glenn Heights, Dallas and Ellis County, Texas, more particularly shown on the map of record in Volume , Page , Plat records of County, Texas or per Tax Tract Number , Dallas and Ellis County, Texas.

(3) At least 20 days prior to the date of filing of an application for a gas well permit under this article with the gas inspector, the operator, at the operator's expense, shall erect at least one sign, no less than three feet (3') by three feet (3'), upon the premises upon which a gas well permit has been requested. Where possible, the sign or signs shall be located in a conspicuous place or places upon the property at a point or points nearest any right-of-way, street, roadway or public thoroughfare adjacent to such property.

(A) The signs shall substantially indicate that a gas well permit to drill for gas has been requested and shall further set forth that additional information can be acquired by telephoning the operator at the number indicated on the sign.

(B) The continued maintenance of any such signs shall not be deemed a condition precedent to the holding of a public hearing or to any other official action concerning this article.

(C) Any signs shall be removed subsequent to final action by the gas inspector.

(4) All notice provisions contained herein shall be deemed sufficient upon substantial compliance with this section.

(c) Vehicle routes for gas well permit. Vehicles associated with drilling or production in excess of three tons shall be restricted to such streets designated as either truck routes or commercial delivery routes by the city code wherever capable of being used. All vehicles shall be operated on a truck route wherever capable of being used; they shall be operated on a commercial delivery route only when it is not possible to use a truck route to fulfill the purpose for which such vehicle is then being operated. In the event that an approved route is unavailable, the operator shall propose an alternative route that may be approved by the city manager or city manager's designee, if temporary. Any permanent alternative route must be

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approved by the city council as an amendment to the specific use permit. Commercial delivery route means any street or highway so designated by the city council for the use by any commercial motor vehicle, truck-tractor, trailer, semitrailer, or any combination thereof.

(d) Processing of gas well permit. The gas inspector shall not be required to accept or process a gas well permit application until the applicant can demonstrate that the proposed activities are in compliance with the provisions of the city's comprehensive zoning regulations.

(e) Compliance with all other provisions of this article shall be required.
(Code 1996, § 4.09.008; Ord. No. O-18-08, 6/16/08)

Sec. 4.09.009. Gas well permitting procedure.

(a) All gas well permit applications will be filed with the city manager, or the city manager's designee. The city manager, or the city manager's designee, shall refer such applications to the fire department and other city departments which the city manager deems appropriate.

(b) It is the responsibility of the city manager, or the city manager's designee, to review and approve or disapprove all applications for gas well drilling permits based on the criteria established by this article and in accordance with the specific use permit.

(c) The city manager, or the city manager's designee, shall within forty-five (45) days after the filing of a completed application and remittance of all fees, insurance, bond, and security per the requirements of this article for a gas well permit, determine whether the permit application shall be approved or denied.

(d) The provisions of this article shall apply to any dwellings or buildings for which an application for a building permit has been submitted on the date the application for a gas well permit is filed with the city manager or the city manager's designee.

(1) All new or proposed construction of any buildings, structures, streets, roads, or applicable improvements to the property upon which any gas well is located must be in compliance with all applicable setback requirements enumerated in this article.

(2) If all the requirements of this article and the specific use permit are met, the city manager, or the city manager's designee, shall issue a permit for the drilling of the well or the installation of the facilities for which a permit application was made consistent with the terms and conditions of the specific use permit.

(3) If the city council denies a permit application for the requested gas well permit, the city manager, or the city manager's designee, shall notify the operator in writing of such denial stating the reasons for the denial. Within 30 days of the date of the written decision to deny the permit, the operator may cure those conditions that caused the denial and resubmit the application to the city manager, or city manager's designee, for reconsideration of approval and issuance of the permit. Additionally, the operator may file an appeal to the city council under the provisions outlined in this article pursuant to section 4.09.019 of this article.

(4) The failure of the city manager, or the city manager's designee, to review and issue a permit within the time limits specified above shall not cause the application to be deemed approved. The failure of the city manager, or the city manager's designee, to act within the time limit shall be deemed a disapproval. The operator may file an appeal to the city council under the provisions outlined in this

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article pursuant to section 4.09.019 of this article.

(e) If an application for a permit is denied by the city, nothing herein contained shall prevent a new permit application from being submitted to the city manager, or the city manager's designee, for the same well.
(Code 1996, § 4.09.009; Ord. No. O-18-08, 6/16/08)

Sec. 4.09.010. Amended permits.

(a) An amended permit may be issued for, but not limited to, the following changes in drill or operational site activities:

(1) Re-drilling;

(2) Deepening beyond one hundred fifty feet (150') of the permitted depth;

(3) Site access;

(4) Locations or quantities of equipment as determined by the gas inspector;

(5) Locations or number of drilling fluid or other types of pits; and

(6) Locations or number of buildings and structures.

(b) Applications for amended permits shall be in writing, shall be signed by the operator, and shall include the following:

(1) An application fee in the amount as established in section 4.09.020 of this article;

(2) A description of the proposed amendments;

(3) Any changes to the information submitted with the application for existing permit (if such information has not previously been provided to the city);

(4) Such additional information as is reasonably required by the gas inspector to demonstrate compliance with the applicable permit;

(5) Such additional information as is reasonably required by the gas inspector to prevent imminent destruction of property or injury to persons; and

(6) An amended site plan will be required.

(c) All applications for amended permits shall be filed with city manager, or the city manager's designee, for review by the city. Incomplete applications may be returned to the applicant, in which case the city shall provide a written explanation of the deficiencies; however, the city shall retain the application fee. The city may return any application as incomplete if there is a dispute pending before the commission regarding the determination of the operator.

(d) If the activities proposed by the amendment are not materially different from the activities covered by the existing permit then the city manager, or the city manager's designee, shall approve or

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disapprove the amendment within 15 days after the application is filed.

(e) If the activities proposed by the amendment are materially different from the activities covered by the existing permit, and do not create a risk of destruction of property or injury to persons, then the city manager, or the city manager's designee, shall approve or disapprove the amendment within forty-five (45) days after the application is filed. If, however, the activities proposed by the amendment are materially different and, in the judgment of the gas inspector, the city manager, or the city manager's designee, might create a risk of destruction of property or injury to persons that were not associated with the activities covered by the existing permit or that were not otherwise taken into consideration by the existing permit, the city manager, or the city manager's designee, may require the amendment to be processed as a new permit application.

(f) The failure of the city manager, or the city manager's designee, to review and issue an amended permit within the time limits specified above shall not cause the application for the amended permit to be deemed approved. Further, the decision of the city manager, or the city manager's designee, to deny an amendment to a permit shall be provided to the operator in writing within the time period indicated in (d) and (e) above, including an explanation of the basis for the decision. The operator may appeal any such denial to the city council, if such an appeal is filed within ten days after such denial, as provided by section 4.09.019 of this article.
(Code 1996, § 4.09.010; Ord. No. O-18-08, 6/16/08)

Sec. 4.09.011. Suspension or revocation of permits.

(a) If an operator (or its officers, employees, agents, contractors, or representatives) fails to comply with any requirement of a permit (including any requirement incorporated by reference as part of the permit), the gas inspector shall give written notice to the operator specifying the nature of the failure and giving the operator a reasonable time to cure, taking into consideration the nature and extent of the failure, the extent of the efforts required to cure, and the potential impact on the health, safety, and welfare of the community. In no event, however, shall the cure period be less than ten days unless the failure presents a risk of imminent danger of property or injury to persons or unless the failure involves the operator's failure to provide periodic reports as required by this article.

(b) If the operator fails to correct the noncompliance, the city may suspend or revoke the permit pursuant to the provisions of this article.

(c) No person shall carry on any operations performed under the terms of the permit issued under this article during any period of any permit suspension or revocation or pending a review of the decision or order of the city in suspending or revoking the permit. Nothing contained herein shall be construed to prevent the necessary, diligent and bona fide efforts to cure and remedy the default or violation for which the suspension or revocation of the permit was ordered for the safety of persons or as required by the commission.

(d) If the operator does not cure the noncompliance within the time specified in this article, the city, upon written notice to the operator, may notify the commission and request that the commission take any appropriate action.

(e) An operator may, within ten days of the date of the decision of the city in writing to suspend or revoke a permit, file an appeal to the city council under the provisions outlined in this article pursuant to section 4.09.019 of this article.
(Code 1996, § 4.09.011; Ord. No. O-18-08, 6/16/08)

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Sec. 4.09.013. Bond; letters of credit; indemnity; insurance.

(a) General requirements. The operator shall be required to:

(1) Comply with the terms and conditions of this article and the permit issued hereunder.

(2) Promptly clear drill and operation sites of all litter, trash, waste and other substances used, allowed, or occurring in the operations, and after abandonment or completion grade, level and restore such property to the same surface conditions as nearly as possible as existed before operations.

(3) Sign each permit and the city shall retain a signed original. Each such permit issued by the city shall include the following language:

Operator does hereby expressly release and discharge all claims, demands, actions, judgments, and executions which it ever had, or now has or may have, or assigns may have, or claim to have, against the City of Glenn Heights, or its departments, agents, officers, servants, successors, assigns, sponsors, volunteers, or employees, created by, or arising out of personal injuries, known or unknown, and injuries to property, real or personal, or in any way incidental to or in connection with the performance of the work performed by the operator under a permit. The operator shall fully defend, protect, indemnify, and hold harmless the City of Glenn Heights, Texas, its departments, agents, officers, servants, employees, successors, assigns, sponsors, or volunteers from and against every claim, demand, or cause of action and any and all liability, damages, obligations, judgments, losses, fines, penalties, costs, fees, and expenses incurred in defense of the City of Glenn Heights, Texas, its departments, agents, officers, servants, or employees, including, without limitation, personal injuries and death in connection therewith which may be made or asserted by operator, its agents, assigns, or any third parties on account of, arising out of, or in any way incidental to or in connection with the performance of the work performed by the operator under a permit. The operator agrees to indemnify and hold harmless the City of Glenn Heights, Texas, its departments, its officers, agents, servants, employees, successors, assigns, sponsors, or volunteers from any liabilities or damages suffered as a result of claims, demands, costs, or judgments against the city, its departments, its officers, agents, servants, or employees, created by, or arising out of the acts or omissions of the City of Glenn Heights occurring on the drill site or operation site in the course and scope of inspecting and permitting the wells including, but not limited to, claims and damages arising in whole or in part from the negligence of the City of Glenn Heights occurring on the drill site or operation site in the course and scope of inspecting and permitting gas wells. IT IS UNDERSTOOD AND AGREED THAT THE INDEMNITY PROVIDED FOR IN THIS SECTION IS AN INDEMNITY EXTENDED BY THE OPERATOR TO INDEMNIFY AND PROTECT THE CITY OF GLENN HEIGHTS, TEXAS AND/OR ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS OR EMPLOYEES FROM THE CONSEQUENCES OF THE NEGLIGENCE OF THE CITY OF GLENN HEIGHTS, TEXAS AND/OR ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS, OR EMPLOYEES, WHETHER THAT NEGLIGENCE IS THE SOLE OR CONTRIBUTING CAUSE OF THE RESULTANT INJURY, DEATH AND/OR DAMAGE.

(4) Promptly pay all fines, penalties and other assessments imposed due to breach of any terms of the permit.

(5) Promptly restore to its former condition any public property damaged by the gas operation.

(6) An operator may not commence or continue with drilling operations unless and until all requirements relative to the bond, letter of credit or insurance are satisfied. Any permit will be suspended

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consistent herein for failure to maintain in full force and effect any such requirements as stated herein or in the specific use permit and it shall be a specific element of default for such failure.

(b) Bond; irrevocable letter of credit. Prior to the issuance of a gas well permit the operator shall provide the city manager, or the city manager's designee, with a security instrument in the form of a bond or an irrevocable letter of credit as follows:

(1) Bond. A bond shall be executed by a reliable surety, bonding or insurance institution authorized to do business in Texas, acceptable to the city. The bond shall become effective on or before the date the gas well permit is issued and shall remain in force and effect for at least a period of six months after the expiration of the permit term or until the well is plugged and abandoned and the site is restored, whichever occurs last. The operator shall be listed as principal and the instrument shall run to the city, as obligee, and shall be conditioned that the operator will comply with the terms and regulations of this article, the specific use permit and all applicable city ordinances. The original bond shall be submitted to the city manager, or the city manager's designee, with a copy of the same provided to the city secretary.

(2) Letter of credit. An irrevocable letter of credit shall be issued by a reliable bank authorized to do business in Texas and shall become effective on or before the date the permit is issued. The letter of credit shall remain in force and effect for at least a period of six months after the expiration of the permit term or until the well is plugged and abandoned and the site is restored, whichever occurs last. The city shall be authorized to draw upon such letter of credit to recover any fines, penalties or costs assessed under this article or for purposes stated herein. Evidence of the execution of a letter of credit shall be submitted to the city by submitting an original signed letter of credit from the banking institution, to the city manager, or the city manager's designee, with a copy of the same provided to the city secretary.

(3) The principal amount of any security instrument shall be fifty thousand dollars ($50,000.00) for any single well. If, after completion of a well, the applicant/operator, who initially posted a fifty thousand dollars ($50,000.00) bond or letter of credit, has complied with all of the provisions of this article and whose well in the producing stage and all drilling operations have ceased, may submit a request to the city manager or the city manager's designee to reduce the existing bond or letter of credit to ten thousand dollars ($10,000.00) for the remainder of the time the well produces without reworking. During reworking operations, the amount of the bond or letter of credit shall be maintained at fifty thousand dollars ($50,000.00). If at any time after no less than a 15 day written notice to the operator and a public hearing, the city council shall deem any operator's bond or letter of credit to be insufficient, it may require the operator to increase the amount of the bond or letter of credit up to a maximum of two hundred fifty thousand dollars ($250,000.00) per well.

(4) When the city manager, or the city manager's designee, finds that a default has occurred in the performance of any requirement or condition imposed by this article, the specific use permit, or applicable city ordinance a written notice shall be given to the operator and in accordance with the requirements of the bond or letter of credit. Such notice shall specify the work to be done, the estimated cost and the period of time deemed by the city manager, or the city manager's designee, to be reasonably necessary for the completion of such work. After receipt of such notice, the operator shall, within the time therein specified, either cause or require the work to be performed, or failing to do so, shall pay over to the city one hundred twenty-five percent (125%) of the estimated cost of doing the work as set forth in the notice. In no event, however, shall the cure period be less than 30 days unless the failure presents a risk of imminent destruction of property or injury to persons or unless the failure involves the operator's failure to provide periodic reports as required by this article. The city shall be authorized to draw against any irrevocable letter of credit or bond to recover such amount due from the operator. Upon receipt of such monies, the city shall proceed by such mode as deemed convenient to cause the required work to be

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performed and completed, but no liability shall be incurred other than for the expenditure of said sum in hand. In the event that the well has not been properly abandoned under the regulations of the commission, such additional money may be demanded from the operator as is necessary to properly plug and abandon the well and restore the drill site in conformity with the regulations of this article.

(5) In the event the operator does not cause the work to be performed and fails or refuses to pay over to the city the estimated cost of the work to be done as set forth in the notice, or the issuer of the security instrument refuses to honor any draft by the city against the applicable irrevocable letter of credit or bond the city may proceed to obtain compliance and abate the default by way of civil action against the operator, or by criminal action against the operator, or by both such methods. Notwithstanding the foregoing, the city shall avail itself of all available legal remedies against all potential parties including but not limited to persons with an interest in the property, the operator, surety and financial institution.

(6) When the well or wells covered by said irrevocable letters of credit or bond have been properly abandoned in conformity with all regulations of this article, and in conformity with all regulations of the commission and notice to that effect has been received by the city, or upon receipt of a satisfactory substitute, the irrevocable letter of credit or bond issued in compliance with these regulations shall be terminated and cancelled.

(7) Notwithstanding anything herein to the contrary, the bond or letter of credit may be used for the following non-exhaustive purposes in conjunction with other purposes stated herein, to mitigate public losses suffered by the city associated with a well-based operation emergency, road repair or other infrastructure damages, or sales tax losses.

(c) Insurance. In addition to the bond or letter of credit required pursuant to this article, the operator shall carry a policy or policies of insurance issued by an insurance company or companies authorized to do business in Texas. In the event such insurance policy or policies are cancelled, the permit shall be suspended on such date of cancellation and the operator's right to operate under such permit shall immediately cease until the operator files additional insurance as provided herein.

(1) General requirements applicable to all policies.

(A) The city, its officials, employees, agents and officers shall be endorsed as an "additional insured" to all policies except employer's liability coverage under the operator's workers' compensation policy.

(B) All policies shall be written on an occurrence basis except for environmental pollution liability (seepage and pollution coverage) and excess or umbrella liability, which may be on a claims-made basis.

(C) All policies shall be written by an insurer with an A-:VIII or better rating by the most current version of the A.M. Best Key Rating Guide or with such other financially sound insurance carriers acceptable to the city.

(D) Deductibles shall be listed on the certificate of insurance and shall be on a "per occurrence" basis unless otherwise stipulated herein.

(E) Certificates of insurance shall be delivered to the City Manager, City of Glenn Heights, 1938 South Hampton Road, Glenn Heights, Texas 75154, evidencing all the required coverages, including endorsements, prior to the issuance of a permit.

(F) All policies shall be endorsed with a waiver of subrogation providing rights of recovery in favor

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of the city.

(G) Any failure on part of the city to request required insurance documentation shall not constitute a waiver of the insurance requirement specified herein.

(H) Each policy shall be endorsed to provide the city a minimum 30-day notice of cancellation, non-renewal, or material change in policy terms or coverage.

(I) During the term of the permit, the operator shall report, in a timely manner, to the city manager, or the city manager's designee, any known loss occurrence which could give rise to a liability claim or lawsuit or which could result in a property loss.

(J) Upon request, certified copies of all insurance policies shall be furnished to the city.

(2) Standard commercial general liability policy. This coverage must include premises, operations, blowout or explosion, products, completed operation, sudden and accidental pollution, blanket contractual liability, underground resources damage, broad form property damage, independent contractors protective liability and personal injury. This coverage shall be a minimum combined single limit of one million dollars ($1,000,000.00) per occurrence location for bodily injury and property damage.

(3) Excess or umbrella liability. Five million dollars ($5,000,000.00) excess, if the operator has a stand-alone environmental pollution liability (EPL) policy. Ten million dollars ($10,000,000.00) excess, if the operator does not have a standalone EPL policy. Coverage must include an endorsement for sudden or accidental pollution. If seepage and pollution coverage is written on a "claims made" basis, the operator must maintain continuous coverage and purchase extended coverage period insurance when necessary.

(4) Environmental pollution liability coverage. The operator shall purchase and maintain in force for the duration of the permit, insurance for environmental pollution liability applicable to bodily injury, property damage, including loss of use of damaged property or of property that has not been physically injured or destroyed; clean-up costs; and defense, including costs and expenses incurred in the investigation, defense or settlement of claims; all in connection with any loss arising from the insured site. Coverage shall be maintained in an amount of at least one million dollars ($1,000,000.00) per loss, with an annual aggregate of at least ten million dollars ($10,000,000.00.)

(A) Coverage shall apply to sudden and accidental pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste material or other irritants, contaminants or pollutants.

(B) The operator shall maintain continuous coverage and shall purchase extended coverage period insurance when necessary. The extended coverage period insurance must provide that any retroactive date applicable to coverage under the policy precedes the effective date of the issuance of the permit by the city.

(5) Control of well. The policy should cover the cost of controlling a well that is out of control, re-drilling or restoration expenses, seepage and pollution damage as first party recovery for the operator and related expenses, including, but not limited to, loss of equipment, experts and evacuation of residents. Five million dollars ($5,000,000.00) per occurrence/no aggregate, if available, otherwise an aggregate of ten million dollars ($10,000,000.00). Five hundred thousand dollars ($500,000.00) sub-limit endorsement may be added for damage to property for which the operator has care, custody and control.

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(6) Workers' compensation and employers liability insurance. Workers' compensation benefits shall be Texas statutory limits. Employers' liability shall be a minimum of five hundred thousand dollars ($500,000.00) per accident. Such coverage shall include a waiver of subrogation in favor of the city and provide coverage in accordance with applicable state and federal laws.

(7) Automobile liability insurance. Combined single limit of one million dollars ($1,000,000.00) per occurrence for bodily injury and property damage. Coverage must include all owned, hired and not-owned automobiles.

(8) Certificates of insurance. The company must be admitted or approved to do business in the state, unless the coverage is written by a surplus lines insurer. The insurance set forth by the insurance company must be underwritten on forms that have been approved by the state board of insurance or ISO (insurance services office), or an equivalent policy form acceptable to the city, with the exception of environmental pollution liability and control of well coverage, [and] set forth all endorsements and insurance coverage according to requirements and instructions contained herein. Shall specifically set forth the notice of cancellation, termination, or change in coverage provisions to the city. All policies shall be endorsed to read "This policy will not be cancelled or non-renewed without 30 days' advance written notice to the owner and the city except when this policy is being cancelled for nonpayment of premium, in which case ten days' advance." Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.

(9) Notice. The individual designated to receive notice shall be a resident of Texas upon whom all orders and notices provided in this article may be served in person or by registered or certified mail. Every operator shall within ten days notify the city manager, or the city manager's designee, in writing of any change in such agent or mailing address unless operations in the city are discontinued and abandonment is complete.
(Code 1996, § 4.09.013; Ord. No. O-18-08, 6/16/08)

ARTICLE III. STANDARDS AND SPECIFICATIONS

Sec. 4.09.012. Periodic reports.

(a) The operator shall notify the gas inspector of any changes to the following information within ten days after the change occurs:

(1) The name, physical address, telephone number, and fax number, of the operator;

(2) The name, address, and telephone number of the person designated to receive notices from the city (which person must be a resident of Texas that can be served in person or by registered or certified mail) or its registered agent; and

(3) The operator's emergency action response plan (including "drive-to maps" from public rights-of-way to each drill site).

(b) The operator shall notify in writing the gas inspector and the city manager, or the city manager's designee, of any change to the name, address, and 24-hour phone number of the persons with supervisory authority over drilling or operations activities within one business day of said change.

(c) The operator shall provide a copy of any "incident reports" or written complaints submitted to the

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commission and a copy to the city within 15 days after the operator has notice of the existence of such reports or complaints.

(d) Beginning December 31 after each well is completed, and continuing on each December 31 thereafter until the operator notifies the gas inspector and the city manager, or the city manager's designee, in writing, that the well has been abandoned and the site restored, the operator shall submit a written report to the city manager, or the city manager's designee, identifying any changes to the information that was included in the application for the applicable permit that have not been previously reported to the city.
(Code 1996, § 4.09.012; Ord. No. O-18-08, 6/16/08)

Sec. 4.09.014. On-site and technical regulations.

(a) Abandoned wells. All wells shall be abandoned in accordance with the rules of the commission; however, all well casings shall be cut and removed to a depth of at least ten feet (10') below the surface unless the surface owner submits a written agreement otherwise. No structures shall be built over an abandoned well.

(b) Blowout prevention. In all cases, blowout prevention equipment shall be used on all wells being drilled, worked-over or in which tubing is being changed. Protection shall be provided to prevent blowout during gas operations as required by and in conformance with the requirements of the commission and the recommendations of the American Petroleum Institute (API). The operator must equip all drilling wells with adequate blowout preventers, flow lines and valves commensurate with the working pressures involved as required by the commission. The operator must conduct daily testing of the operation and pressure, providing a copy of the results of said testing to the city on a weekly basis.

(c) Chemical and materials storage. All chemicals or hazardous materials shall be stored in such a manner as to prevent, contain, and facilitate rapid remediation and clean-up of any accidental spill, leak, or discharge of a hazardous material. The operator shall have all material safety data sheets (MSDSs) for all hazardous materials on-site. All applicable federal and state regulatory requirements for the proper labeling of containers shall be followed. Appropriate pollution prevention actions shall be required and include, but are not limited to, chemical and materials raised from the ground (e.g., wooden pallets), bulk storage, installation and maintenance of secondary containment systems, and protection from stormwater and weather elements.

(d) The following requirements shall apply to all fracture stimulation (fracturing) operations performed on a well:

(1) At least 48 hours before operations are commenced, the operator shall post a sign, which complies with (y) [(z)], Signs, (1) of this section, at the entrance of the well site advising the public of the date the operations will commence and an anticipated completion date;

(2) "Flow-back" operations to recover fluids used during fracture stimulation shall be performed during daylight hours only unless the gas inspector approves in writing such operations during non-daylight hours and be continued until completed to prevent damage to formation;

(3) A watchperson shall be required at all times during such operations; and

(4) At no time shall the well be allowed to flow or vent directly to the atmosphere without first directing the flow through separation equipment or into a portable tank.

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(e) Compliance. The operator shall comply at all times with all applicable federal, state and city requirements.

(f) Discharge. No person shall place, deposit, discharge, or cause or permit to be placed, deposited or discharged, any oil, naphtha, petroleum, asphalt, tar, hydrocarbon substances or any refuse including wastewater or brine from any gas operation or the contents of any container used in connection with any gas operation in, into, or upon any public right-of-way, alleys, streets, lots, storm drain, ditch or sewer, sanitary drain or any body of water or any private or public property in the city.

(g) Drilling fluids. Low toxicity glycols, synthetic hydrocarbons, polymers, and esters shall be substituted for conventional oil-based drilling fluids.

(h) Drill stem testing. All open hole formation or drill stem testing shall be done during daylight hours. Drill stem tests may be conducted only if the well effluent during the test is produced through an adequate gas separator to storage tanks and the effluent remaining in the drill pipe at the time the tool is closed is flushed to the surface by circulating drilling fluid down the annulus and up the drill pipe.

(i) Drip pans and other containment devices. Drip pans and other containment devices shall be placed or installed underneath all tanks, containers, pumps, lubricating oil systems, engines, fuel and chemical storage tanks, system valves, connections, and any other areas or structures that could potentially leak, discharge, or spill hazardous liquids, semi-liquids, or solid waste materials.

(j) Dust, vibration, and odors. All drilling and production operations shall be conducted in such a manner as to minimize, so far as practicable, dust, vibration, or noxious odors, and shall be in accordance with the best accepted practices incident to drilling for the production of gas and other hydrocarbon substances. All equipment used shall be so constructed and operated so that vibrations, dust, odor or other harmful or annoying substances or effect will be minimized by the operations carried on at any drilling or production site or from anything incident thereto, to the injury or annoyance of persons living in the vicinity; nor shall the site or structures thereon be permitted to become dilapidated, unsightly or unsafe. Proven technological improvements as identified by the gas inspector in industry standards of drilling and production in this area may be adopted as they become available if capable of reducing factors of dust, vibration and odor.

(k) Electric lines. All electric lines to production facilities shall be located in a manner compatible to those already installed in the surrounding area or subdivision.

(l) Electric motors. Only electric prime movers or motors shall be permitted for the purpose of pumping wells. No electric power shall be generated on location. All electrical installations and equipment shall conform to the city's ordinances and the appropriate national codes.

(m) Emergency response plan. Prior to the commencement of any gas or other hydrocarbons production activities, the operator shall submit to the city manager or city manager's designee an emergency response plan establishing written procedures to minimize any hazard resulting from drilling, completion or producing of gas wells. Said plan shall use existing guidelines established by the commission, TCEQ, state department of transportation or the USEPA. The emergency response plan shall be kept current with any additions, modifications, or amendments concerning all construction-related activities, natural gas operations and, or natural gas production. Updated plans shall be submitted to the gas inspector within two business days. A copy of the emergency response plan shall be kept on-site.

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(n) Explosive charges. Under no circumstances shall explosives of any type be used during any phase of drilling, re-drilling, deepening, re-entering, activating, converting, fracturing, or completing a gas well without the prior consent of the fire department. The operator shall provide notice to the gas inspector at least ten days prior to such activities. The notice shall identify the date that the explosive charges will be used, the date and means of transporting the explosive charges, and the transportation route to and from the drill or operation site that will be used for the delivery of the explosive charges. A special use permit shall be issued from the fire marshal.

(o) Fire prevention; sources of ignition. Firefighting apparatus and supplies as approved by the fire department and required by any applicable federal, state, or local law shall be provided by the operator, at the operator's cost, and shall be maintained on the drilling site at all times during drilling and production operations. The operator shall be responsible for the maintenance and upkeep of such equipment. Each well shall be equipped with an automated valve that closes the well in the event of an abnormal change in operating pressure. All well heads shall contain an emergency shut-off valve to the well distribution line.

(p) Flaring operations. The agent must notify the gas inspector, fire marshal, and city's dispatch no later than 48 hours before flaring will commence. Flaring must be located at a safe distance, with piping secured. The on-site supervisor or responsible party must be on-site once flaring has commenced and until flaring is completed. A separate watchperson shall be posted at the gate and be responsible for accountability during these operations.

(q) Gas emission or burning restricted. No person shall allow, cause or permit gases to be vented into the atmosphere or to be burned by open flame except as provided by law or as permitted by the commission. If the venting of gases into the atmosphere or the burning of gases by open flame is authorized as provided by law or as permitted by the commission, then such vent or open flame shall not be located closer than five hundred feet (500') from any building not used in operations on the drilling site and such vent or open flame shall be screened in such a way as to minimize detrimental effects to adjacent property owners.

(r) Grass, weeds, and trash. All drill and operation sites shall be kept clear of high grass, weeds, and combustible trash.

s Lights. No person shall permit any lights located on any drill or operation site to be directed in such a manner so that they shine directly on public roads, adjacent property or property in the general vicinity of the operation site. To the extent practicable, and taking into account safety considerations, site lighting shall be directed downward and shielded so as to both prevent direct illumination of and minimize glare on public roads and adjacent dwellings and buildings within six hundred feet (600').

(t) Muffling exhaust. Exhaust from any internal combustion engine, stationary or mounted on wheels, used in connection with the drilling of any well or for use on any production equipment shall not be discharged into the open air unless it is equipped with an exhaust muffler, or mufflers, or an exhaust muffler box constructed of noncombustible materials sufficient to suppress noise and prevent the escape of obnoxious gases, fumes or ignited carbon or soot. All formation fracturing operations shall be conducted during daylight hours unless the operator has notified the gas inspector that fracturing will occur before or after daylight hours to meet safety requirements.

(u) Organic solvents. Organic solvents, such as trichloroethylene and carbon tetrachloride, shall not be used for cleaning any element, structure, or component of the drilling rig, platform, or associated equipment, tools, or pipes. To the maximum extent practicable, high flash point Varsol shall be used.

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(v) Pipe dope. Lead-free, biodegradable pipe dope shall be substituted for API specified pipe dope.

(w) Pits. All reserve pits, completion/workover pits, drilling fluid disposal pits, fresh makeup water pits, gas plant evaporation/retention pits, mud circulation pits, or water condensate pits shall be lined with plastic or stored above ground in tanks. The water surface elevation of the pit may not exceed twelve inches (12") above the existing ground elevation prior to any on-site construction of the pit. One foot of freeboard is required between the surface elevation and on top of berm. Such pits and contents shall be removed from the premises and the drilling site within forty (40) days after completion of the well, unless otherwise authorized by the gas inspector. No wash-out pits shall be located within the city, unless all fluid, sludge, solid waste materials, drilling fluids, waste oil, spent completion fluids, all other liquids, semi-liquids, mud, including hazardous waste inseparable by simple mechanical removal processes, and is made up primarily of natural material is immediately captured within a fully enclosed, above-ground containment tank.

(x) Private roads and drill sites. Prior to the commencement of any drilling operations, all private roads used for access to the drill site and the operation site itself shall be at least twenty-six feet (26') wide, have an overhead clearance of fourteen feet (14') and shall be an all-weather hard surface and maintained to prevent dust, mud and rutting. In particular cases these requirements governing surfacing of private roads may be altered at the discretion of the municipal services department after consideration of all circumstances including, but not limited to, the following: distances from public streets and highways; distances from adjoining and nearby property owners whose surface rights are not leased by the operation; the purpose for which the property of such owners is or may be used; topographical features; nature of the soil; and exposure to wind. The minimum approach shall be concrete for fifty (50) feet and have a minimum turn radius of 12 feet on the approach.

(y) Salt water wells. No salt water disposal wells shall be located within the city.

(z) Signs.

(1) A sign shall be immediately and prominently displayed at the gate on the temporary and permanent site fencing erected pursuant to this article. Such sign shall be durable material, maintained in good condition and, unless otherwise required by the commission, shall have a surface area of not less than 16 square feet with contrasting lettering not less than four inches (4") tall and shall be lettered with the following:

(A) Well name and number;

(B) Name of operator;

(C) The emergency 911 number; and

(D) 24-hour telephone numbers of two persons responsible for the well who may be contacted in case of emergency.

(2) Permanent weatherproof signs reading “DANGER NO SMOKING ALLOWED” in both English and Spanish shall be posted immediately upon completion of the well site fencing at the entrance of each well site and tank battery or in any other location approved or designated by the fire department of the city. Sign lettering shall be four inches (4") in height and shall be red on a white background or white on a red background. Each sign shall include the emergency notification numbers of the fire department and the operator, well and lease designations required by the commission.

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(aa) Storage of equipment. On-site storage is prohibited on the operation site. No equipment shall be stored on the drilling or production operation site, unless it is necessary to the everyday operation of the well. Lumber, pipes, tubing and casing shall not be left on the operation site except when drilling or well servicing operations are being conducted on the site. No vehicle or item of machinery shall be parked or stored on any street, right-of-way or in any driveway, alley or upon any operation site which constitutes a fire hazard or an obstruction to or interference with fighting or controlling fires. The fire department shall be the entity that determines whether equipment on the site shall constitute a fire hazard. No refinery, processing, treating, dehydrating or absorption plant of any kind shall be constructed, established or maintained on the premises. This shall not be deemed to exclude a conventional gas separator or dehydrator.

(bb) Storage tanks. All tanks and permanent structures shall conform to the API specifications unless other or additional specifications are approved by the fire department. All storage tanks shall be equipped with a secondary containment system including lining with an impervious material. The secondary containment system shall be a minimum of three feet (3') in height and one and one-half (1-1/2) times the contents of the largest tank in accordance with the fire code, and buried at least one foot (1') below the surface. Drip pots shall be provided at the pump-out connection to contain the liquids from the storage tank. All tanks shall be set back pursuant to the standards of the commission and the National Fire Protection Association. Each storage tank shall be equipped with a level control device that will automatically activate a valve to close the well in the event of excess liquid accumulation in the tank. No meters, storage tanks, separation facilities, or other above-ground facilities, other than the well head and flow lines, shall be placed in a floodway identified by FEMA on the most current FIRM. Meters, storage tanks, separation facilities, or other above-ground facilities proposed in the floodplain shall be outside of the floodway and shall comply with the requirements for development in the city code, chapter 58 [article 3.12]: “Flood Damage Prevention.”

(cc) Tank battery facilities. Tank battery facilities shall be equipped with a remote foam line and a lightning arrestor system.

(dd) Surface casing. Surface casing shall be run and set in full compliance with the applicable rules and regulations of the commission.

(ee) Valves. Each well must have a shut-off valve to terminate the well’s production. The fire department shall have access to the well site to enable it to close the shut-off valve in an emergency.

(ff) Waste disposal. Unless otherwise directed by the commission, all tanks used for storage shall conform to the following: The operator must use portable closed steel storage tanks for storing liquid hydrocarbons. Tanks must meet the API standards. All tanks must have a vent line, flame arrester and pressure relief valve. All tanks must be enclosed by a fence applicable to the issued permit classification. Drilling mud, cuttings, liquid hydrocarbons and all other field waste derived or resulting from or connected with the drilling, reworking or deepening of any well shall be discharged into an above-ground self-contained tank, or, after authorization by the city manager or city manager’s designee, a lined pit. All disposals must be in accordance with the rules of the commission and any other appropriate local, state or federal agency. Unless otherwise directed by the commission and approved by the gas inspector waste materials shall be removed from the site and transported to an off-site disposal facility not less often than every 30 days. Water stored in on-site tanks shall be removed as necessary. All waste shall be disposed of in such a manner as to comply with the applicable federal and state air and water pollution control regulations, this article and any other applicable ordinance of the city.

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(gg) Watchperson. The operator must keep a watchman or security personnel on-site during the drilling or re-working of a well when other workmen are not on the premises.

(hh) Installation of pipelines on, under or across public property. The operator shall apply to the city for a right-of-way use agreement on, over, under, along or across the city streets, sidewalks, alleys and other city property for the purpose of constructing, laying, maintaining, operating, repairing, replacing and removing pipelines. The operator shall:

(1) Not interfere with or damage existing water, sewer or gas lines or the facilities of public utilities located on, under or across the course of such rights-of way. The operator shall be responsible for the repair of any existing water, sewer or gas lines damaged as a result of use of the right-of-way.

(2) Furnish to the city manager, or the city manager's designee, a site plan showing the location of such pipelines.

(3) Construct such lines out of pipe in accordance with the city codes and regulations.

(4) Grade, level and restore such property to the same surface condition, as nearly as practicable, as existed prior to the laying of the pipeline.

(ii) Public streets. No permit shall be issued for any well to be drilled within any of the streets or alleys of the city or projected streets or alleys shown by the current comprehensive plan of the city, and no street or alley shall be blocked or encumbered or closed due to any exploration, drilling or production operations unless prior written consent is obtained from the city manager or the city manager's designee. Any consent from the city manager or the city manager's designee shall be temporary in nature and state the number of hours or days that any street or alley may be blocked, encumbered or closed. The site must not conflict with the city's thoroughfare plan.

(jj) Vehicle routes for gas well permits. Vehicles associated with drilling or production in excess of three tons shall be restricted to state arterials, and where local access is required, to those arterials, collectors or commercial routes designated on the city's thoroughfare plan and shall be identified on the site plan submitted as part of the specific use permit.

(kk) Work hours for gas well permits. Site development, other than drilling, [or] fracturing, shall be conducted only between 7:00 a.m. and 7:00 p.m. Monday through Saturday. Truck deliveries of equipment and materials associated with drilling or production, well servicing, site preparation and other related work conducted on the well site shall be limited to between the above same work-hour restrictions except in cases of fires, blowouts, explosions, and any other emergencies or where the delivery of equipment is necessary to prevent the cessation of drilling or production. The operator may request an exception from work hours and days from the city council, pursuant to section 4.09.019 of this article, or be set forth in the specific use permit as a condition of approval.

(ll) Noise restrictions for gas well permits. A noise management plan shall be submitted with the specific use permit and shall constitute a condition of approval. In addition to any restrictions or requirements set forth in the specific use permit, the following restrictions shall apply:

(1) During drilling, re-drilling or re-working, and flaring no on-site activity shall produce a sound level greater than seventy-eight (78) dB(A) when measured at a distance of three hundred feet (300') from the drilling equipment in question.

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(2) During fracturing, no on-site activity shall produce a sound level greater than eighty-five

(85) dB(A) when measured at a distance of three hundred feet (300') from the drilling equipment in question.

(3) During production, no on-site activity shall produce a sound level greater than sixty-five

(65) dB(A) when measured at a distance of three hundred feet (300') from any on-site equipment in question.

(4) Sound level measurements shall be made with a sound level meter conforming as a minimum, to the requirements of the American National Standards Institute (ANSI).

(5) If sound levels exceed the dB(A) levels referenced in this subsection, the gas inspector may require additional sound reducing techniques and devices including, but not limited to, sound-reducing mufflers, including but not limited to hospital grade mufflers on equipment.

(mm) Tank specifications for gas well permit. All tanks and permanent structures shall conform to the API specifications unless other specifications are approved by the fire department. The top of the tanks shall be no higher than twelve feet (12') above the terrain surrounding the tanks.
(Code 1996, § 4.09.014; Ord. No. O-18-08, 6/16/08)

Sec. 4.09.015. Fences; screening.

(a) Throughout the entire exploration, drilling, and production process there shall be screening improvements (fences, walls, berms and landscaping) required during each phase of the process, including but not limited to the following; provided however, additional landscaping, buffers and noise barriers may be included as conditions of approval of the specific use permit.

(1) Rig-up exploration through completion (drilling phase) to production. Once the pad site is prepared, a temporary chain-link fence with all-weather screening fabric at least six feet (6') in height shall be established around the entire operation site to obscure view of the gas drilling activities. The temporary fence shall remain standing and in a serviceable condition throughout this phase. A secured entrance gate shall be required. All gates are to be kept locked when the operator or his or her employees are not within the enclosure. A “Knox Padlock” or “Knox Box with a key” shall be provided to access the well site to be used only in case of an emergency. Once drilling of the hole is complete, the operator shall install a permanent masonry wall within 90 days if no further work is to be accomplished.

(2) Completion through abandonment (production phase). Once gas has entered the pipeline, the production phase begins and a masonry wall with landscaping shall be required to enclose and visually screen the well and all associated equipment. An earthen berm may also be required. The masonry walls, berms, and landscaping shall be in compliance with standard engineering and design practices and shall meet the following minimum requirements:

(A) The masonry wall material and design shall be generally compatible with the design of similar facilities, buildings and structures on or adjacent to the site; and

(B) Masonry walls shall be at least eight feet (8') in height.

(C) Masonry walls shall be placed upon earthen berms in order to prevent viewing of the well and

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associated equipment from a public street, playground, competition athletic field or picnic area within a public park, existing residences and residentially zoned undeveloped property contiguous to the well site where practicable as determined by the city manager or city manager's designee. However, the above-mentioned berms shall not be required unless needed to augment the height of an eight-foot (8') masonry wall in order to prevent the viewing of the well or any associated equipment from the above items.

(D) All landscape improvements shall be maintained in an attractive and healthy state by the applicant or operator so as to ensure the effective visual screening of the site throughout its use for gas production and associated activities.

(E) Screening shrubs and trees shall be evergreen species and shall be installed in conjunction with the required masonry walls or berms in order to supplement both the visual screening and noise mitigation of the well site and associated equipment. Screening shrubs shall be a minimum of five feet (5') in height at planting, having the potential to grow to a mature height of at least eight feet (8'), be planted on four-foot (4') centers and must have an irrigation system that provides total water coverage to all plant materials. Screening trees shall be planted on twenty-foot (20') centers. Trees must be a minimum of three-inch (3") caliper at time of planting and be irrigated as above. All screening shrubs and trees will comply with a list of shrubs and trees approved by the city council. Plans for landscape and irrigation shall be submitted to the planning and development department for approval.

(b) Gate specifications. All temporary fences and masonry walls shall be equipped with at least one

(1) gate. The gate shall meet the following specifications:

(1) Each gate shall be not less than twelve feet (12') wide and be composed of two gates, each of which is not less than six feet (6') wide, or one sliding gate not less than twelve feet (12') wide. If two gates are used, gates shall latch and lock in the center of the span;

(2) The gates shall be of chain-link construction, with all-weather screening fabric, that meets the applicable specifications, or of other approved material that, for safety reasons, shall be at least as secure as a chain-link fence;

(3) The gates shall be provided with a combination catch and locking attachment device for a padlock, and shall be kept locked except when being used for access to the site; and

(4) The operator must provide the fire department with a "Knox Padlock" or a "Knox Box with a key" to access the well site to be used only in case of an emergency.

(5) At each gate there shall be a sign that reads "no trespassing."
(Code 1996, § 4.09.015; Ord. No. O-18-08, 6/16/08)

Sec. 4.09.016. Clean-up and maintenance.

(a) Clean-up after well servicing. After the well has been completed or plugged and abandoned, the operator shall clean the drill site or operation site, complete restoration activities and repair all damage to public property caused by such operations within 60 days.

(b) Clean-up after spills, leaks and malfunctions. After any spill, leak or malfunction, the operator shall remove or cause to be removed to the satisfaction of the fire department and the gas inspector all waste materials from any public or private property affected by such spill, leak or malfunction. Clean-up

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operations must begin immediately. If the owner fails to begin site clean- up within 24 hours, the city shall have the right to contact the commission in order to facilitate the removal of all waste materials from the property affected by such spill, leak or malfunction.

(c) Painting. All production equipment shall be painted and maintained at all times, including wellheads, pumping units, tanks, and buildings or structures. When requiring painting of such facilities, the gas inspector shall consider the deterioration of the quality of the material of which such facility or structure is constructed, the degree of rust, and its appearance. Paint shall be of a neutral color, compatible with surrounding uses. Neutral colors shall include sand, gray and unobtrusive shades of green, blue and brown, or other neutral colors approved by the planning and development department.

(d) Blowouts. In the event of the loss of control of any well, the operator shall immediately take all reasonable steps to regain control regardless of any other provision of this article and shall notify the gas inspector and fire department as soon as practicable. The gas inspector shall certify in writing, briefly describing the same, to the city manager. If the city manager, in his opinion, believes that danger to persons and property exists because of such loss of well control and that the operator is not taking or is unable to take all reasonable and necessary steps to regain control of such well, the city may then employ any well control expert or experts or other contractors or suppliers of special services, or may incur any other expenses for labor and material which the city deems necessary to regain control of such well. The city shall then have a valid priority lien against the interest in the well of all working interest owners to secure payment of any expenditure made by the city pursuant to such action of the gas inspector in gaining control of said well.
(Code 1996, § 4.09.016; Ord. No. O-18-08, 6/16/08)

Sec. 4.09.017. Plugged and abandoned wells.

(a) Surface requirements for plugged and abandoned well. Whenever abandonment occurs pursuant to the requirements of the commission, the operator so abandoning shall be responsible for the restoration of the well site to its original condition as nearly as practicable, in conformity with the regulations of this article.

(b) Abandonment shall be approved by the city manager or city manager's designee, after restoration of the drill or operation site has been accomplished in conformity with the following requirements at the discretion of the city manager or the city manager's designee:

(1) The derrick and all appurtenant equipment thereto shall be removed from the site;

(2) All tanks, towers, and other surface installations shall be removed from the site;

(3) All concrete foundations, piping, wood, guy anchors and other foreign materials regardless of depth, except surface casing, shall be removed from the site, unless otherwise directed by the commission;

(4) If any soil was contaminated, it shall be removed from the site in accordance with city, state and federal regulations;

(5) All holes and depressions shall be filled with clean, compactable soil;

(6) All waste, refuse or waste material shall be removed from the site; and

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(7) During abandonment, the operator shall comply with all applicable sections in this article.

(c) Abandoned well requirements. The operator shall furnish the following to the gas inspector:

(1) A copy of the approval of the commission confirming compliance with all abandonment proceedings under the state law; and

(2) A notice of intention to abandon under the provisions of this section and stating the date such work will be commenced. Abandonment may then be commenced on or subsequent to the dates so stated.

(d) Abandonment requirements prior to new construction. All abandoned or deserted wells or drill sites shall meet the most current abandonment requirements of the commission prior to the issuance of any building permit for development of the property. No structure shall be built over an abandoned well.

(e) The operator can only abandon a well if the city manager or the city manager's designee has reviewed and approved the abandonment.
(Code 1996, § 4.09.017; Ord. No. O-18-08, 6/16/08)

Sec. 4.09.018. Technical advisor.

The city may from time to time employ a technical advisor or advisors who are experienced and educated in the gas industry or the law as it pertains to gas matters. The function of such advisors shall be to advise, counsel or represent the city on such matters relating to gas operations within the city as the city may want or require and the effect thereof, both present and future, on the health, welfare, comfort and safety of the citizens of the city. In the event such technical advisors is (are) employed for the purpose of advising, counseling or representing the city relative to an operator's unique and particular set of circumstances, case or request relating to this article, then the cost for such services of such technical advisors shall be assessed against and paid for by such operator in addition to any fees or charges assessed pursuant to this article. Prior to the employment of a technical advisor, the city shall inform the operator of the intended scope of work and the estimated costs and expenses. The employment of a technical advisor shall be approved by the city council.
(Code 1996, § 4.09.018; Ord. No. O-18-08, 6/16/08)

ARTICLE IV. APPEALS, FEES, AND PENALTIES

Sec. 4.09.019. Appeals.

(a) The city council shall hear and decide appeals of orders, decisions, or determinations made by the city manager, or the city manager's designee, relative to the application and interpretation of this article.

(b) The city council shall decide by majority vote requests for deviations specifically authorized by this article, such as distance of drilling sites from certain structures and improvements, and hours of operation. The city council is likewise authorized to decide by majority vote requests for deviations from landscape and screening requirements. Relevant considerations in determining whether such requests should be granted include the nature and remoteness of the site, the wishes of the owners of the immediately adjacent property impacted by the request, and any proposed measures to offset the impact of the request. The city council may impose restrictions to offset the impact of the requests. Requests shall be in writing stating the rationale for the deviation and shall be accompanied by a filing fee in the amount established in section 4.09.020 of this article.

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(c) (1) The city council shall have and exercise the authority to hear and determine appeals where it is alleged there is error or abuse of discretion regarding the issuance of a gas well permit or the revocation or suspension of any permit issued hereunder, and as provided by this article. Any person or entity whose application is denied by the city manager or the city manager's designee, or whose permit is suspended or revoked, may file an appeal to the city council. Such appeal shall be in writing, specifying the error or abuse of discretion and shall be accompanied by a filing fee in the amount established in section 4.09.020 of this article. The city council may request additional information and take testimony from fact and expert witnesses.

(2) The city council shall review the appeal and any other related information. The city council in deciding appeals regarding the issuance of a gas well permit or its revocation or suspension shall consider the grounds for the action appealed from and whether an error of fact or in interpretation of these regulations occurred. The city council may reverse or modify the action appealed from by a majority vote. The only basis for a reversal or modification shall be error in applying these regulations; hardship shall be irrelevant.

(3) Appeals of any condition of the specific use permit shall be in accordance with the provisions of the zoning ordinance as it exists and as it may be amended.

(d) Notice shall be provided of the date, time and place of a hearing for each request for a deviation and appeal by mailing such notice to the owner of record of each parcel of property located within six hundred feet (600') of the well within the city and to the city secretary of each city within such distance. Such notice shall be mailed at least ten days prior to such hearing.

(e) Judicial review of council decisions on appeals.

(1) Any of the following persons may present to a district court of Dallas and Ellis County, Texas, a verified petition requesting that a writ of certiorari be issued stating that the decision of the city council is illegal in whole or in part and specifying the grounds of the illegality:

(A) The person whose appeal was denied; or

(B) A city taxpayer.

(2) The petition must be received for filing by the clerk of the district court within 10 days after the date the decision is made by the city council.

(3) On the presentation of a verified petition meeting the foregoing requirements, the court may grant a writ of certiorari directed to the city council to review the city council's decision. The writ must indicate the time by which the council's return must be made and served on the petitioner's attorney, which must be after 10 days and may be extended by the court. Granting of the writ does not stay the proceedings on the decision under appeal, but on application and after notice to the city council the court may grant a restraining order if due cause is shown.

(4) The city council's return must concisely state any pertinent and material facts that show the grounds of the decision under appeal. The council is not required to return the original documents on which the council acted but may return certified or sworn copies of the documents or parts of the documents as required by the writ.

(5) If after receiving the return the court determines that there is substantial evidence in such return to

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constitute grounds for reasonable persons to differ as to whether the action of the city council in denying the appeal was lawful, the court shall affirm the decision. If the court finds that there is insufficient information contained in such return to make such a determination, and that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take evidence as directed. The referee shall report the evidence to the court with the referee's findings of fact and conclusions of law. The referee's report constitutes a part of the proceedings on which the court shall make its decision.

(6) The court may reverse or affirm, in whole on in part, or modify the decision that is appealed. Costs shall not be assessed against the city council.
(Code 1996, § 4.09.019; Ord. No. O-18-08, 6/16/08)

Sec. 4.09.020. Gas well fees.

(a) For services rendered, the following schedule of fees and charges is hereby adopted:

(1) New gas well permit: $6,500.00 ea.

(2) Amended permit: $540.00.

(3) Extended permit: $270.00.

(4) Supplemental permit: $180.00.

(5) Operator transfer: $720.00.

(6) Seismic site inspection: $360.00.

(7) Seismic test of city property: Fee determined by city council.

(8) Annual inspection fee (per well): $1,000.00.

(9) Appeal to city council fee: $500.00.

(10) Request to city council for deviation: $500.00.

(b) The city council or city manager shall pass through the actual cost of any non-employee expert deemed necessary to advise or provide a service to the city to protect the health, safety and welfare of the citizens of the city.

(c) No blanket well permits will be issued.
(Code 1996, § 4.09.020; Ord. No. O-18-08, 6/16/08)

Sec. 4.09.021. Penalty.

(a) It is unlawful and an offense for any person to intentionally or knowingly:

(1) Engage in any activity not permitted by the terms of a gas well permit issued under this article;

(2) Fail to comply with any condition set forth in a gas well permit issued under this article; or

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(3) Violate any provision or requirement set forth under this article.

(b) Any violation of this article shall be punished by a fine not exceeding two thousand dollars ($2,000.00) per violation per day, subject to applicable state law. Each day that a violation exists shall constitute a separate offense.

(c) The penalty provided herein shall be cumulative of other remedies provided by state law, including but not limited to, the recovery of civil penalties under V.T.C.A., Local Government Code, ch. 54. The city may institute any appropriate action or proceeding in a court of competent jurisdiction to enjoin the violation of this article. The power of injunction may be exercised in enforcing this article whether or not there has been a criminal complaint filed.
(Code 1996, § 4.09.021; Ord. No. O-18-08, 6/16/08)

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Chapter 58

LANDSCAPING, FENCING, SCREENING, AND LIGHTING

ARTICLE I. IN GENERAL

~~**Sec. 15.02.001. Title.**~~[157]
~~These regulations shall be known as the city's landscaping and screening ordinance, may be cited as such, and will be referred to herein as "this article."~~
~~(Code 1996, § 15.02.001; Ordinance O-08-13 adopted 5/7/13)~~

Sec. 15.02.002. Intent and purpose.

It is the intent of this article to:

(1) Establish minimum requirements for the installation and maintenance of landscaping and screening elements that preserve and improve the natural and urban environment. Recognize that the use of landscaping elements can contribute to the processes of air purification, oxygen regeneration, groundwater recharge, provision of habitats for wildlife, and enhance the aesthetic qualities of the city.

(2) Protect and conserve the community's soils and prevent soil erosion and silting of drainage structures and water bodies, as well as reducing the impact of development on the community's storm drainage system.

(3) Reduce the negative effects such as increase in noise, heat, and glare, and the spread of dust and debris caused by expanses of impervious and nonvegetated surfaces creating an urban heat island within the urban environment.

(4) Assure an acceptable degree of transition and reduce incompatibility between abutting or nearby uses of different character by providing visual buffering between such uses.

(5) Indirectly influencing rise in property value by eliminating nuisance, increasing security, and improving general appearance of the city.
(Code 1996, § 15.02.002; Ordinance O-08-13 adopted 5/7/13)

Sec. 15.02.007. 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:

Automatic controller. A mechanical or electronic timer, capable of operating valve stations to set the days and length of time of a water application.

~~City. The City of Glenn Heights.~~

CCRs: Covenants, codes and restrictions.

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[157] **Sec. 15.02.001. Title.** Short titles are unnecessary after codification and should be stricken as shown. Also, definitions duplicative of chapter 1 are stricken.

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Dilapidated fence. A fence which is decayed, deteriorated, or fallen into partial ruin.

Easement. A right created by grant, reservation, agreement, prescription, or necessary implication, which one has in the land of another. It is either for the benefit of appurtenant land such as for the right to cross, or egress, such as a public utility easement, or in specific, such as an exclusive utility easement. An easement may or may not have descriptive bounds.

Emitter. Devices which are used to control the applications of irrigation water. This term is primarily used to refer to the low flow rate devices used in micro-irrigation systems.

Fence. Any new fence, wall, boundary enclosure, or screening device commonly referred to herein as "fence."

Ground cover. Plants, other than turf grass, normally reaching an average maximum height of not more than 24 inches at maturity.

HOAs. Homeowner associations.

Infiltration rate. The rate of water entry into the soil expressed as a depth of water per unit of time (inches per hour).

Irrigator. A person who holds a license to practice irrigation in the state.

Irrigation system. A permanent artificial watering system that is designed to transport and distribute water to plants.

iSWM integrated stormwater management. A site development design manual developed by NCTCOG.

Landscape architect. A person who holds a license to practice landscape architecture in the state.

Landscaped area. The entire parcel less the building, footprint, driveways, nonirrigated portions of parking lots, landscapes such as decks and patios, and other nonporous areas.

Landscaping. Any combination of living plants (such as grass, ground cover, shrubs, vines, hedges, or trees) and nonliving landscape material (such as rocks, pebbles, sand, mulch, walls, fences, or decorative paving materials).

Mechanical equipment screening wall or mechanical equipment screening fence. A wall, fence, or architectural extension, that may be part of the structure or stand alone, that screens from view the stand alone mechanical systems of a structure, mechanical roof mounted equipment and similar type installations so that visibility through the wall shall be prevented from the exterior side of the wall or architectural extension.

Micro-irrigation (low volume). The frequent application of small quantities of water directly on or below the soil surface, usually as discrete drops, tiny streams, or miniature sprays through emitters placed along the water delivery pipes (laterals). Micro-irrigation encompasses a number of methods or concepts including drip, subsurface, bubbler, and spray irrigation, previously referred to as trickle irrigation, low volume, or low flow irrigation.

Mulch. Living, organic or synthetic materials customarily used in landscape design to retard erosion and

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retain moisture.

Native vegetation. Any plant species with a geographic distribution indigenous to all, or part, of the state.

Naturally occurring existing plant communities. See native vegetation.

NCTCOG. North Central Texas Council of Governments.

Outside storage. The storage of commodities, goods or refuse outside of an enclosed building.

Pervious paving materials. A porous asphaltic or concrete surface and a void aggregate base which allows for rapid infiltration and temporary storage of ram [rain] on, or runoff delivered to, paved surfaces.

Plant communities. A natural association of plants that are dominated by one or more prominent species, or a characteristic physical attribute.

Public right-of-way. A strip of land which is used as a roadbed for a street, alley or highway intended for use by the public at-large, or land set aside as an easement or in fee, either by agreement or condemnation.

Rain sensor device. A low voltage electrical or mechanical component placed in the circuitry of an automatic lawn irrigation system which is designed to turn off a sprinkler controller when precipitation has reached a pre-set quantity.

Rainwater harvesting zone. A landscape zone that is designed for the purpose of capturing, filtering, reusing or infiltrating rainwater with the intended purpose of protecting and conserving water resources.

Rear yard. A yard extending across the full width of the lot, the depth of which is the horizontal distance between the rear lot line and a line parallel to it at the building line.

Runoff. Water or liquid that is not absorbed by the soil or landscape to which it is applied and flows from the area.

Site specific plant. A selection of plant material that is particularly well suited to withstand the physical growing conditions that are normal for a specific location.

Soil texture. The classification of soil based on the percentage of sand, silt, and clay in the soil.

Structural soil. A soil medium, which is designed to meet or exceed pavement load bearing requirements while remaining root penetrable and supportive of tree growth.

Temporary irrigation. An irrigation system that is used to establish native and adapted plants species and is removed after a one year establishment period.

Turf or turf grass. Continuous plant coverage consisting of grass species suited to growth in the city.

Valve. Device used to control the flow of water in the irrigation system. Visibility triangle.

(1) Intersections where an alley intersects a public street right-of-way. The areas on both sides of the intersection of an alley and a public street shall have a triangular visibility area with

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two sides of each triangle being a minimum of ten feet in length from the point of intersection, and the third side being a line connecting the ends of the other two sides.

(2) Street intersection or intersection of private driveway onto a public street. These areas shall have a triangular visibility area with two sides of each triangle being a minimum of 25 feet in length along the right-of-way lines (or along the driveway curbline and the street right- of-way line) from the point of the intersection, and the third side being a line connecting the ends of the other two sides.

Water use zone. A grouping of sprays, sprinklers, or micro-irrigation emitters so that they can be operated simultaneously by the control of one valve according to the water requirements of the plants used.
(Code 1996, § 15.02.007; Ordinance O-08-13 adopted 5/7/13)

Sec. 15.02.003. Applicability and scope.

(a) The landscaping standards and criteria contained within this article are deemed to be minimum standards and shall apply to all new developments and existing developments that are expanding or redeveloping thirty percent (30%) or more land or building or both within the city. HOAs and CCRs for residential developments shall not overrule the provisions of this article by penalizing or restricting water conserving landscapes or requiring landscape materials that do not comply with this article.

(b) Any new fence, wall, boundary enclosure, or screening device erected or altered in the city shall be in conformance with the standards and requirements of this article. Any fence constructed prior to the adoption of this article shall be required to be in compliance with this article whenever the fence is repositioned, upgraded, or replaced. Regular maintenance of a fence erected prior to the adoption of this article that costs more than 50% of the total market price of the fence shall be required to be in compliance with this article. A pre-existing nonconforming fence that has become unsafe, dilapidated, or a public nuisance, then the nonconforming fence shall be repaired or replaced in compliance this article and any permits required by the city.
(Code 1996, § 15.02.003; Ordinance O-08-13 adopted 5/7/13)

Sec. 15.02.004. Conflict and compliance.

In the event of conflict between this article and other laws, the most restrictive standard applies.
(Code 1996, § 15.02.004; Ordinance O-08-13 adopted 5/7/13)

Sec. 15.02.005. Enforcement.

The provisions of this article shall be administered and enforced by the code enforcement officer of the city as appointed by the city manager or his/her designee.

(1) Violation. Failure to comply with the provisions of this article shall constitute a violation of this article. Every day a violation occurs or continues to occur, shall constitute a separate offense.

(2) Penalty. Any person, firm or corporation who violates any provision of this article shall be guilty of a misdemeanor and shall be punished by a fine upon conviction in an amount not to exceed $500.00.
(Code 1996, § 15.02.005; Ordinance O-08-13 adopted 5/7/13)

Sec. 15.02.006. Waiver.

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Request for a waiver from any provision of this article shall be processed in the manner provided by article 15.05 of this chapter.
(Code 1996, § 15.02.006; Ordinance O-08-13 adopted 5/7/13)

Sec. 15.05.001. Variance and special exceptions.

A person seeking a variance or special exception to any of the requirements of this chapter shall submit a written application for such variance or special exception to the board of adjustment as provided in city zoning regulations. The city zoning board of adjustment is granted authority to determine such applications for variance or special exception.
(Code 1996, § 15.05.001;Ordinance O-03-20 adopted 5/5/20)

ARTICLE II. REVIEW AND INSPECTIONS

Sec. 15.02.031. Review process.

The required landscape documents as outlined under section 15.02.032 of this article shall be submitted for review with the complete site plan application required by the city's zoning concept plan and site plan review process. Permits for building, paving, utilities, or construction shall not be issued prior to an approval and construction release of required landscape documents by the city.
(Code 1996, § 15.02.031; Ordinance O-08-13 adopted 5/7/13)

Sec. 15.02.032. Landscape and irrigation plan requirement.

(a) Qualifications to prepare plans. For all lots greater than or equal to one acre, landscape plans shall be prepared by a registered landscape architect. For lots less than one acre, a landscape designer or landscape contractor, knowledgeable in plant materials and landscape design may prepare the landscape plan. Irrigation plans shall be prepared by a licensed irrigator or professional engineer

(b) Landscape plan requirements. Proposed landscape plans shall be prepared by a landscape architect (if applicable), be submitted on (24"x36") sheets of paper and shall include the following information:

(1) Acceptable scale: 1" = 10', 1" = 20', 1" = 30', or as approved.

(2) North arrow, graphic and written scale.

(3) Appropriate title (i.e. landscape plan).

(4) Title block, including street address, legal description, and date of preparation.

(5) Name and address of owner.

(6) Name, address and telephone number of person preparing plan.

(7) Property line shown with dimensions.

(8) Existing utilities (water, sewer, storm drain, gas, electric, cable television, etc.).

(9) Width and type of bufferyards labeled on all sides.

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(10) Location, caliper size and species of all existing trees 6" caliper or greater which are to be preserved.

(11) Location of all plants and other landscape materials, a legend with botanical and common names, and sizes of plant materials.

(12) Size of all plant material to be used at time of planting, appropriate spacing shall be indicated on plan.

(13) Details and specifications for tree planting, soil preparation, and other applicable planting work.

(14) Landscape tabulations showing how landscape requirements have been met.

(15) Maintenance note.

(16) Label type of any enhanced pavement proposed.

(17) Visibility triangles shown.

(18) Seal and dated signature of landscape architect (if applicable).

(19) Soil analysis.

(c) Irrigation plan requirements. A detailed irrigation plan shall be prepared by an irrigator or professional engineer, at a scale that matches the landscape plan and shall be submitted on (24"x36") sheets of paper that include the following information:

(1) Acceptable scale: 1" = 10', 1" = 20', or 1" = 30', or as approved (must be at same scale as landscape plan).

(2) North arrow, graphic and written scale.

(3) Appropriate title (i.e. “irrigation plan”).

(4) Title block including street address, legal description, and date of preparation.

(5) Name and address of owner.

(6) Name, address and telephone number of person preparing plan.

(7) Property line with dimensions.

(8) All pipes labeled as to size.

(9) All sprinkler heads labeled as to type (key is acceptable).

(10) Backflow prevention device labeled with type and size.

(11) Location of water meter and connection to water service.

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(12) Legend summarizing the type and size of all components of the system, including manufacturer name and model numbers.

(13) Static water pressure in pounds per square inch at the point of connection to the public water supply.

(14) Flow rate in gallons per minute and design operating pressure in pounds per square inch for each valve.

(15) Seal of a licensed irrigator or professional engineer.

(16) Topography.

(17) Meter and point of connection.

(18) Installation details for irrigation components.

(19) Any existing utilities (water, sewer, storm drain, gas, electric, cable television, etc.).

(20) Note indicating that installation must be inspected by the city's certified irrigation inspector.

(21) Maintenance note.

(d) Other irrigation requirements. The city encourages water conservation through the use of native or adapted plant materials. Landscaping using plants from approved plant list (section 15.02.122) designated as having low water demand (LW) do not require permanent irrigation. Temporary irrigation may be necessary during the initial period of plant establishment. Landscapes using nonnative species or a mixture of native and nonnative species require an irrigation system to maintain plant viability. The city's licensed irrigation inspector has the ultimate authority to determine whether an irrigation system is required or not. Irrigation systems should be installed with rain sensors and drip irrigation to promote efficient use of water.
(Code 1996, § 15.02.032; Ordinance O-08-13 adopted 5/7/13)

Sec. 15.02.033. Maintenance.

(a) General. The owner, and tenant, if any, shall be jointly and severally responsible for the maintenance of all landscaping and irrigation. All required landscaping shall be maintained in a neat and orderly manner at all times. This shall include mowing, edging, pruning, fertilizing, watering, weeding, and other such activities common to the maintenance of landscaping. Landscaped areas shall be kept free of trash, litter, weeds and other such material or plants not a part of the landscaping. All plant materials shall be maintained in a healthy and growing condition as is appropriate for the season of the year. All irrigation heads or lines that are broken and flow water shall be replaced or repaired immediately to prevent the waste of water.

(b) Plant replacement. The owner or tenant shall be responsible for replacing all plant materials displaying dead branching over 75 percent or more of the normal branching pattern. Plant materials which die shall be replaced with plant material of similar variety and similar initial size. The owner or tenant shall make such necessary replacements within 30 days of notification by the city to replace any plant. The owner or tenant shall maintain all irrigation system equipment so as to avoid damage to any

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landscaping caused by lack of irrigation.
(Code 1996, § 15.02.033; Ordinance O-08-13 adopted 5/7/13)

Sec. 15.02.034. Inspection.

After installation of any approved landscape plan, the city's certified irrigation inspector shall inspect and approve the installation prior to the issuance of a certificate of occupancy for any building on the property. It is the owner's responsibility to request an inspection prior to the issuance of a certificate of occupancy. If a certificate of occupancy is sought during a time of year in which the city determines that it would be impractical to plant trees, shrubs or grass, or install turf, the owner shall place in escrow with the city a sum of money equal to the cost of installing all or the remaining portion of the approved landscaping. Under such circumstances the landscaping as shown and approved on the landscape plan shall be installed within five months of final acceptance of the development by the city or issuance of the first certificate of occupancywithin the development.
(Code 1996, § 15.02.034; Ordinance O-08-13 adopted 5/7/13)

Sec. 15.02.035. through Sec. 15.02.060. (Reserved)

ARTICLE III. LANDSCAPING STANDARDS AND SPECIFICATIONS

Sec. 15.02.061. General provisions.

(a) For purposes of establishing compliance with the minimum area requirements for landscaping in this article, no land within the 100-year floodplain shall be used to determine the total area of the site, nor shall be counted as fulfilling the minimum landscape area requirements.

(b) The best professional practices of the American Society of Landscape Architects, the International Society of Arboriculture and the American Nursery and Landscape Association regarding planting, installation, trimming, and fertilization, shall be followed as a guiding principle.

(c) Nursery standards shall meet the current American Standard for Nursery Stock.

(d) Tree planting standards.

(1) Tree plantings shall not include more that forty-five percent (45%) of the same tree species.

(2) Trees shall not be planted within four feet of any right-of-way (ROW) concrete pavement, utility lines, screening walls, or others structures unless approved by the city.

(3) Trees and shrubs shall not overhang or encroach upon walkways, drives, parking areas, and traffic signs to the extent that they interfere with the intended use of these facilities.

(4) Tree limbs shall be trimmed up to a height of at least eight feet above the sidewalk level. Tree limbs which overhang the public street shall be trimmed to the height of at least 13 feet above the street level.

(e) Plant materials.

(1) Quality standard. All plant material shall be of no. 1 grade, free from plant disease, of typical growth for the species, have a healthy, normal root system, rounded branching pattern, and shall conform

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to the code of standards set forth in the current edition of the American Standard for Nursery Stock.

(2) Plant materials. Shall be appropriate for the region and local soil conditions and shall be planted in accordance with good horticultural practice. Plants selected should require only low maintenance and should be temperature and drought tolerant. The applicant is encouraged to refer to the Texas Smartscape website (www.txsmartscape.com) for additional information on native and adapted species.

(3) Tree measurement. Canopy and understory trees with single trunks shall be measured by caliper size one foot above the ground line. Multi-trunk trees shall be measured by the height of the tree.

(f) Plant size and materials. Size of plant material at the time of installation shall comply with section 15.02.121 plant material size standards and the list of approved plant material provided in section 15.02.122 approved plant list.
(Code 1996, § 15.02.061; Ordinance O-08-13 adopted 5/7/13)

Sec. 15.02.062. Landscaping design requirements.

Landscaping practice on all nonresidential (including multifamily and manufactured home zoned properties) applicable properties shall follow the 'seven steps of Xeriscape' principles as outlined below in subsection (8) to achieve the stated purpose and intent of this article (section 15.02.002). Compliance with these "Xeriscape principles" is optional for all single-family residentially zoned applicable properties.

(1) Site planning and design. Site plans shall identify all vegetated areas to be preserved. Installed trees and plant materials shall be grouped together into zones according to water use needs. The water use zones shall correlate to the water use zone designations of plants listed in the recommended plant list (section 15.02.122) of this article. Plants with similar water and cultural (soil, climate, sun, and light) requirements should be grouped together and irrigated based on their water requirements. The water use zones shall be shown on the landscape plan. Newly installed plants may require regular, moderately applied watering for the first year to become established. Installed trees and vegetation shall be spaced and located to accommodate their mature size on the site. The water use zones are as follows:

(A) High water use zone (HW). High water use zone shall be limited to a maximum of fifty percent (50%) of the total required landscaped area. Plants and turf types within this area are associated with moist soils and require supplemental water in addition to natural rainfall to survive. This zone includes shallow rooted turf grass varieties.

(B) Moderate water use zone (MW). Plants within this zone survive on natural rainfall with supplemental water during seasonal dry periods. This zone includes deep-rooted turf grass varieties. This zone sometimes is referred to as rainwater harvest zone where landscape areas are strategically located to capture and utilize stormwater runoff as a source of water for trees and other landscape plants. Following design principles shall be used for rainwater harvesting:

(i) Design bio-retention beds, rain gardens, and filter strips etc. to capture runoff from impervious surfaces pursuant to iSWM guidelines.

a. Coordinate with civil drainage and storm sewer plans and provide detention volume calculations subject to the director of public works' approval.

b. Locate trees and other appropriate plants that are adapted to flood and drought conditions.

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c. Wheel stops or curb cuts shall be provided to allow stormwater to flow into rainwater harvest areas.

(ii) Design a system that stores and reuses stormwater in a pressurized irrigation system subject to the director of public works' approval. Retention ponds shall not count toward landscaping area requirements.

(C) Low water use zone (LW). Plants within this zone survive on natural rainfall without supplemental water. This zone is designed with landscapes that emulate indigenous plant communities and select and locate appropriate plants that are adapted to the conditions of the site and do not require supplemental water from irrigation, except for establishment and periods of extreme drought. Because of the relatively high water requirements of turf grass, no presently available varieties are included in this category. Impervious surfaces and materials within a landscaped area shall be limited to borders, sidewalks, step-stones, and other similar materials not to exceed twenty percent (20%) of the total required landscaped area.

(2) Soil analysis.

3

(A) Soils will vary from site to site and even within a given site. A soil analysis based on random sampling is required and will provide information that will enable proper selection of plants and, if needed, soil amendments. When appropriate, soil amendments can enhance the health and growing capabilities of the landscape by improving water drainage, moisture penetration, and a soil's water and nutrient holding capacity.

(B) A soil analysis satisfying the following conditions shall be submitted as part of the landscape plan.

(i) Determination of soil texture, indicating the percentage of organic matter.

(ii) An approximate' soil infiltration rate (either measured or derived from soil texture/ infiltration rate tables). A range of infiltration rates should be noted where appropriate.

(iii) Measurement of ph and total soluble salts.

(C) The soil tests may be done prior to submittal for site plan review. It is the responsibility of the applicant to have the soil test analyzed. The applicant shall deliver a copy of the "official" soil test information to the city's planning and permit division as part of the site plan submittal. The applicant shall note on the submitted plans the types of soil found on the site and the specifications for soil amendments. When feasible, community generated solid waste compost materials may be utilized.

(3) Appropriate plant selection. Plant selection should be based on the plant's adaptability to the landscape area, desired effect, color, texture, and ultimate plant size. Plants shall be grouped in accordance with their respective water and maintenance needs. Plant material shall be selected that is best suited to withstand the soil and physical growing conditions which are found in the microclimate of each particular location on a site. Plant species that are freeze and drought tolerant are preferred plants having similar water use shall be grouped together in distinct water use zones.

(4) Using turf wisely.

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(A) The type, location, and shape of turf areas shall be selected in the same manner as with all the other plantings. Turf shall not be treated as a fill-in material but rather as a major planned element of the landscape. Since many turf varieties require supplemental watering at frequencies different than the other types of landscape plants, turf shall be placed so that it can be irrigated separately. While turf areas provide many practical benefits in a landscape, how and where it is used can influence water use. The use of drought tolerant turf is preferred over the traditional turf grass varieties. If drought tolerant varieties are used, then turf areas are considered as part of the moderate water use zones thereby increasing ground coverage limits as set forth in this section above. Large turf areas, not subject to erosion, such as playfields, may be grassed with methods other than sod if previously approved during plan review.

(B) Turf grass areas shall be consolidated and limited to those areas on the site that receive pedestrian traffic, provide for recreation use, or provide soil erosion control such as on slopes or in swales and where turf grass is used as a design unifier, or other similar practical use. Turf areas shall be identified on the landscape plan.

(5) Efficient irrigation. If a landscape requires regular watering or if an irrigation system is desired, the system should be well planned and managed. Water can be conserved through the use of a properly designed and managed irrigation system. The irrigation system shall be designed to correlate to the organization of plants into zones as described in this section above. The water use zones shall be shown on the irrigation plan. Irrigation shall be required as follows:

(A) High water use zone. All portions of high water use zones shall be provided with central automatic irrigation systems.

(B) Moderate water use zone. All portions of moderate water use zones shall be provided with a readily available water supply within 25 feet.

(C) Low water use zone. All portions of low water use zones shall be provided with a readily available water supply within 50 feet.

(D) Retained trees, shrubs and native plant communities shall not be required to be irrigated, unless determined necessary by the planning and permit division of the city.

(E) Turfgrass areas shall be irrigated on separate irrigation zones from tree, shrub, and ground cover beds.

(F) Reclaimed or nonpotable water may be used for irrigation if an acceptable source is determined to be available by the public works director of the city.

(G) Moisture sensor or rain shut-off switch equipment shall be required on automatic irrigation systems to avoid irrigation during periods of sufficient rainfall. Said equipment shall consist of an automatic mechanical or electronic sensing device or switch which will override the irrigation cycle of the sprinkler system when adequate rainfall has occurred.

(H) The use of low volume emitters or target irrigation is required for trees, shrubs and ground covers so as to minimize irrigation overthrow onto impervious surfaces.

(6) Use of mulches.

(A) Mulches applied and maintained at appropriate depths in planting beds will assist soils in

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retaining moisture, reducing weed growth, and preventing erosion. Mulch can also be used in places where conditions aren't adequate for, or conducive to, growing quality turf or ground covers. Mulches are typically wood bark chips, wood grindings, pine straw, nutshells, small gravel, and shredded landscape clippings.

(B) A layer of organic mulch to a minimum depth of 3" shall be specified on the landscape plans in plant beds and around individual trees in turf grass areas. Mulch shall not be required in annual beds.

(7) Appropriate maintenance. A regular maintenance schedule shall be submitted as part of the landscape plan. Landscaping shall be maintained to ensure water-efficiency. A regular maintenance schedule shall include but are not be limited to checking, adjusting, and repairing irrigation equipment; resetting the automatic controller according to the season; aerating and dethatching turf areas; replenishing mulch; fertilizing; pruning, and weeding in all landscaped areas. Repair of irrigation equipment shall be done using the originally specified materials or their equivalents.

(8) Seven steps of Xeriscape.

(A) Planning and design. These are two principle elements to a seven step Xeriscape design, the site analysis and the planting plan.

(i) Group plants with similar water requirements.

(ii) Increase shade areas to decrease the water needs of plants.

(iii) Preserve areas of native vegetation.

(B) Soil analysis. Add organic, matter to flower or vegetable gardens before planting to increase the water retention ability of the soil.

(C) Appropriate plan selection.

(i) Select plants appropriate for the soil.

(ii) Natural zone plants require only natural rainfall.

(iii) Drought-tolerant zone plants require minimal irrigation.

(iv) Oasis zone plants require frequent watering. Limit these areas as much as possible.

(D) Using turf wisely. Consolidate area or consider alternatives to ease maintenance and water requirements.

(E) Efficient irrigation.

(i) Set the time on each irrigation zone to correspond to the needs of the plants grouped within that zone.

(ii) Check the system weekly to ensure it is operating properly.

(F) Use of mulches.

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(i) Use mulches for walkways as well as within the planting beds.

(ii) Mulches reduce watering needs, weeds, erosion, etc.

(G) Appropriate maintenance.

(i) Water and fertilize plants only as needed. Excessive amounts promote pest problems and increases pruning and mowing requirements.

(ii) Raise lawn mower blade(s) to promote more extensive root growth.

(iii) Prune shrubs to natural height and shape.
(Code 1996, § 15.02.062; Ordinance O-08-13 adopted 5/7/13)

Sec. 15.02.063. Landscaping area and location requirements.

Landscaping requirements on a site is divided into three groups, interior landscaping, parking lot landscaping, and perimeter landscaping where applicable. Perimeter landscaping requires landscaped buffer yards to provide visual and physical buffer from site features such as parking lots, high intensity use from low intensity use and between conflicting zoning districts, for example where residential zoning district abuts nonresidential zones.

(1) Interior landscaping.

(A) Residential.

Residential Zoning District	*Tree Requirements**	*Landscaped Area Requirements*
SF-E	Minimum 5 large shade trees and 3 medium shade trees	30% of total lot area
SF-1	Minimum 3 large shade trees and 2 medium shade trees	20% of total lot area
SF-2, SF-3, SF-4	Minimum 2 large shade trees and 2 medium shade trees	20% of total lot area

(B) Residential subdivisions - developer installed landscaping. All new homes shall follow the interior landscaping requirements as provided in subsection (A) above. All basic landscape packages installed by the developer for individual lots shall be drought tolerant and able to survive stage three drought restrictions pursuant to the city's drought contingency plan. Bermuda will be allowed as a drought tolerant turf; however, alternative drought tolerant grasses which will remain green while using 50% less water shall be offered as an option. Developer shall provide landscape water conservation information to all new homeowners.

(C) Nonresidential (including multifamily and manufactured home park).

Residential Zoning District	*Tree Requirements**	*Landscaped Area Requirements*
O - office, NS - neighborhood services	Minimum 1 shade tree per 10,000 square feet of lot area	20% of total lot area
R - Retail, TC - town center	Minimum 1 shade tree per	20% of total lot area

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	10,000 square feet of lot area	
C - commercial	Minimum 1 shade tree per 7,000 square feet of lot area	30% of total lot area
I - industrial	Minimum 1 shade tree per 5,000 square feet of lot area	30% of total lot area

* Trees shall be selected from the approved plant material list (section 15.02.122).

** 50% of required landscaping area shall be located in the designated front yard.

(2) Perimeter landscaping. Perimeter landscaping is required when any nonresidentially zoned property (including multifamily and manufactured home zoned properties) or any nonresidential use abuts a residentially zoned property or use. Perimeter landscaping shall be installed within the property limits of the nonresidentially zoned property. Landscaping shall be installed and maintained by the property owner of the more intensive use. Any parking lot of more than 30 parking spaces within private property shall provide minimum ten feet (10') wide perimeter landscaping on three sides (excluding driveways and entry/exit points) except the parking lot side adjacent to the primary building. Perimeter landscaping area cannot be counted towards interior landscaping area requirements. Trees can be informally grouped and shall follow the Xeriscape design principles as outlined in section 15.02.062. Perimeter landscaping may contain moderate water use zones as defined in section 15.02.062. Perimeter landscaping is not required when the stated more intense zoning or use is separated by a thoroughfare or a major arterial street from the residentially zoned use or district.

[GRAPHIC - Perimeter landscaping]

Zoning District/use abutting Residential zoning/use	*Perimeter Landscape Width*	*Tree Requirements**
O - office, NS - neighborhood services	Minimum 10'	Minimum 1 shade tree and 10 shrubs per 35 linear feet of lot length adjoining the residential zoned lot
R - Retail of C - commercial or TC - town center	Minimum 15'	Minimum 1 shade tree and 12 shrubs per 35 linear feet of lot length adjoining the residential zoned lot
I - industrial	Minimum 15'	Minimum 1 shade tree and 12 shrubs per 35 linear feet of lot length adjoining the residential zoned lot

(3) Parking lot interior landscaping.

(A) For parking lots with less than 30 parking spaces, planter islands shall be provided in parking areas with a minimum of 15 square feet of landscape area for each parking space. Planter islands should have a minimum area of one hundred and fifty square feet (150 sq. ft.). Each row of parking stalls shall provide the required landscape area; however in situations where it would be beneficial to combine more

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than one islands into a larger island may be considered by the applicant and shall be reviewed by the city for approval. Planter islands shall have a minimum width of 8 feet back to back, if curbed, or 9 feet edge to edge if no curb is provided. Parking lot landscaping does not count toward the total required interior landscape area.

A minimum of fifty percent (50%) of all planter islands in parking areas shall contain a minimum of one large/medium shade tree with the remaining area in shrubs, ground cover, grasses or seasonal color. Planter islands which have light poles may substitute two understory/accent trees for the required canopy tree. If the parking lot faces a thoroughfare or major arterial (as defined in the city's thoroughfare plan) then perimeter landscaping buffer shall be installed as stated in subsection (2) above.

(B) For parking lots with more than 30 parking spaces following design standards including area, location and layout guidelines shall be followed:

(i) A continuous nine feet (9') wide landscaping strip of moderate water use zone or rainwater harvest zone shall be installed within two head-in parking rows. On both sides of the rainwater harvest zone a six feet wide at-grade paved walkway shall be installed for the entire row of the parking. This paving material should be porous in nature to support natural stormwater infiltration. Site grading and slope should be designed such that stormwater should naturally drain into these rainwater harvest zones. To support the landscaping during no-rain seasons, drip irrigation should be installed in these landscaping strips. Wheel stops shall be installed next to the paved walkways to prevent cars entering the pavement or landscaping. The overall layout and design principle of parking lot landscaping is shown in the graphics below.

(ii) One medium shade tree every ten feet (10') shall be installed in the continuous landscape strip with drought tolerant ground cover at the base.

(iii) Approximately at the midway of the parking aisle and at both ends, landscape islands shall be installed as shown in the graphics below.

(iv) Water usage in parking lot landscaping shall be restricted to seasons when rainwater is not abundant. Drip irrigation shall be installed to prevent water wastage.

[GRAPHIC - Drip irrigation diagram]

(Code 1996, § 15.02.063; Ordinance O-08-13 adopted 5/7/13)

Sec. 15.02.064. Incentives.[158]

(a) Any state licensed landscape professional or licensed irrigator or landscape contractor who attends a water-efficient landscaping workshop or short course organized by any agency recognized by the city shall receive a ten percent (10%) reduction of their occupational license fee upon their next renewal date.

(b) Any development/landscape plan which incorporates the minimum water-efficient design principles and standards established by this article will be granted special staff consideration and will be expedited through the landscape review portion of the site-plan review process.

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[158] **Sec. 15.02.064. Incentives.** Is the correct percentage here 10% or 20%?

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(c) In addition to a streamlined processing, any development/landscape plan which exceeds the minimum water-efficient design principles and standards established by this article will receive ten percent (20%) reduction in the city permit application fee.

(d) Any individual homeowner or resident who is not required to submit a development/landscape plan, yet voluntarily applies the minimum water-efficient design principles and standards established by this article will be eligible for a twenty percent (20%) reduction applied as a credit against their monthly water consumption charges, provided that the landscaped areas continue to comply with the minimum maintenance requirements and the total monthly water consumption is reduced by minimum ten percent (10%) as calculated on an annual average consumption rate. To be eligible for this credit the water efficient design principles and standards as proposed by the homeowner/resident needs to be submitted to the city's planning and permit division for review. Once the landscape and irrigation plan are approved by the city, the credit in water fee shall be effective after 6 months of landscaping installation once the reduction in water consumption has been established in gallons. The credit shall be applicable for the six-month (6) evaluation period as well and will be prorated back. This incentive shall be offered for maximum three years to any particular property.
(Code 1996, § 15.02.064; Ordinance O-08-13 adopted 5/7/13)

Sec. 15.02.065. through Sec. 15.02.090. (Reserved)

ARTICLE IV. FENCE AND SCREENING STANDARDS AND SPECIFICATIONS

Sec. 15.02.091. General provisions.

(a) Acceptable materials. Acceptable materials for constructing fence and screening device include wood, stone, preformed concrete block, concrete, brick, masonry, natural and treated woods, ornamental metal or wrought iron, and vinyl.

(b) Prohibited materials.

(1) Chainlink fence shall only be permitted in agricultural (A) zoning districts for the following uses:

(A) Electrical transmission line.

(B) Farm, ranch, garden, orchard.

(C) Railroad track or right-of-way.

(D) Sewage pumping station.

(E) Stable or barn, private.

(F) Telephone exchange, switching, relay or transmission station.

(G) Water pumping station.

(2) Corrugated metal panels or materials having similar properties shall not be permitted.

(3) Barbed wire fences are prohibited in the city except in agricultural (A) zoning districts for the

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following uses:

(A) Farm, ranch, garden, orchard.

(B) Stable or barn, private.

(4) Except as provided below, electrical fencing is prohibited within the city:

(A) Electric fences and fence charging devices are allowed only in within industrial (I) and agricultural (A) zoning districts in conjunction with agricultural and related activities for the purposes of containing horses and livestock, or for the security of crops grown on the premises, and shall be plainly labeled for ease of identification.

(B) Must be located at least six inches inside a nonelectric fence.

(C) Shall be underwriter laboratories (UL) listed and installed and maintained as per manufacturer's instructions.

(D) Shall have posted signs on all sides spaced at not more than fifty (50) foot intervals: "Danger, electric fence."

(E) Electric fences not in compliance with the above are hereby declared a nuisance per se and must be immediately removed.

(c) Temporary fences. Temporary fences are required for properties under construction, demolition, repair, or maintenance with the following standards:

(1) Property undergoing new construction.

(A) Prior to the initiation of construction and upon obtaining a required fence permit, a temporary security fence of six feet is required to be erected with sufficient anchoring to secure the new construction site.

(B) The temporary security fence is to be removed after the construction completion and prior to occupancy of the site.

(2) Property undergoing demolition or repair or maintenance.

(A) Prior to the initiation of demolition, dismantling, removing, or extensively (as determined by development review committee) repairing of a building or structure abutting a street, alley, or sidewalk; and, upon obtaining a required fence permit, protection in the form of a temporary security fence shall be provided for the site being affected.

(B) For buildings exceeding forty (40) feet in height, the temporary security fence installed with sufficient anchoring shall not be less than four feet high with approved and appropriate cautionary signage, barricades or ribbon taping. The fence shall be minimum seven feet (7') away from the building line. The temporary security fence shall be removed after completion of the demolition or repair.

(C) For buildings exceeding forty (40) feet in height, the temporary security fence shall not be less than six feet high and shall be located minimum fifteen feet (15') away from the building line. Where such

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protection is located, a special acknowledgement shall be noted on the issued permit.

(d) All mandatory or permitted fencing/screening shall be erected and maintained so as not to interfere with or obstruct the view of traffic or constitute a traffic hazard on any public or private street, alley or driveway.

(e) No fence, screen, wall, or other visual barrier shall be so located or placed that it obstructs the vision of a motor vehicle driver approaching any street or roadway intersection.

(1) Where an alley intersects with a street, no fence or plant taller than 30 inches may be placed within a sight visibility triangle.

(f) All required screening walls shall be equally finished on both sides of the wall.

(g) No person shall place, erect, install, build, construct, add as a repair item, use or maintain any fence or barrier with spikes or nails or any other sharp objects imbedded on the top or sides of a fence or barrier within any zoning district of the city.
(Code 1996, § 15.02.091; Ordinance O-05-20 adopted 5/5/20)

Sec. 15.02.092. Permit required and application process.

If applicable per section 15.02.003, permit is required to construct, repair, or replace a fence or any part of a fence within the city. A permit application and any required fees shall be submitted to the city along with structural drawings, plans, and specifications with the seal and stamp of a licensed professional engineer. The city's planning and permit department will review the application and process it through plan review process. Permits are valid for 160 days upon approval. Construction shall begin within 90 days from the date of issuance of the permit. If construction does not commence within 90 days from the date of issuance of any permit, the permit shall become null and void and a new permit application shall be required. The city's planning and permit division staff may extend the time for construction for the applicant for a period not exceeding 90 days on written request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken. No applications shall be granted more than one extension and in no instance shall an extension exceed the original expiration date of the permit issued. The city may, in writing, suspend or revoke a permit issued under the provisions of this chapter when the permit was issued in error, on the basis of incorrect information, or in violation of any applicable law.
(Code 1996, § 15.02.092; Ordinance O-08-13 adopted 5/7/13)

Sec. 15.02.093. Material and construction detail.

All fences and screening devices, whether required or optional, shall be constructed in the manner described below:

(1) Wooden fence.

(A) Fence planks or panels must be at least five-eighths of one inch (5/8") in thickness.

(B) Fence picket material cannot be pine; must be either spruce or cedar.

(C) If adjacent to any public street, a wooden fence shall have its backside oriented away from public view. For the purposes of this section, the backside of the fence shall be the side with exposed posts or

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rails.

(D) Metal vertical posts shall be spaced every 6'–8' center to center.

(E) Vertical slats shall be nailed or screwed to horizontal bracing stringers (bottoms and top nailer boards) running from vertical post to post. One stringer will be required for every two feet (2') in height. The stringers shall be bolted to steel posts with noncorrosive metal anchor straps and one-fourth (1/4") noncorrosive bolts or screws.

(F) All nails or fasteners shall be of nonrusting, noncorrosive metal such as hot dipped galvanized steel. All nails or fasteners shall be of the type (such as screw shank or, ring shank) that when properly driven will not work free due to wind, vibration, or shrinkage of members.

(G) In no case, however, shall ground-to-fence separation exceed four inches (4").

(2) Masonry walls, fences and screening devices shall be limited to the following materials and standards:

(A) Materials. Brick, stone or decorative, split-face block, or reinforced concrete wall provided it has a finished appearance similar to masonry.

(B) Masonry columns shall be spaced a maximum of twelve feet (12') apart on-center (o.c.); the capstone of columns shall not exceed nine feet (9') in height; columns shall extend at least eight inches (8") above the remainder of the screening wall; and, columns shall extend horizontally at least three inches (3") from the vertical plane of the wall.

(C) Masonry walls and their foundations shall be engineered and have the certification or seal of a state registered engineer.

(D) It is intended that all masonry walls erected pursuant to this section be constructed in such a manner to last 30 years with minimal maintenance required during said period and are resistant to sunlight and moisture.

(3) Wrought iron or tubular steel, provided that shrubs are placed within two feet (2') parallel to the fence and planted three feet (3') on center the entire length of the fence.
(Code 1996, § 15.02.093; Ordinance O-08-13 adopted 5/7/13)

Sec. 15.02.094. Fence and screening requirements in residential zoning.

(a) Developer installed screening in single-family subdivisions. The developer of all single- family detached and two-family attached duplex residential development shall be required to construct a continuous solid masonry screening wall of eight feet height surrounding the subdivision with openings at designated entry exit points or at roadways passing through the subdivision. The material and standards shall conform to section 15.02.093(2). The developer shall construct these walls at his sole expense in accordance with the standards set forth below.

(1) Structural plans and specifications for subdivision masonry screening wall are to be submitted at the same time as construction plans for other subdivision infrastructure improvements are required. Said plans and specifications shall be prepared and sealed by a registered professional engineer and shall consider the site’s soil characteristics, wind loadings, and other environmental considerations.

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(2) All masonry screening walls shall be placed at least nine feet from any existing or proposed city water line. To provide the nine feet distance, if needed, the developer shall be required to provide up to an additional nine feet of right-of-way.

(3) All masonry screening walls required herein shall be placed on or within private property and outside of the public right-of-way.

(4) A plat note describing the location of the proposed masonry wall shall be included on the preliminary plat and the final plat. A fence schematic shall be provided along with the final plat.

(5) Prior to the city's issuance of a final certificate for residential occupancy, the developer must complete the subdivision screening wall required herein. The walls are permitted to be developed in phases as they are final platted.

(6) It shall be the responsibility of any person, firm, corporation, or other entity who shall own or occupy any lot or lots on which a screening wall was constructed pursuant to the terms of this article to adequately maintain the wall and to prevent it from becoming dilapidated or unsightly.

(b) Fence and screening regulations in residential zoning. A fence is not required for residential property abutting residential property. If a fence is installed by property owner for privacy or security reasons then a wooden or decorative wrought iron fence not-to-exceed six feet is allowed only in the designated rear yard and side yard with a side-yard fence not extending beyond the actual front building line. Wooden fences must meet the requirements set forth in section 15.02.093(1). When a rear or side yard of a residential property is adjacent to a public right-of-way then a continuous solid masonry screening wall not to exceed six feet height or a wooden fence not to exceed six feet in height is required to be installed along the side and rear yard of the residential property. Design and construction of such a wooden fence or masonry wall shall follow standards set forth in section 15.02.093(1) and (2) respectively of this article.

(c) Fence and screening regulations in nonresidential zoning (including multifamily and manufactured home zoning district).

(1) A minimum six feet tall solid masonry screening wall is required on any nonresidential property adjacent to residential property. The masonry wall shall be constructed at the sole expense of the property owner or tenant of the nonresidentially zoned (including multifamily and manufactured home park) property and shall be maintained by the same. Design and construction of such a masonry wall shall follow standards set forth in section 15.02.093(2) of this article. If the screening fence is required to screen a multifamily use from a single-family residential use or any nonresidential use, the fence shall be comprised of brick only and installed and maintained by the property owner/tenant of the property with the more intensive use.

(2) When a nonresidential property is adjacent to a public right-of-way, no screening is required except in order to screen mechanical equipment, trash receptacle, outdoor storage, or loading area in accordance with sections 15.02.096, 15.02.097, 15.02.098, or 15.02.099 as applicable.

(3) Any industrial use or industrial (I) zoned property shall have a solid, opaque masonry screening wall on all three sides except the side or sides facing the public right-of-way. The height of this wall shall be between eight feet (8') and twelve feet (12'). The material and standards shall conform to section 15.02.093(2).

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(Code 1996, § 15.02.094; Ordinance O-08-13 adopted 5/7/13)

Sec. 15.02.095. Fence and screening construction within easements.

(a) The city or any utility company may require the removal of any fence built upon a drainage or utility easement. The owner of the fence shall be responsible for the removal and rebuilding of the fence at the owner's expense.

(b) The owner of a fence shall be responsible for the design, construction and maintenance of the fence and shall be so as not to interfere with utility lines or normal drainage.

(c) Permission to build a fence upon a utility easement may only be granted by the city's public works director.

(d) Where a fence is to be placed in an easement containing underground utilities the owner or occupant shall sign a release indemnifying the city from any damages for removal of the fence and damage to the fence as a result of the need to repair or replace said utilities.
(Code 1996, § 15.02.095; Ordinance O-08-13 adopted 5/7/13)

Sec. 15.02.096. Mechanical equipment screening.

Solid, opaque screening of mechanical equipment shall be required within the city under the following provisions:

(1) Mechanical equipment located on the roof of any building shall be completely shielded from view on all the sides. Mechanical equipment on the ground shall be screened with landscaping or hard screening with any approved material listed under section 15.02.093 preferably of consistent color, material and design as the main structure. The development review committee may approve the use of landscaping or live screen if the intent of building a mechanical screen can be accomplished to achieve an aesthetic, comparable finish as required by this section.

(2) All equipment must be shielded from view of adjacent properties for a distance of two hundred (200) feet from the property line, at a point six feet above grade.

(3) All screening material shall be of consistent color, material and design with the primary structure.

(4) Mechanical equipment shall not include exhaust fans, vents or drains.

(5) Total screened areas of the roof-mounted equipment shall not exceed twenty-five percent (25%) of the roof area of the structure.

(6) When the total screened area(s) of roof-mounted structures exceeds twenty-five percent (25%) of the roof area, a parapet wall of consistent color, material and design as the main structure, at least as high as the roof-mounted equipment shall be constructed along the sides of the roof of the building where such views exist.
(Code 1996, § 15.02.096; Ordinance O-08-13 adopted 5/7/13)

Sec. 15.02.097. Trash/recycling receptacle screening.

(#) Screening of trash/recycling receptacles or any garbage, refuse and trash/recycling collection and

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storage areas within nonresidential zones (including multifamily and mobile home districts) shall be required within the city under the following provisions:

(#) Any trash/recycling receptacles or any garbage, refuse and trash/recycling collection and storage areas visible from public right-of-way shall be screening by minimum six feet tall solid, masonry wall on all three sides with an opaque metal gate on the fourth side that to be used for garbage pickup services and secure the trash storage area.
(Code 1996, § 15.02.097; Ordinance O-08-13 adopted 5/7/13)

Sec. 15.02.098. Outdoor storage screening.

Where outdoor storage is permitted in nonresidential districts it shall be subject to the following provisions:

(1) Shall consist of any combination of fences, walls, berms and landscaping that is at least six feet in height.

(2) Shall provide a permanent, opaque, yearround screening around the entire perimeter of the outdoor storage area.

(3) Evergreen plant materials are encouraged as screening. The plants shall be irrigated, pruned and maintained.

(4) The primary outdoor storage of living plant material stored on the ground is not subject to the screening requirements.

(5) All equipment, tools, vehicles etc. associated with upkeep, maintenance of living plant material that are stored outdoors are subject to screening.

(6) A periodic market held in open area such as farmer’s or flea market where a group of individual sellers offer goods for sale are not subject to outdoor storage screening regulations.

(7) General construction activity is not subject to outdoor storage screening regulations.

(8) Outdoor display areas are exempted from screening requirements.
(Code 1996, § 15.02.098; Ordinance O-08-13 adopted 5/7/13)

Sec. 15.02.099. Loading area screening.

Screening for loading docks or truck berths visible from public right-of-way is required in accordance with the following provisions:

(1) Loading docks or truck berths shall be screened by opaque walls, wooden fences, landscaped berms, or landscape areas;

(2) Shall be at least eight feet (8') in height;

(3) Must screen loading dock areas from view from the public street right-of-way with the greatest pavement width parallel to the trailer berths; and

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(4) Shall be of sufficient length to screen the maximum size trailer which can be accommodated on site and shall be parallel to trailer berths. Example: Docks and berths that accommodate a 50-foot trailer shall be screened with a 50-foot wall parallel to the berth.
(Code 1996, § 15.02.099; Ordinance O-08-13 adopted 5/7/13)

Sec. 15.02.100. Salvage and junk yards.

All wrecking yards and salvage yards with open storage of wrecked or salvaged automobiles, machinery, appliances, or other used commodities and equipment shall be screened as follows:

(1) A solid, opaque masonry screening wall shall surround such open storage area. The height of this wall shall be between eight feet (8') and twelve feet (12'). The material and standards shall conform to section 15.02.093(2).

(2) In no instance will any automobile, machinery, appliances, or any other material be allowed to be stacked to a height that exceeds the height of the screening wall.
(Code 1996, § 15.02.100; Ordinance O-08-13 adopted 5/7/13)

Sec. 15.02.101. Maintenance.

(a) Any fence or screening device shall be maintained by the property owner. The owner shall replace broken, damaged, removed or missing parts of a fence within ten days upon receipt of notice from the city with the same material, or material with comparable composition, color, size, shape and quality of the original fence to which the repair is being made.

(b) In case of shared fence between uses of differing intensity, the property owner of the more intensive use shall be responsible for maintenance of the entire fence.

(c) Fence and screening devices shall be maintained in sound structural condition. The property owner shall maintain fences, including those existing prior to the adoption of this section, at all times in a state of good repair, safe and secure condition, with all braces, bolts, nails, supporting frame and fastenings free from deterioration, termite infestation, rot, rust or loosening, and able to withstand at all times the wind pressure for which they were designed.

(d) Property owners shall be responsible for maintaining all fence supports, gates, structural members and exterior surfaces in good repair free of rusting, peeling or blistering paint or other surface damage.

(e) Property owners shall not maintain graffiti, writings and other symbols on a fence.
(Code 1996, § 15.02.101; Ordinance O-08-13 adopted 5/7/13)

Sec. 15.02.102. through Sec. 15.02.120. (Reserved)

ARTICLE V. SUPPORTING TABLES, CHARTS, AND ILLUSTRATIONS

Sec. 15.02.121. Plant material size standards.

Description	Size	Height	Spacing	Standard

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Large shade trees	3" caliper	12 feet	50' spacing	40' crown at maturity
Medium shade trees	3" caliper	12 feet	30' spacing	20' crown at maturity
Small ornamental trees	3" caliper	7 feet	15' spacing	10' crown at maturity
Live screen	7 gallon	6 feet	8' spacing	6' high in two growing seasons
Shrubs	5 gallon	2 feet	Varies	2' high at planting

(Code 1996, § 15.02.121; Ordinance O-08-13 adopted 5/7/13)

Sec. 15.02.122. Approved plant list.

Plants shall be selected for the appropriate landscape zone as noted in the following tables. Artificial plants are expressly prohibited.

Large Shade Trees		*Remarks*	*Xeriscape Zone*		*HW*
Common Name	*Botanical Name*		*LW*	*MW*	
Oak, Burr	Quercus macrocarpa	Native	•	•	
Oak, Chinkapin	Quercus muhlenbergii	Native	•		
Oak, Live	Quercus virginiana	Native	•		
Oak, Red	Quercus shumardii	Native		•	
Pecan	Carya illinoinensis	Native	•	•	

Medium Shade Trees		*Remarks*	*Xeriscape Zone*		*HW*
Common Name	*Botanical Name*		*LW*	*MW*	
Ash, Texas	Fraxinus texensis	Native	•	•	
Bald Cypress*	Taxodium distichum	Native	•	•	•

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Elm, Cedar	Ulmus crassifolia	Native	•	•	•
Elm, Allee Lacebark	Ulmus parivifoia 'Elmer II'	Adapted	•	•	•
Elm, Bosque Lacebark	Ulmus parivifoia 'UPMTFI'	Adapted	•	•	
Oak, Durand	Quercus sinuata var. sinuate	Native	•		
Persimmon, Common	Diospyros virginiana	Native	•		
Pistachio, Chinese	Pistacia chinenesis	Adapted	•	•	•
Black Locust	Robinia pseudoacacia	Adapted	•		

1
2

Small Ornamental Trees		*Remarks*	*Xeriscape Zone*		*HW*
Common Name	*Botanical Name*		*LW*	*MW*	
American Smoke Tree	Cotinus obovatus	Native	•		
Buckeye; Mexican	Ungnadia speciosa	Native	•		
Carolina Buckthorn	Rhamnus caroliniana	Native	•	•	
Desert Willow	Chi/apsis linearis	Native	•		
Crape Myrtle	Lagerstroemia indica	Adapted	•		•
Dogwood (Roughleaf)	Comus drummondii	Native	•		
Eastern Red Cedar	Juniperus virginiana	Native	•		
Eve's Necklace	Sophora affinis	Native	•	•	
Flameleaf Sumac	Rhus lanceolata	Native	•		

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Goldenball Lead Tree	Leucaena retusa	Native	•		
Holly, Yaupon	Ilex vomitoria	Native	•		•
Mexican Plum	Prunus mexicana	Native	•	•	
Oak, Bigelow	Quercus sinuata var. sinuate	Native	•		
Oak, Lacey	Quercus laceyi (Q. glaucoides)	Native	•		
Persimmon, Texas	Diospyros texana	Native	•		
Possum haw	Ilex decidua	Native	•		
Rusty Blackhaw	Viburnum rufidulum	Native	•	•	
Texas Redbud	Cercis Canadensis var ‘texensis’	Native	•	•	•

1

Trees for Live Screen		*Remarks*	*Xeriscape Zone*		*HW*
Common Name	*Botanical Name*		*LW*	*MW*	
Arizona Cypress	Cupressus arizonica	Adapted	•		
Eastern Red Cedar	Juniperus virginiana	Native	•		
Holly, Burford	Ilex cornuta ‘burfordii’	Adapted			•
Holly, Foster	Ilex x attenuata ‘Foster’	Adapted			•
Holly, Nellie R. Stevens	Ilex x ‘Nellie Stevens	Adapted			•
Holly, Yaupon	Ilex vomitoria	Native	•		•
Magnolia, ‘Little Gem.’	Magnolia ‘Little Gem’	Adapted		•	•

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Mahonia, leather leaf	Mahonia bealei	Adapted	•		•
Myrtle, Wax	Myrica cerifera	Native	•	•	•
Pine, Mendell	Pinus eldarica	Adapted	•		

1

Shrubs		*Remarks*	*Xeriscape Zone*		*HW*
Common Name	*Botanical Name*		*LW*	*MW*	
Abelia	Abelia grandiflora	Native		•	
Agarito	Berberis trifoliata	Native	•		
American Beauty berry	Calicarpa Americana	Native	•	•	
Apache Plume	Fal ugia paradoxa	Native	•		
Aromatic Sumac	Rhus aromatica	Native	•		
Black Dalea	Dalea frutescens	Native	•		
Damianita	Compositae Chrysactinia mexicana	Native	•		

2
3

Shrubs		*Remarks*	*Xeriscape Zone*		*HW*
Common Name	*Botanical Name*		*LW*	*MW*	
Desert spoon	Dasylirion heeleri	Native	•		
Indian Hawthorn,	Raphiolepsis indica	Adapted			•
Dwarf Burfort Holly	Ilex cornuta ‘Burfordii Nana’	Adapted			•
Flame Anisacanthus	Anisacanthus q. wrightii	Native	•		

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Texas Kidneywood	Eysenhardtia texana	Native	•		
Red Yucca	Hesperaloe parviflora	Native	•		
Texas Sage, Silverado	Leucophyllum frutescens	Native	•		
Soft leaf yucca	Yucca recurvifolia	Native	•		
Twin Leaf yucca	Yucca [illegible]	Native	•		

1
2

Grass/Turf		*Remarks*	*Xeriscape Zone*		*HW*
Common Name	*Botanical Name*		*LW*	*MW*	
Big Bluestem	Andropogon gerardii	Native	•	•	
Blue grama	Bouteloua gracilis	Native	•		
Buffalo grass	Buchloe dactyloides	Native	•		
Bermuda grass	Cynodon dactylon	Adapted			•
Eastern gamagrass	Tripsacum dactyloides	Native seed		•	
Green sprangletop	Leptochloa dubia	Native	•	•	
Muhly, Seep	Muhlenbergia reverchonii	Native	•	•	
Muhly, Deer	Muhlenbergia rigens	Native	•	•	
Muhly, Lindheimer	Muhlenbergia lindheimeri	Native	•		
Indian grass	sorghastrum nutans	Native	•	•	
Little Bluestem	Schizachyrium scoparium	Native	•		
Prairie Dropseed	porobolus heterolepis	Native	•		
Prairie Wild Rye	Elymus canadensis	Native seed		•	

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Sideoats Grama	Bouteloua curtipendula	Native	•		
Switchgrass	Panicum virgatum	Native	•	•	

(Code 1996, § 15.02.122; Ordinance O-08-13 adopted 5/7/13)

Sec. 15.02.123. Pictures of different Xerispaced yards.

[Graphic - Photo example of Xeriscaping]

[Graphic - Photo example of Xeriscaping]

[Graphic - Photo example of Xeriscaping]

[Graphic - Photo example of Xeriscaping]

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[Graphic - Photo example of Xeriscaping]

[Graphic - Photo example of Xeriscaping]

[Graphic - Diagram 1 example of Xeriscaping]

[Graphic - Photo example of Xeriscaping]

[Graphic - Diagram 2 example of Xeriscaping]

[Graphic - Photo example of Xeriscaping]

(Code 1996, § 15.02.123; Ordinance O-08-13 adopted 5/7/13)

ARTICLE VI. LIGHTING STANDARDS AND SPECIFICATIONS

Sec. 15.03.001. General.

This article establishes minimum criteria for the installation, use and maintenance of outdoor lighting.
(Code 1996, § 15.03.001; Ordinance O-04-17 adopted 5/2/17)

Sec. 15.03.002. Purpose.

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The purpose of this article is to:

(1) Preserve and enhance the lawful nighttime use and enjoyment of property;

(2) Protect drivers and pedestrians on nearby travel ways from disabling glare from nonvehicular light sources that shine directly into their eyes, thereby, impairing safe travel;

(3) Shield neighboring properties from nuisance glare and trespass resulting from improperly directed or unshielded light sources;

(4) Prevent or lessen light pollution;

(5) Promote efficient design and operation with regard to energy conservation; and

(6) Curtail the degradation of the nighttime visual environment.

(Code 1996, § 15.03.002; Ordinance O-04-17 adopted 5/2/17)

Sec. 15.03.003. Definitions.

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

Building official. The chief building official for the City of Glenn Heights, or his or her designee, having responsibility to enforce and administer this article.

Bulb or lamp. The source of electric light. To be distinguished from the whole assembly, lamp is used to denote the bulb and its housing.

Candela. The unit of luminous intensity in a given direction. It is commonly called one candlepower.
Cutoff fixture. A fixture that provides a cutoff (shielding) of the light emitted.

Diffusing luminaire. One that scatters light substantially in all directions as contrasted with a directional luminaire which confines its light principally in an angle of less than 180 degrees.

Fixture. The assembly that holds the lamp in a lighting system. It includes the elements designed to give light output control, such as a reflector (mirror) or defractor (lens), the ballast, housing and the attachment parts.

Floodlight. A luminaire designed to project its light in a well-defined area. It is directional in character.

Floodlight beam. The angular spread of light between two orthogonal planes each of which equal ten percent of the maximum candlepower within the beam.

Footcandle. The amount of illumination provided by one lumen uniformly distributed on one square foot of surface.

Footlambert. The luminance of a surface uniformly emitting, transmitting, or reflecting one lumen per square foot of surface.

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Full cutoff fixture. A fixture that allows no emission above a horizontal plane through the fixture.

Fully shielded. Light fixtures that are constructed so all light rays emitted by the fixture are projected below the horizontal plane passing through the lowest point on the fixture from which light is emitted, nearly 100 percent cut-off type, as evidenced by the manufacturer's photometric data.

Glare. Direct lighting emitted from a luminary that causes reduced vision or temporary blindness.

High pressure sodium (HPS). A high intensity discharge lamp where radiation is produced from sodium vapor at relatively high partial pressures (100 tore). HPS is essentially point source light.

Horizontal plane. A line horizontal to the lowest point on the fixture from which light is emitted.

Illumination. The density of the luminous flux (lumens) incident on a surface. It is the quotient of the luminous flux divided by the area of the surface, expressed in footcandles.

Incandescent lamp. Any lamp that produces light by heating a filament through use of an electric current.

Installed. The attachment, or assembly fixed in place, whether or not connected to a power source, or any outdoor light fixture.

Kilowatt (kwh). A unit of energy equal to the work done by one kilowatt (1,000 watts) of power acting for one hour.

Light source. A device (such as a lamp) which produces visible energy as distinguished from devices or bodies which reflect or transmit light such as a luminaire.

Light trespass. Light falling outside the boundary of property for which it was originally intended or needed. Also referred to as spillover light or obtrusive light.

Low pressure sodium (LPS). A discharge lamp where the light is produced by radiation from sodium vapor at a relatively low partial pressure (about 0.001 tore). LPS is a "tube source" monochromatic light.

Lumen. The quantity of luminous flux intercepted by a surface of one square foot, all points of which are one foot from a uniform source of one candela. A one-candela source provides 12.57 lumens.

Luminaire. The device or fixture containing a light source and means for directing and controlling the distribution of light from the source.

Luminance. The luminous intensity per unit projected area of a given surface viewed from a given direction; for purposes of this article expressed in candelas divided by distance squared.

Mercury lamp. A high intensity discharge lamp where light is produced by radiation from mercury vapor.

Metal halide lamp. A high intensity discharge lamp where light is produced by radiation from metal halide vapor.

Outdoor lighting fixture. An outdoor artificial illumination device, whether permanent or portable, used for illumination outdoors and shall include but not be limited to devices used for search, spot, flood and area lighting for buildings and structures, recreational facilities, parking areas, landscape lighting, outdoor

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advertising displays, billboards, signs, public and private street lighting and walkway lighting.

Partially shielded. Shielding so that the lower edge of the shield is at or below the centerline of the light source or lamp so as to minimize light transmission above the horizontal plane, or at least 90 percent of the emitted light projects below the horizontal plane as evidenced by the manufacturer's photometric data.

Photometric. Quantitative measurements of light levels and distribution. Shielding. A physical structure intended to restrict emitted light.

Substantial change. Any change to the lamp or bulb that alters the lighting properties of the site, or any change in the type, style or orientation of a light fixture.
(Code 1996, § 15.03.003; Ordinance O-04-17 adopted 5/2/17)

Sec. 15.03.004. Applicability and exemptions.

The lighting standards for the city shall apply to all new construction except as follows:

(1) Outdoor lighting that lawfully exists as of the date of this article shall be deemed a lawful use. Any substantial change or addition to the existing lighting system, as determined by the building official, shall comply with the provisions of this article. If a site substantially changes more than 25 percent of the lighting on a site or adds new lighting that increases the number of light fixtures by more than 25 percent, the entire site shall comply with the provisions of this ordinance.

(2) Commercial sites approved as part of a site plan prior to the ordinance from which this article is derived shall conform to the provisions in place at that time. Any substantial change or addition to the existing lighting system shall, as determined by the building official, comply with the provisions of this section. If a site substantially changes more than 25 percent of the lighting on a site or adds new lighting that increases the number of light fixtures by more than 25 percent, the entire site shall comply with the provisions of this article.

(3) If a use with existing, nonconforming lighting shall cease operation for a period of more than 18 months, then such nonconforming lighting shall be deemed permanently abandoned. The lighting on such site shall be brought into conformance with the provisions of this article prior to the redevelopment or reuse of the site.

(4) The following uses shall be exempt from the requirements of this section:

(A) Lighting used for single-family homes and accessory buildings, provided no measurable light spills over to the adjacent property;

(B) Lighting specifically directed at a flag may be unshielded and unfiltered provided that the beam spread is limited to a narrow spot (approximately seven degrees) and the fixture aperture is concealed by a matrix grid to limit glare;

(C) Lighting of baseball fields, softball fields, football fields, soccer fields, golf courses and golf driving ranges, and other similar sporting venues shall be exempt from the height and shielding requirements;

(D) Lighting of baseball fields, softball fields, football fields, soccer fields, golf courses and golf driving ranges, and other similar sporting venues, shall be allowed to exceed the maximum illumination

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level of forty (40) footcandles until 11:00 p.m. No outdoor recreational facility, public or private, shall be illuminated after 11:00 p.m. except to conclude any recreational or sporting event or other activity concluded at a ball park, outdoor amphitheatre, arena, or similar facility in progress prior to 11:00 p.m.;

(E) Automobile dealerships are allowed a maximum illumination level of fifty (50) footcandles at display areas until 11:00 p.m.;

(F) Lighting necessary for construction or emergencies is exempt from the provisions of this article, provided said lighting is temporary and is discontinued immediately upon completion of the construction work or abatement of the emergency necessitating said lighting;

(G) Searchlights require a temporary exemption approval as provided below;

(H) Navigation and airport lighting required by the Federal Aviation Administration for operation of airplanes;

(I) Lighting installed by a governmental agency for public benefit on public rights-of-way, parks, and public recreation areas;

(J) Temporary exemptions to the requirements of this article may be granted by the planning department upon finding that the exemption does not violate any provisions of land use or overlay districts, and it would not pose a hardship on any adjacent property or use. Such requests shall be submitted in writing to the development review committee and include the following:

(i) Specific exemption(s) requested;

(ii) Type and use of exterior light involved;

(iii) Duration of time for requested exemption;

(iv) Type of lamp and footcandles;

(v) Total wattage of lamp(s); and

(vi) Proposed location of exterior light.

(K) For street lighting within the public right-of-way, the development review committee may approve an alternate type of lighting not otherwise provided in this article if he or she finds that the proposed design, material or method:

(i) Provides approximate equivalence to the specific requirements of this article; or

(ii) Is otherwise satisfactory and complies with the intent of this article.

(Code 1996, § 15.03.004; Ordinance O-04-17 adopted 5/2/17)

Sec. 15.03.005. Submittal requirements.

(a) As part of any site plan application or prior to altering any existing lighting, the applicant shall submit evidence that the proposed work will comply with this article. The submission shall contain, but is not be limited to, the following:

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(1) Plans indicating the location on the premises, and the type of illuminating devices, fixtures, lamps, supports, reflectors and other devices, and the mounting height of the light;

(2) Description of the illuminating devices, fixtures, lamps, supports, reflectors and other devices shall include, but is not limited to, catalog cuts by manufacturers and drawings; and

(3) Photometric plans showing illumination levels on the property, at the property line and just beyond the property line, as well as other data such as that furnished by manufacturers or similar data showing the angle of cutoff for light emissions.

(b) The required plans, description, and data provided shall be sufficient to enable the plans examiner to readily determine whether compliance with the requirements of this article will be secured. (Code 1996, § 15.03.005; Ordinance O-04-17 adopted 5/2/17)

Sec. 15.03.006. Measurement.

(a) Metering equipment. Lighting levels shall be measured in footcandles with a direct reading, portable light meter. The meter shall read within an accuracy of plus or minus five percent. It shall have been tested and calibrated by an independent commercial photometric laboratory or the manufacturer within one year of the date of use as attested to by a certificate issued by such laboratory.

(b) Method of measurement. The meter sensor shall be mounted or held not more than six inches above ground level in a horizontal position. Readings shall be taken only after the cell has been exposed to provide a constant reading. Measurements shall be made when the National Weather Service indicates visibility is six miles or greater such that measurements will not be adversely affected by atmospheric scatter. Measurements shall be made at least one hour after sunset or one hour prior to sunrise with the existing questioned light sources on, then with the same sources off. The difference between the two readings shall be compared to the limitations stated by this section. This procedure eliminates the effects of moonlight and other ambient light. However, if lighting levels comply with the light sources on then no further reading is needed with the light sources off to demonstrate compliance.

(c) Computation of illumination. Illumination at a point may be computed in lieu of measurement. Computation methods shall consist of an Illumination Engineering Society of North America accepted method, using certified photometric data furnished by the fixture manufacturer, lamp manufacturer, photometric laboratory, or other reliable authority satisfactory to the city. Computations shall be based on new, properly seasoned lamps, new and clean fixtures, and at rated voltage and wattage, with ballasts, lenses, shields, diffusers, and other appurtenances in place, and with proper regard taken for mounting height, relative elevation, natural and man- made objects and industry standard maintenance factors. (Code 1996, § 15.03.006; Ordinance O-04-17 adopted 5/2/17)

Sec. 15.03.007. Illumination levels.

(a) Maximum illumination level for on-site lighting is 20 footcandles as measured at grade, based on light loss factor of sixty-eight percent (0.68) for metal halide lighting and seventy-two percent (0.72) for high pressure sodium lighting.

(b) All minimum illumination guidelines listed in this article should be maintained from the ground level to a height of six feet. The minimum to maximum uniformity ratio may range up to 6:1 in acceptable layouts.

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(c) The lighting levels specified are the minimum levels that are typically acceptable. In some circumstances, customer convenience, closed-circuit television, and customer attraction may require a higher level of lighting. In addition, demographics, the crime index and other factors particular to a certain geographic area may require a higher level of lighting than listed below.

(1) High risk activity (4–5 footcandles):

(A) ATM.

(B) Pay phones.

(C) Bus/transit shelters.

(2) Medium high risk activity (3–4 footcandles):

(A) Convenience stores.

(B) Fast food.

(C) Pharmacies.

(D) Pool halls.

(E) Grocery stores (24-hour, immediate parking areas).

(F) Establishments licensed for the sale of liquor, beer or wine.

(3) Medium risk activities (2–3 footcandles):

(A) Gas stations (not convenience stores).

(B) Entertainment/amusement.

(C) Video stores.

(D) Laundries.

(E) Banks.

(F) Restaurants (no sale of alcohol).

(G) Hotels/motels.

(H) Video halls.

(I) Card/telemarketing.

(J) Malls.

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(4) Medium low risk activity (1–2 footcandles):

(A) Multifamily housing.

(B) Health care.

(C) Industrial (night use).

(D) Preschools.

(E) Worship.

(F) Hospital.

(G) General retail.

(H) Dental.

(I) Warehouse (night use).

(J) Educational.

(K) Storage.

(L) General office (night use).

(M) Grocery stores (non24-hour).

(5) Low risk activity (.50–1 footcandle):

(A) Warehouse (day use).

(B) Office (day use only).

(C) Greenbelt.

(D) Car dealers (after hours).

(E) Parks.

(F) Industrial (day use).

(G) Mini-storage.

(H) Retention areas.

(I) Walkways in apartment complexes.

(d) Limitations on neighboring property. The limit of illumination on neighboring property from one establishment shall be based on the zoning of the neighboring property. Maximum computed maintained

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and maximum measured footcandles at the neighboring property lines shall not exceed:

(1) Single-family and two-family residential districts: 0.25 footcandles.

(2) Multifamily residential districts: 0.5 footcandles.

(3) Nonresidential districts (excluding industrial): 3.0 footcandles.

(4) Rights-of-way and private streets: 3.0 footcandles.

(5) Retail and commercial districts: 4.0 footcandles.

Exception. Illumination at interior property lines on contiguous lots in a multitenant nonresidential development may exceed the above criteria when necessary to provide constant lighting levels of adjoining parking areas, fire lanes and interior access roadways as determined by the director of community development.

(e) Limitations on subject property. The maximum outdoor maintained computed and measured illumination level on the subject property shall not exceed 20 footcandles at any point, with the following exceptions:

(1) Lighting under canopies (such as service stations) shall not exceed 30 footcandles. All other lighting on the site shall comply with the provisions of this section; and

(2) Lighting for car dealerships shall not exceed 30 footcandles within vehicle display areas.

(f) Hours of operation.

(1) Lighting used for the illumination of outdoor sales and eating areas, on-site advertising, assembly areas, repair areas, and businesses may be operated during the hours that the facilities are open to the public;

(2) Lighting used for the illumination of recreational and sporting areas shall be turned off by 11:00 p.m. on Sunday through Thursday and by 12:00 midnight on Friday and Saturday; and

(3) Lighting used for the illumination of walkways, roadways, equipment yards, parking areas and outdoor security may be operated any time.
(Code 1996, § 15.03.007)

Sec. 15.03.008. Mounting and operation of light fixtures.

(a) Building mounted light fixtures shall be attached only to walls and the top of the fixture shall not be higher than necessary to illuminate the area required.

(b) In any residential zoning district or within fifty (50) feet of any residential zoning district, freestanding light fixtures shall not exceed 18 feet in height. Within the next [fifty] (50) to one hundred and fifty (150) feet of any residential zoning district, freestanding light fixtures shall not exceed twenty-five (25) feet in height. In all other locations, freestanding light fixtures shall not exceed 30 feet in height.

(c) To comply with 1 and 2 [subsections (a) and (b)] above, height shall be measured from the top of

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a light fixture to the adjacent grade at the base of the support for that light fixture.

(d) Light fixture design:

(1) All luminaries used for security shall be vandal resistant that resist tampering, incorporate vandal resistant refractors (lens) and shall be provided with a gasket or seal designed to resist rain, dust and insect contamination;

(2) Outdoor light fixtures, which are full cutoff to direct all light below a horizontal plane through the bottom of the fixture and have no lens which drops below the fixture may use any illumination source, up to a maximum of forty (40) footcandles;

(3) Outdoor light fixtures, which have a lens or diffuser which is visible above the horizontal plane and constructed of white/opal glass, are considered noncutoff and filtered and shall be limited to the light output equal to a 100 watt incandescent bulb, no greater than one thousand seven hundred (1,700) lumens;

(4) Outdoor light fixtures, which have a lens or diffuser which is visible above the horizontal plane and constructed of clear or prismatic glass, are considered noncutoff and nonfiltered and shall be limited to the light output equal to a fifty (50) watt incandescent bulb no greater than six hundred (600) lumens;

(5) All conduit must be concealed; and

(6) The footcandle level at the property line adjacent to a single-family district (from the proposed lighting) shall not exceed one-quarter (0.25) footcandle. Lighting next to a residential use shall not spill over onto that use.

(e) Other conditions related to lighting may be required through development plan review.
(Code 1996, § 15.03.008; Ordinance O-04-17 adopted 5/2/17)

Sec. 15.03.009. Specific areas to be illuminated.

The following areas on a building or development shall be illuminated to the minimum security lighting levels shown below:

(1) All loading areas and docks shall be illuminated from dusk to dawn, with four footcandles of light at finish grade.

(2) Carport parking structures shall be illuminated from dusk to dawn, with three footcandles, including the adjacent landscape area to finish grade.

(3) Parking structures and parking garages shall be illuminated from dawn to dusk with ten footcandles, and from dusk to dawn with four footcandles. Sublevel parking shall be continuously illuminated 24 hours a day with four footcandles at finish grade. Transitional lighting will be required at all entry areas.

(4) All stairwells, landings and areas under the lower landing shall be continuously illuminated with five footcandles.

(5) Breezeway lighting shall be illuminated from dusk to dawn, with four footcandles. Transitional lighting will be required at all entry areas to the breezeway corridor.

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(6) Exterior pedestrian pathways and adjacent landscape areas within 20 feet of the pathway shall be illuminated from dusk to dawn, with one-half (0.5) footcandle of light at finish grade. Pedestrian gates shall be illuminated from dusk to dawn, with five footcandles and two footcandles within a 15 foot radius.

(7) Retention areas shall be illuminated from dusk to dawn, with five footcandles of light at finish grade.

(8) Cluster or neighborhood mailboxes shall be illuminated from dusk to dawn, with five footcandles of light for a 15 foot radius of the mailboxes.

(9) Parking lots, aisles and refuse areas shall be illuminated from dusk to dawn as follows:

(A) Parking spaces for motor vehicles and bicycles shall be illuminated with two footcandles;

(B) Parking lot drive aisles shall be illuminated with one footcandle; and

(C) Refuse areas shall be illuminated to two footcandles, with gates five footcandles.

(10) All building entrances and vehicular gates at operator or locking mechanism shall be illumined with five footcandles at the entrance and two footcandles within a 15 foot radius from the center point of the entrance.

(11) Secondary lighting may be required to supplement the primary security lighting due to design elements and landscaping conflicts, in order to meet the minimum lighting criteria.
(Code 1996, § 15.03.009; Ordinance O-04-17 adopted 5/2/17)

Sec. 15.03.010. Effective outdoor lighting.

The purpose of the effective outdoor lighting section is to minimize glare, sky glow, light trespass and excessive energy consumption through the use of appropriate lighting fixtures, practices and systems, while maintaining safety, security and productivity and curtailing degradation of the nighttime visual environment. The following are requirements for effective outdoor lighting:

(1) Fully shielded luminaries shall be required in all outdoor lighting installations, with the following exceptions:

(A) Outdoor light fixtures used to illuminate flags, statues, or any other objects mounted on a pole, pedestal or platform shall use a very narrow cone of light or shielded lights for the purpose of confining the light to the object of interest and minimize light spillover and glare.

Compliance with this provision shall be subject to approval by the building official; and

(B) Building facades and architectural features of buildings may be floodlighted when the floodlight fixtures are equipped with shields and are located so as to limit the fixture's direct light distribution to the facade or feature being illuminated. The configuration of the floodlight installation shall block all view to the floodlight fixture's lamps from adjacent properties. Compliance with this provision shall be subject to approval by the building official.

(2) The following lamp types shall be prohibited for outdoor lighting:

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(A) Mercury vapor;

(B) Bare bulbs above seventy-five (75) watts; and

(C) Strings of lamps, except for temporary lighting as provided in section 15.03.004.

(3) The quality of the light source shall be a minimum of 65 CRI (color rendering index) as indicated by the lamp manufacturer's data.

(4) Outdoor lighting shall be constructed and installed in a manner consistent with this section and shall be located so as [to] not produce glare or direct illumination across the property line or onto rights-of-way.
(Code 1996, § 15.03.010; Ordinance O-04-17 adopted 5/2/17)

Sec. 15.03.011. Street lighting.

In both residential, nonresidential districts and all provisional districts (SF-4, MF and MH) lighting is required to be approved with the site plan and designed and constructed to the following standards:

(1) Metal standards (poles). The use of fiberglass poles is prohibited.

(2) High pressure sodium bulbs (100 watt in residential areas and 250 watt at major intersections).

(3) Poles shall be erected a maximum of two hundred feet (200') apart.

(4) Streetlights shall be at each intersection and at the intersections (i.e., street intersection and street and alley intersections).

(5) A photometric plan must be approved by the city for streetlights and for any other lighting in the project (e.g. park lighting, parking lot lighting), this shall include the streetlight locations, type of pole, the type of head and the size of the bulb (this plan can and should be produced by the utility company).

(6) All electrical wiring for street lighting facilities shall also be installed with underground.
(Code 1996, § 15.03.011; Ordinance O-04-17 adopted 5/2/17)

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Chapter 60

MANUFACTURED HOMES

ARTICLE I. IN GENERAL

Sec. 14.04.001. Definitions.

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

Building official. A designated inspection authority of the city, or its authorized representative.

~~City. The City of Glenn Heights, Texas.~~

Common access route/internal street. A private drive allowing principal means of access to individual HUD-code manufactured home or mobile home lots or auxiliary buildings.

Driveway. A minor entranceway off the common access route within the park, into an off-street parking area serving one or more HUD-code manufactured home or mobile homes.

Existing park or existing community. All mobile home, travel trailer, recreational vehicle or manufactured home parks that are in existence as of **the effective date of this section**.

Existing park operator. All existing park management operators or owners.

Existing structure. All mobile home, travel trailer, recreational vehicle or manufactured home that are located in an existing park as of **the effective date of this section**.

HUD-code manufactured home. A structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections which, in the traveling mode, is eight (8) body feet or more in width, forty (40) body feet or more in length, or, when erected on site is three hundred and twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes plumbing, heating, air- conditioning, and electrical systems. The term does not include a recreational vehicle as that term is defined by 24 C.F.R. section 3282.8(9).

IRD code. International Residential Code 2003 with appendix E.

License. A written license issued by the city, permitting a person to operate and maintain a HUD-code manufactured home park under the provisions of this article.

Manufactured home. A HUD-code manufactured home as defined in this section.

Manufactured home stand. That part of a manufactured home park which has been improved for the placement of the manufactured home, including all required appurtenances and having provision for available utility connections.

Mobile home. A structure that was constructed before June 15, 1976, transportable in one or more

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sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site is three hundred and twenty (320) feet or more square feet, and which is built on a permanent chassis designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes plumbing, heating, air-conditioning, and electrical systems.

Mobile home park or manufactured home park. Any lot, block, tract or parcel of contiguous lots, blocks, tracts or parcels of land, under common ownership, which contains two or more mobile homes or HUD-code manufactured homes or mobile homes or manufactured home lots available for lease or rent to the public and for the placement of mobile homes or manufactured homes for occupancy.

Occupant. Any person who legally resides in the home, travel trailer or motor home.

Park management. The person who owns or has charge, care or control of the manufactured home or mobile home park.

Parking street space, off-street. A minimum space nine feet in width by 18 feet in length, located within the boundary of a mobile home or manufactured home space, or in common parking and storage area having unobstructed access to an internal street.

Permit. Written permit/certification issued by the city permitting the construction, alteration or extension of a manufactured home park under the provisions of this article and regulations issued hereunder.

~~Person. Any natural individual, firm, trust, partnership, association or corporation.~~

Plot plan or site plan. A graphic presentation, drawn to scale in a horizontal plane, delineating the outlines of the land included in the plan and all proposed use location accurately dimensioned, the dimensions also indicating the relation of each use to that adjoining and to the boundary of the property.

Sewer connection. A connection consisting of pipes, frames and appurtenances from the drain outlet of a mobile home or manufactured home to the inlet of the corresponding sewer service riser pipe of the sewage system serving the manufactured home park.

Skirt. Concealment from view of the undercarriage on all sides of a mobile home or manufactured home.

Space. A plot of ground within a manufactured home park designated for accommodation of one manufactured home, together with such open space as required by this article. This term shall also include “lot” and “site.”

Travel trailer or motor home. A portable vehicle built on a chassis and designed as a temporary dwelling for travel, recreation and vacation use and which has been permanently identified and equipped and identified by the manufacturer for use on public streets and highways. The term “travel trailer” shall also be deemed to include any other portable contrivance used or intended to be used generally for living and sleeping quarters and which may be moved under its own power, towed or transported by another vehicle. (Code 1996, § 14.04.001; Ordinance 833-06, sec. 1, adopted 12/4/06)

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Sec. 14.04.002. Mobile home prohibition.[159]

(a) The installation of mobile homes for use or occupancy as residential dwellings in the city is prohibited.

(b) This provision is prospective and shall not apply to any mobile home used and occupied as a residential dwelling in the city on **the effective date of this section**.

(c) An existing mobile home located in the city, as of **the date of this section**, will be allowed to remain on its existing site until it is removed from city, or until the condition of the mobile home violates this Code. When the condition of the mobile home violates this Code, the building official shall require the owner to repair the home, move the home out of the city, or demolish the home.

(d) All structural repair or remodeling of a mobile home shall require a building permit. All work shall be done by a state-certified licensed contractor or home- occupied owner.

(e) An existing, but temporarily vacant, mobile home located in the city, as of **the date of this section**, will be considered occupied for purposes of this provision if it has been in actual residential use within 30 days prior to enactment of this article, is vacant for purposes of refurbishment for future residential use at the time of enactment of this article or subsequently becomes vacant for purposes of refurbishment for future residential use after enactment of this article, and such vacancy is terminated by actual residential use of the mobile home within 60 days of enactment of this article.
(Code 1996, § 14.04.002; Ordinance 833-06, sec. 2, adopted 12/4/06)

Sec. 14.04.003. Installation requirements.

All manufactured homes placed in the corporate limits of the city after **the effective date of this section** must be installed in accordance with all state and federal laws and the standards, rules, regulations and administrative orders and requirements of the state department of housing and community affairs, or its successor agency.
(Code 1996, § 14.04.003; Ordinance 833-06, sec. 3, adopted 12/4/06)

Sec. 14.04.004. Siting requirements.

All manufactured homes, travel trailers, or motor homes placed in the corporate limits of the city after **the effective date of this section** must be installed and located in a manufactured home park, except for the following:

(1) A mobile home or manufactured home that was installed on a site within the city prior to **the effective date of this section**, subject to the restrictions of section 14.04.002 above.

(2) A manufactured home installed on any parcel or tract of land that has no other residential or commercial structure on it and placed within a solid fascia or perimeter enclosure (whether load bearing or not) prior to having water, sewer or electrical service installed.

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[159] **Sec. 14.04.002. Mobile home prohibition.** I assume this section was first enacted on December 4, 2006. Please confirm and we will substitute that date for "as of the date of this article" throughout the section (unless the section is now obsolete)?

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(3) A mobile home or manufactured home provided by any governmental agency as temporary housing following any public disaster or public calamity, or a mobile home temporarily moved from any mobile home park or subdivision by reason of any public disaster or public calamity.

(4) A mobile home or manufactured home that is located upon a site prior to annexation of the site by the city except as provided in section 14.04.006.

(5) The storage parking of a vacant and unoccupied travel trailer, motor home, or recreational vehicle at any residence or commercial site.

(6) The temporary parking of a mobile home or manufactured home, travel trailer, recreational vehicle or motor home for purposes of security at a temporary commercial facility for a period approved by the city manager or his designee.

(7) Mobile homes or manufactured homes parked for purposes of sale to the public within a mobile home or manufactured home sales lot.

(8) A manufactured home, mobile home, or travel trailer that is used for an official city purpose, as that may be determined and approved by the city manager or his or her designee, and that is located on any parcel or tract of land owned or leased by the city.

(9) The temporary parking of an occupied, nonvacant travel trailer, recreational vehicle or motor home at any residence or commercial site is prohibited.

(Code 1996, § 14.04.004; Ordinance 833-06, sec. 4, adopted 12/4/06 ; Ordinance O-19-18 adopted 11/20/18)

Sec. 14.04.005. Skirting requirements.[160]

All manufactured homes shall have skirting within 90 days after being placed. The skirt shall be:

(1) Completely around the structure from the base of the manufactured home to the ground level beneath;

(2) Of material with similar appearance to the manufactured home or masonry material;

(3) Of weather-resistant material for skirting and shall not be scrap metal or polyurethane scrap material;

(4) Skirted in such a way as not to allow access to the underside of the manufactured home for storage or trash accumulation but access only for repair purposes to the manufactured home;

(5) Approved at the time of placement.

Manufactured HUD-code sales lots shall comply with this section.

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[160] **Sec. 14.04.005. Skirting requirements.** "Placed"? Should that be "permanently placed" or "installed and ready for occupancy" or something similar? Also, obsolete provision is stricken as shown.

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~~Any mobile home or manufactured home existing within the city on **the effective date hereof** will be required to have skirting no later than 180 days from enactment of this article. However, before being subject to a penalty for violation of this section, the city shall serve the owner or occupants of any mobile home or manufactured home without skirts with written notice of violation hereof requiring compliance within such time as designated therein.~~
(Code 1996, § 14.04.005; Ordinance 833-06, sec. 5, adopted 12/4/06)

Sec. 14.04.006. On-site parking.[161]

Each manufactured home site shall provide a minimum of two off-street parking spaces which shall be constructed of engineered asphalt or 3,000 psi concrete per city specs.
(Code 1996, § 14.04.006; Ordinance 833-06, sec. 6, adopted 12/4/06)

ARTICLE II. MANUFACTURED HOME PARKS

DIVISION 1. GENERALLY

DIVISION 2. PERMITS AND LICENSES

Sec. 14.04.007. Park permit requirements.

(a) *Permit required.* It is unlawful for any person to construct, alter, extend or expand any manufactured home park within the limits of the city unless the person holds a valid permit issued by the city in the name of the person for the specific construction, alteration or extension proposed.

(b) *Application requirements; fee.* All applications for permits shall be made upon standard forms provided by the city and shall include the name and address of the applicant and the location and legal description of the manufactured home park. The application shall be submitted together with a permit fee in the amount provided in the city fee schedule and five copies of a site plan, at a minimum scale of 1 inch = 200 feet for sites of 30 acres or more, and at a minimum of 1 inch = 100 feet for sites under 30 acres. The site plan shall include all data required under section 14.04.008 of this chapter. ~~New applications for manufactured home parks must be turned into the building official and shall be accompanied by a fee as provided in appendix A to this code.~~

(c) *Issuance of permit.* When after review of the application the city council is satisfied that the proposed plan meets the requirements of law, a permit shall be issued.

(d) *Rehearing for denied applications.* Any person whose application for a permit under this article has been denied may request in writing a rehearing on the matter and offer additional evidence if desired.
(Code 1996, § 14.04.007(a); Ordinance 833-06, sec. 7, adopted 12/4/06)

Sec. #. Park license requirements.

(a) *License required.* It is unlawful for any person to establish, operate, or maintain or permit to be established, operated or maintained upon any property owned or controlled by that person any manufactured home park within the limits of the city unless that person holds a valid license issued annually by the city.

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[161] **Sec. 14.04.006. On-site parking.** Sentence is completed as shown.

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(b) *Term of license.* Licenses issued pursuant to this section shall expire on December 31 of each year.

(c) *Original license applications.* Applications for original license shall be in writing, signed by the applicant, accompanied by an affidavit of the applicant as to the truth of the application and by payment of a license fee in the amount provided in the city fee schedule. The application shall also contain the name and address of the applicant, the location and legal description of the park, and a site plan of the park.

(d) *License issuance.* The license shall be issued if the city determines that the application and park are in compliance with this Code.

(e) *Hearing for application denials.* Any person whose application for a license under this article has been denied may request in writing, and within ten days, a rehearing shall be granted by the city council.

(f) *Application for renewal.* Application for renewal of a license shall be made in writing by the licensee on forms furnished by the city no later than December 1 of each year. The application shall contain any change in the information occurring after the original license was issued or the latest renewal granted and shall be accompanied by a renewal fee in the amount provided in the city fee schedule. ~~All original license applications or renewals hereof shall be accompanied by a fee. All renewal fees shall be due on the issuance of the license as provided in appendix A to this code.~~

(g) *Transfer of license.* Every person holding a license shall give notice in writing to the city within 15 days after having sold, transferred, given away, or otherwise disposed of interest in or control of any manufactured home park. All applications for license transfer shall be accompanied by a fee in the amount provided in the city fee schedule ~~as provided in appendix A to this code~~.

(h) *Violations, notice, suspension of license.* If the city finds that conditions or practices exist which are in violation of any provision of this article it shall give notice in writing in accordance with section 14.04.014 to the permittee or licensee or his agent that unless such conditions or practices are corrected within a reasonable period of time (not less than 30 days and not more than one year) as specified in the notice, the license or permit shall be suspended. At the end of the period of time, and if such conditions or practices have not been corrected, the city may suspend the license and give notice, in writing, of such suspension to the licensee or his agent at the address provided in the application. Upon receipt of notice of suspension, the licensee shall cease operation of such park within ten days after the notice is issued. (Code 1996, § 14.04.007; Ordinance 833-06, sec. 7, adopted 12/4/06)

DIVISION 3. STANDARDS AND SPECIFICATIONS

Sec. 14.04.008. Site plan.

(a) Site plan. The site plan submitted to the city shall show the following:

(A) The name, address, fee owner and record owner of the proposed manufactured home park to be constructed or of the existing manufactured home park to be altered, extended or expanded.

(B) The name of the subdivision where the park is located.

(C) The names of adjacent public streets and roads.

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(D) Contour lines at two-foot (2') intervals.

(E) Locations and dimensions of all HUD-code manufactured home spaces, utility easements, drives, recreation areas, streets and sidewalks. Each HUD-code manufactured home space shall be numbered.

(F) Scale of plan (no smaller than 1" = 200') and complete dimensions.

(G) Density in units per gross acre.

(H) Area and dimensions of site.

(I) Areas defined for waste containers and method of disposal of garbage and refuse.

(J) Water and sewer plans. Water and sewer plans must be submitted showing:

(i) Sewer line locations, grades and sizes; and

(ii) Water line locations and sizes and source of water supply.

(K) Paving and drainage plans. Paving and drainage plans must show the directions and calculated quantities of runoff and the proposed specifications for streets.

(L) Plans must indicate provision for street lighting along internal streets of the park.

(M) A contiguous area of not less than five percent (5%) of the total park area shall be designated as a recreational area for the park's residents. Recreation areas shall be so located as to be free of traffic hazards and should, where the topography permits, be centrally located.

(N) City-approved screening fence not to exceed six feet (6') shall be completely around approved site.

(b) The building official shall notify the applicant in writing as to whether the site plan was approved or disapproved, stating the reasons for disapproval and the modifications or conditions that must be made or met before approval can be obtained upon subsequent submission. New manufactured home parks require a special use permit.

(c) Any manufactured home park constructed after adoption of this article and any extension/addition to an existing manufactured home park in the city shall be done in compliance with the site requirements provided in this division.
(Code 1996, § 14.04.008(1); Ordinance 833-06, sec. 8, adopted 12/4/06)

Sec. #. Density.

A manufactured home park shall have no more than ten spaces per acre. Each manufactured home park shall be planned for and shall provide a minimum of five acres in area.
(Code 1996, § 14.04.008(2)(A); Ordinance 833-06, sec. 8, adopted 12/4/06)

Sec. #. Minimum site requirements.

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(i) Height regulations. The height limit for any structure intended for occupancy in the manufactured home park shall be thirty-five (35) feet. The average height of the HUD-code manufactured home frame above ground elevation, measured at 90 degrees to the frame, shall not exceed four feet from the top of the pad.

(ii) Spacing regulations. HUD-code manufactured homes shall be located no closer than 20 feet from any exterior wall to the closest exterior wall of the nearest HUD-code manufactured home.

(iii) HUD-code manufactured home space. Every HUD-code manufactured home shall be located on a separate space which shall conform to the following standards:

a. Be served with sanitary sewer, water, electrical power, telephone service and natural gas.

b. Abut or have access to a private street for a minimum distance of 18 feet.

c. Provide a minimum area of three thousand, two hundred (3,200) square feet, the area to be determined by the boundary lines of the space.

d. Provide a HUD-code manufactured home pad which shall provide an adequate foundation for the placement and tie-down of one single-family HUD-code manufactured home thereby securing the superstructure against uplift, sliding rotation, and overturning. Further, such pad shall:

1. Be constructed of concrete which shall adequately support the weight of the HUD-code manufactured home placed thereon and be durable and well drained under normal use and weather conditions;

2. Provide anchors and tie-downs such as cast-in-place concrete “dead men,” eyelets embedded in concrete foundations or runway screw augers, arrowhead anchors, or other devices which secure the stability of the HUD- code manufactured home, and shall be placed at least at each corner of the HUD-code manufactured home; and

3. Cover an area of at least two hundred forty (240) square feet or at least one-third (1/3) of the area of the largest HUD-code manufactured home which is to be placed on the HUD-code manufactured home space, whichever is greater.

No surface provided for a purpose other than the foundation of HUD- code manufactured home shall be considered a part of such HUD-code manufactured home pad.

e. Provide a minimum of two off-street parking spaces which shall be constructed of engineered asphalt or 3,000 psi concrete per city specs.

f. Double street frontage of HUD-code manufactured home spaces shall be avoided.

g. No vehicular access to a HUD-code manufactured home space is permitted from a public dedicated street.

h. Drainage. The ground surface in all parts of every manufactured home park and especially beneath HUD-code manufactured homes and other structures shall be graded and equipped to drain all surface water in a safe, efficient manner so as not to permit water to stand or to become stagnant.

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(iv) Design and location of storage facilities. Storage facilities with a minimum capacity of 200 cubic feet per HUD-code manufactured home space, may be provided on the space, or in compounds located within 200 feet of space. Where provided, storage facilities shall be faced with a durable, fire-resistant material. Storage outside the perimeter walls of the HUD-code manufactured home shall be permitted only if in such facilities. No storage shall be permitted under a HUD-code manufactured home. Storage facilities shall not be located within ten feet of any HUD-code manufactured home space boundary line.

(v) Location of HUD-code manufactured home and accessory structures. No HUD-code manufactured home or accessory structure such as a refuse container, carport cabana, awning, fence, or storage locker shall be permitted within ten feet of a private street or any HUD-code manufactured home space boundary line.

(vi) Setbacks and screening shall be provided as follows:

a. All HUD-code manufactured homes or structures in a manufactured home park shall be located at least twenty-five feet (25') from any manufactured home park boundary line abutting upon a public/private street or highway and at least fifteen feet (15') from interior manufactured home park property boundary lines.

b. The following screening requirements shall be applicable: a landscaped strip, not less than ten feet in width shall be located along all manufactured home park boundary lines abutting upon a public dedicated street or abutting residential property. Such landscaped strip shall be continuously maintained and shall be devoted exclusively to the planting, cultivation, growing and maintenance of site-obscuring trees, shrubs and plants. Trees, shrubs, cane or other vegetation shall be planted, cultivated and maintained as a sight and noise obscuring buffer that will effectively achieve sight and noise obstruction within approximately five years.

(vii) Access, traffic circulation, parking and lighting shall be provided as follows:

a. Internal streets shall be privately owned, built and maintained. Streets shall be designed for safe and convenient access to all spaces and facilities for common use of park residents.

b. All internal streets shall be constructed to specifications set by the city council and shall be maintained by the owner.

c. All private streets shall be constructed with water impermeable, hard-surface material and shall be durable and well drained under normal use and weather conditions. Such hard-surface material shall be a minimum of two seal coats of asphalt or one-inch compacted hot or cold asphalt mix on base approved by the public works director.

d. Internal streets shall be minimum pavement width of twenty-seven (27) feet. Parking shall not be allowed on the minimum street width. An additional lane of nine feet minimum width may be added to one or both sides for off-street parking.

e. Internal streets shall permit unobstructed access to within at least 200 feet of any portion of each HUD-code manufactured home.

f. Within each manufactured home park streets shall be named, and HUD-code manufactured homes numbered. Street signs, including traffic safety signs, shall be of standard size and placement shall

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be approved by the public works director, in order to facilitate location by emergency vehicles. Lot numbers shall be a minimum of four inches (4") in height in contrasting colors visible from the public right-of way attached to the manufactured home. All signs shall be compliant with the Americans with Disabilities Act, as amended.

g. Private streets which may connect two public street rights-of-way shall, by the use of curves, offsets, location, or the use of two or more streets be located so as to discourage through traffic.

h. Private street intersections shall generally be at right angle, offsets at intersections of less than 125 feet (centerline to centerline) shall be avoided; intersection of more than two streets at one point shall be avoided.

i. Dead-end private streets shall be limited to a maximum length of six hundred (600) feet and shall be provided with a vehicular turning space, with a turning circle of 100 feet in diameter.

j. Streets shall be laid out to provide a minimum distance of two hundred forty (240) feet, center to center of parallel streets, between intersections.

k. The internal private streets, parking lots, walks and service areas shall be lighted at all times so the manufactured home park shall be safe for occupants and visitors, provided further all entrances and exits shall be lighted. Street lighting shall be located at not more than two-hundred-foot (200') intervals along streets such as to maintain adequate levels of illumination for the safe movement of pedestrians and vehicles at night.

(viii) The following fire safety standards shall be observed:

a. The storage, handling and use of liquefied petroleum gases and flammable liquids shall be done in compliance with applicable city ordinances and state statutes.

b. Approaches to all HUD-code manufactured homes shall be kept clear for emergency vehicles.

c. Water lines and fire hydrants shall be provided and suitably located for adequate fire protection as determined by the fire chief but, in no case, shall the park provide less than a system of standard hydrants located not more than 500 feet from each HUD-code manufactured home space and served by water lines not less than six inches in diameter installed in a looped system. Private lines and fire hydrant shall be maintained, and testing of such lines shall be the responsibility of park owners. Records shall be kept at park location per the uniform or International Fire Code.

d. The manufactured home park licensee or agent shall sign up for trash service with the city.

(ix) A manufactured home park shall be connected to the city water system. All approved water supply for domestic use and fire protection purposes shall be supplied by the city to meet the requirements of the manufactured home park. All plumbing shall be in accordance with applicable ordinances of the city. Individual water and electric meters to each unit shall be installed upon approval by the city and dedication to the city of any necessary infrastructure, coupled with individual garbage service and assessment of all applicable fees. Those water, sewer, electric, gas, telephone and cable television connections which are made available at each space shall be readily accessible by appropriate private company or city technicians for maintenance, connection, or inspection as required for providing service. Maintenance of the water distribution system within the manufactured home park shall be the responsibility of the park owner. Emergency repairs performed by the city within the manufactured home

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park shall be at the expense of the park owner.

(x) From and after **the effective date of this section**, the following regulations for sewage disposal shall apply:

a. A manufactured home park shall be connected to the city sewer system.

b. Waste from all toilets, lavatories, sinks and showers in a manufactured home park shall be discharged into a public sewer.

c. All plumbing shall comply with applicable plumbing codes as adopted by the city.

d. Each HUD-code manufactured home pad shall have a sewer riser pipe of at least four inches which shall be capped when not in use.

e. Maintenance of water and sewer lines within the manufactured home park shall be the responsibility of the park owner.

(xi) From and after **the effective date of this section**, the electrical distribution system shall comply with applicable electrical codes as adopted by the city and other applicable laws of the state.

(xii) All bath facilities will be built under the international code, as amended.

(xiii) Solid waste shall be stored in flyproof, waterproof containers, which shall be emptied regularly and maintained in a usable, sanitary condition and the collection and disposal of the refuse and garbage shall be so conducted as to create no health hazard. A refuse pickup easement shall be granted by the owner of the manufactured home park to the city, if these facilities are located so as to require the entrance of waste hauling vehicles into the park.

(xiv) All manufactured homes located in manufactured home parks or private lots shall have skirting within 90 days after being placed, in accordance with skirting requirements in section 14.04.005 of this article.

(xv) Mobile homes shall not be permitted in a manufactured home park. Only HUD-code manufactured homes shall be permitted in a manufactured home park.

(xvi) All manufactured home park facilities and HUD-code manufactured homes contained therein shall conform without limitation to the codes and ordinances of the city, including the building, plumbing, electrical and fire codes as adopted and all applicable laws of the state.
(Code 1996, § 14.04.008(2)(B); Ordinance 833-06, sec. 8, adopted 12/4/06)

Sec. 14.04.009. Management requirements.

The licensee shall be responsible for all requirements of manufactured home park operators set out elsewhere in this article and shall be responsible for:

(1) Insuring that the manufactured home park is operated and maintained in a safe and sanitary manner.

(2) Maintaining all streets, street signs, parking, storage areas, and recreational areas within the

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manufactured home park.

(3) Maintaining the water distribution system, storm drainage and sewer system within the manufactured home park.

(4) Install and maintain screening around entire street and alley frontage of the park. Screening design shall be approved by the city. Screening may be fast growing shrubbery.

(5) Insuring that all requirements of this article are met and maintained. Any manufactured home park issued an initial license after adoption of this article that is found to be in violation of any provisions of this article shall be notified in writing by the city manager or designee in accordance with terms set forth herein and upon failure to comply the license shall be revoked.

(6) All responsibilities set out elsewhere in this article, and the licensee or his agent shall operate the park in compliance with this article and other applicable ordinances and shall provide adequate supervision to maintain the park and all facilities in good repair, and in clean and sanitary condition. The licensee or agent shall notify park occupants of all applicable provisions of this article and inform them of their duties and responsibilities under this article.

(7) Allowing any duly authorized inspector of the city to make reasonable inspections of the manufactured home park to determine compliance with this article.
(Code 1996, § 14.04.009; Ordinance 833-06, sec. 9, adopted 12/4/06)

Sec. 14.04.010. Owner/occupant requirements.

Manufactured home park occupants or manufactured homeowners shall be responsible for all the requirements set forth in this article on all manufactured homes owners or occupants set out elsewhere in this article and shall be responsible for:

(1) Proper placement of the manufactured home on the manufactured home stand and proper installation of all utility connections in accordance with the instructions of the park management.

(2) Keeping the area under the manufactured home clear of flammable and combustible items and not using the space for storage.

(3) Maintaining those portions of the interior of a manufactured home under his or her control to be free from rubbish, garbage, and other substances that may encourage infestation by insects, rodents, or vermin and from all unsanitary conditions.

(4) Keeping all occupied areas and all plumbing equipment and facilities in a clean, sanitary condition at all times.

(5) Connecting plumbing fixtures and heating equipment that the owner or occupant supplies and maintaining the connections in accordance with applicable codes of the city.

(6) Maintaining the manufactured home and its facilities without alteration creating nonconformity with this article or any other applicable law.

(7) Maintaining the manufactured home unit, plot, its facilities, equipment and accessory structures in good repair and in a clean and sanitary condition.

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(8) Maintaining skirting, porches, awnings, and other additions to the manufactured home.

(9) Maintaining lots to prevent grass or weeds to exceed 12" in height.

(10) No open storage allowed; except personal lawn mowers, trash cans or bicycles.

(11) Any and all structural repair or remodeling of a manufactured home shall be done by a state-certified licensed person or contractor or home-occupied owner in compliance with state and federal laws.
(Code 1996, § 14.04.010; Ordinance 833-06, sec. 10, adopted 12/4/06)

Sec. 14.04.011. Use of portable buildings.

The use of portable metal buildings or the modification and adaptation thereof shall not be allowed for purposes of residential dwelling unless the design and construction thereof has been specifically found by the building official not to constitute a hazard to life, health or property and to be in full compliance with all requirements of the International Residential Code adopted by the city.
(Code 1996, § 14.04.011; Ordinance 833-06, sec. 11, adopted 12/4/06)

~~**Sec. 14.04.012. Existing park management requirements.**~~[162]

~~All existing park operators shall comply with the following requirements within 90 days of the adoption of this article:~~

~~(1) Insuring that the existing park is operated and maintained in a safe and sanitary manner.~~

~~(2) Maintaining all streets, street signs, parking, storage areas, and recreational areas within the existing park.~~

~~(3) Maintaining the water distribution system, storm drainage and sewer system within the existing park.~~

~~(4) Install and maintain screening around entire street and alley frontage of the park. Screening design shall be approved by the city. Screening may be fast growing shrubbery.~~

~~(5) Insuring that all requirements of this article are met and maintained. Any existing park that is found to be in violation of any provisions of this article shall be notified in writing by the city manager or designee in accordance with terms set forth herein and upon failure to comply a citation may be issued.~~

~~(6) All responsibilities set out elsewhere in this article, and the existing park operator or his agent shall operate the park in compliance with this article and other applicable ordinances and shall provide adequate supervision to maintain the park and all facilities in good repair, and in clean and sanitary condition. The existing park owner, operator or agent shall notify park occupants of all applicable provisions of this article and inform them of their duties and responsibilities under this article.~~

~~(7) Allowing any duly authorized inspector of the city to make reasonable inspections of the existing~~

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[162] **Sec. 14.04.012. Existing park management requirements.** Obsolete section is stricken as shown.

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~~park to determine compliance with this article.~~

~~(8) Within 12 months of notice by the city each existing park streets shall be named and lots numbered. Street signs, including traffic-safety signs, shall be of standard size and placement shall be approved by the public works director, in order to facilitate location by emergency vehicles. Lot numbers shall be a minimum of four inches (4") in height in contrasting colors visible from the public right-of-way attached to the manufactured home. All signs shall be compliant with the Americans with Disabilities Act, as amended.~~
~~(Code 1996, § 14.04.012; Ordinance 833-06, sec. 12, adopted 12/4/06)~~

Sec. 14.04.013. Existing park owner/occupant requirements.[163]

Existing park occupants or mobile home, travel trailer, recreational vehicle or manufactured home (existing structure) owners shall be responsible for all the requirements set forth in this article for all owners or occupants of an existing structure set out elsewhere in this article and shall be responsible for:

(1) Proper placement of the existing structure on the stand and proper installation of all utility connections in accordance with the instructions of the existing park management.

(2) Keeping the area under the existing structure clear of flammable and combustible items and not using the space for storage

(3) Maintaining those portions of the interior of an existing structure under his or her control to be free from rubbish, garbage, and other substances that may encourage infestation by insects, rodents, or vermin and from all unsanitary conditions.

(4) Keeping all occupied areas and all plumbing equipment and facilities in a clean, sanitary condition at all times.

(5) Connecting plumbing fixtures and heating equipment that the existing structure owner or occupant supplies and maintaining the connections in accordance with applicable codes of the city.

(6) Maintaining the existing structure and its facilities without alteration in contradiction of the nonconforming status created under this article or any other applicable law.

(7) Maintaining the existing structure unit, plot, its facilities, equipment and accessory structures in good repair and in a clean and sanitary condition.

(8) Maintaining skirting, porches, awnings, and other additions to the existing structure.

(9) Maintaining lots to prevent grass or weeds to exceed 12" in height.

(10) No open storage allowed, except personal lawn mowers, trash cans and bicycles.

(11) Any and all structural repair or remodeling of an existing structure shall require a building permit, inspections and all work shall be done by a state-certified licensed person or contractor or home-occupied

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[163] **Sec. 14.04.013. Existing park owner/occupant requirements.** Is this section now obsolete also?

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owner.
(Code 1996, § 14.04.014; Ordinance 833-06, sec. 13, adopted 12/4/06)

DIVISION 4. VIOLATIONS AND ENFORCEMENT

Sec. 14.04.014. Notice requirements.

Upon violation of this article, the city shall give notice of such alleged violation to the permittee or licensee or his agent. The notice shall:

(1) Be in writing;

(2) Include a statement of the reasons for its issuance;

(3) Allow a reasonable time of not less than 30 days nor more than one year, based upon the nature and severity of the violation and having due regard for the safety and protection of the community, for the performance of the act it requires;

(4) Be served upon the licensee or his agent; provided that such notice or order shall be deemed to have been properly served upon such licensee or his agent; provided that such notice or order shall be deemed to have been properly served upon such licensee or agent when a copy thereof has been sent by mail to his last known address, or when he has been served with such notice by any method authorized or required by the laws of this state; and

(5) Contain an outline of remedial action when if taken, will effect compliance with the provisions of this article.

If the violation is not remedied in accordance with the notice, and a breach of this article continues, then the city may revoke any permits or licenses issued in addition to any punishment provided in this article.
(Code 1996, § 14.04.014; Ordinance 833-06, sec. 14, adopted 12/4/06)

Sec. 14.04.015. Violations.

A person violating a provision of this article shall, upon conviction, be punished by a fine of not less than one dollar ($1.00) and not more than five hundred dollars ($500.00) for a first conviction, and by not less than five hundred dollars ($500.00) and not more than two thousand dollars ($2,000.00) for each additional conviction. Every day's violation shall constitute a separate and distinct offense. Any mobile home or manufactured home, travel trailer or motor home not in compliance with this article shall not be provided city utility services directly from the city or indirectly from an established city utility customer.
(Code 1996, § 14.04.015; Ordinance 833-06, sec. 15, adopted 12/4/06)

ARTICLE III. RECREATIONAL VEHICLE PARKS

Sec. 3.09.002. Definitions.

The following words and phrases, when used in this article, shall have the meanings respectively ascribed to them in this section:

Recreational vehicle. A nonmotorized vehicle that:

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(1) Is designed:

(A) To be towable by a motor vehicle; and

(B) For temporary human habitation for uses including recreational camping or seasonal use;

(2) Is permanently built on a single chassis;

(3) May contain one or more life-support systems; and

(4) May be used permanently or temporarily for advertising, selling, displaying, or promoting merchandise or services, but is not used for transporting property for hire or for distribution by a private carrier.

By way of example, but not limitation, the term shall mean any of the following:

(1) Travel trailer. A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses, or permanently identified travel trailer by the manufacturer of the trailer, and when factory equipped for the road, it shall have a body width not exceeding eight feet (8') and a body length not exceeding the state maximum.

(2) Pickup coach. A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation.

(3) Motor home. A portable, temporary dwelling to be used for travel, recreation, and vacation, constructed as an integral part of a self-propelled vehicle.

(4) Dependent trailer. A trailer which is dependent upon a service building for toilet and lavatory facilities.

Recreational vehicle park. A certain piece of property, located within the appropriate zoning district on which two or more recreational vehicles are placed.

Self-contained trailer. A trailer which can operate independent of connections to sewer, water, and electric systems. It contains a water-flushed toilet, lavatory, shower, and kitchen sink, all of which are connected to water storage and sewage holding tanks located within the trailer.
(Code 1996, § 3.09.002; Ord. No. 705-01, 5/21/01)

Sec. 3.09.013. Scope of article.

All recreational vehicle parks now existing or hereafter constructed or laid out within the city shall conform to or be made to conform to the requirements of this article.
(Code 1996, § 3.09.013)

Sec. 3.09.003. Permit required.

Any person seeking to construct, alter, or expand a recreational vehicle park shall obtain a written permit from the city building official for the specific purposes proposed. Such application shall set out the name and address of the applicant, the location and legal description of the property and a site plan, which plan shall further be submitted to the planning and zoning commission of the city for their approval. The

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application and subsequent issuance of a permit by the city building official does not take the place of any building permits required under the building and other applicable codes of the city.
(Code 1996, § 3.09.003)

Sec. 3.09.004. Permit fee required.

The city building official shall issue a permit upon the payment of a fee in the amount provided in the city fee schedule ~~as provided for in the fee schedule found in appendix A of this code~~.
(Code 1996, § 3.09.004)

Sec. 3.09.005. Permit application.

An application for a recreational vehicle park permit shall be filed with the city secretary and shall contain the following:

(1) Name and address of applicant.

(2) Location and legal description of the recreational vehicle park.

(3) Name and address of the owner of the property.

(4) A site plan of scale of twenty feet (20') to one inch (1") in three copies, showing the following:

(A) Date, scale, north point, name of owner(s), and name of person or company preparing the plan.

(B) Location of existing boundaries and dimensions of the tract.

(C) Location and width of driveways used for ingress and egress.

(D) Location and width of private drives, and streets within the park.

(E) Locations, dimensions, and front, rear, and side yard setbacks of all unit plots.

(F) Location of permanent structures and accessory structures.

(G) Designation of parking, recreation, and landscaped areas.

(H) All required front, side, and rear yard building setback lines in compliance with this section and the city zoning ordinance.

(I) Names of contiguous subdivisions and the owners of contiguous parcels of unsubdivided land and an indication of whether or not contiguous properties are platted.
(Code 1996, § 3.09.008)

Sec. 3.09.006. Records to be kept; inspection.

Each recreational vehicle park shall have on the site an office in which shall be kept copies of all records pertaining to the management and supervision of the premises, and any other records required to be kept by this article. Such records shall always be available for inspection by the city tax collector and agents of the city authorized to inspect.

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(Code 1996, § 3.09.006)

Sec. 3.09.007. Register of occupants.

(a) The owner or operator of each recreational vehicle park shall keep a register containing a record of all owners and occupants located within the recreational vehicle park area.

(b) The register shall include the following information:

(1) Name and address of each occupant.

(2) License number of primary vehicle.

(Code 1996, § 3.09.007)

DIVISION 2. STANDARDS AND SPECIFICATIONS

Sec. 3.09.001. Zoning restrictions.

Recreational vehicle parks shall be located only within a zoning classification permitting HUD-code manufactured home parks or recreational vehicle parks, in accordance with the city zoning ordinance. The placing of two or more recreational vehicles on property in violation of this article or article 3.10 shall be deemed a violation of this article.

(Code 1996, § 3.09.001; Ord. No. 705-01, 5/21/01)

Sec. 3.09.008. Minimum site requirements.

(a) Drainage. The ground surface in all parts of a recreational vehicle park shall be graded and equipped to drain all surface water in a safe, efficient manner.

(b) Soil and ground cover. Exposed ground surfaces in all parts of every recreational vehicle park shall be paved, covered with stone screening or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and preventing dust.

(c) Space requirements.

(1) Each recreational vehicle park shall be located upon a minimum of five acres of land.

(2) Each recreational vehicle lot within the park shall have a minimum area of twelve hundred fifty (1250) square feet.

(3) No recreational vehicle shall be parked closer than fifteen feet (15') to the property line adjoining a public street.

(d) Access and traffic circulation.

(1) All recreational vehicle lots shall be provided with access to an internal street or common access route. Such street shall have a minimum width of fifteen feet (15'). A minimum of ten feet (10') shall remain open and clear at all times to permit fire, police, and sanitation vehicles access through the park.

(2) Internal streets shall be privately owned, built, and maintained by the owner. Streets shall be

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designed for safe and convenient access to all spaces and to facilities for common use of park residents.

(3) Internal streets shall be kept open and free of obstruction in order that police and fire vehicles may have access to any areas of the park.

(4) All internal streets shall be constructed and maintained by the owner free of cracks, holes, and other hazards.

(5) A speed limit of ten miles per hour shall be enforced throughout the park, and signs shall be erected giving notice of such speed limit.

(6) The police department shall be authorized to issue citations for the violation of the provisions hereof and to stop, remove, and impound offending vehicles, or stop, detain, and arrest offending individuals.

(7) Streets shall be constructed according to city specifications.
(Code 1996, § 3.09.008)

Sec. 3.09.009. Utilities.

(a) Water supply.

(1) An accessible, adequate, safe, and potable supply of water shall be provided in each recreational vehicle park. Connection shall be made to the public supply of water unless a special exception is granted by the city council to use a private water supply. If a private supply is utilized for service to the park, the private supply shall be adequate for both domestic requirements and for firefighting requirements established by the city.

(2) The water supply system shall be accessible to all residents and shall be connected by pipe to all buildings and other facilities requiring water. Water supply faucets shall be located not more than one hundred feet (100') from any camping space.

(3) All water piping, fixtures, and other equipment shall be constructed and maintained in accordance with state and city requirements and regulations.

(4) Individual water riser pipes and connections shall be in accordance with the city plumbing code.

(b) Sewage disposal.

(1) General requirements. An adequate and safe sewer system shall be provided in all recreational vehicle parks. Connection shall be made to the public sewer system within one hundred fifty feet (150') of a public sewer, unless a special exception is granted by the city council to use an alternate sewage disposal facility. The sewer system shall be constructed in accordance with the city plumbing code. Effluents from sewage treatment facilities shall not be discharged into any waters of the state except with prior approval of the city health officer or agent of the city acting in such capacity and the appropriate regulatory agency of the state.

(2) Sewer lines. All sewer lines shall be constructed in a manner, and of materials, in accordance with the city plumbing code.

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(c) Electrical. Every recreational vehicle park shall contain an electrical wiring system consisting of wiring, fixtures, equipment, and appurtenances which shall be installed and maintained in accordance with the city electrical code.
(Code 1996, § 3.09.009)

Sec. 3.09.010. Responsibilities of recreational vehicle park operator or owner.

(a) The operator or owner of a recreational vehicle park shall operate the park in compliance with this article and other applicable ordinances and shall provide adequate supervision to maintain the park, its facilities, and equipment in a safe and sanitary condition.

(b) The operator or owner of the park shall be responsible for the proper placement of each recreational vehicle on its lot, including the securing of its installation and the installation of its utility connections.

(c) The operator or owner of the park shall notify all park occupants of applicable provisions of this article and inform them of their duties and responsibilities under this article.
(Code 1996, § 3.09.010)

Sec. 3.09.011. Responsibilities of recreational vehicle park occupants.

(a) Each recreational vehicle park occupant shall comply with the provisions of this article and shall maintain his lot, facilities, and equipment in a clean and sanitary condition.

(b) Skirtings, porches, awnings, and other additions, when installed, shall be maintained in good repair. Use of space underneath a recreational vehicle shall be permitted for storage only under the following conditions:

(1) Stored items shall not interfere with the underneath inspection of the recreational vehicle and shall comply with city fire and sanitary regulations.

(2) The storage area shall be enclosed with skirting.
(Code 1996, § 3.09.011)

Sec. 3.09.012. Playground space.

The owner or developer of a recreational vehicle park shall provide sufficient recreation space, accessible to all park occupants, the space to be not less than ten percent (10%) of the total square footage of the park.
(Code 1996, § 3.09.012)

ARTICLE IV. TEMPORARY USE PERMITS

~~Sec. 3.10.001. Definitions.~~[164]
~~HUD-code manufactured home or home park. Shall be as defined in article 14.04, as it may be amended.~~
~~Recreational vehicle. Shall be as defined in article 3.09 of this chapter, as it may be amended.~~
~~(Code 1996, § 3.10.001; Ord. No. 705-01, 5/21/01)~~

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[164] **Sec. 3.10.001. Definitions.** Duplicative definitions section is stricken.

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Sec. 3.10.002. Unlawful acts; temporary use permit required.

(a) It is unlawful for any person to park, place, or locate or allow to be parked, placed or located a recreational vehicle or HUD-code manufactured home within the city except in an approved HUD-code manufactured home park or recreational vehicle park, unless a temporary use permit has been issued by city council or as otherwise excepted and provided herein.

(b) Allegation and evidence of a culpable mental state is not required for the proof of an offense defined by this article.

(c) It shall be a rebuttable presumption that the registered owner of the recreational vehicle parked the vehicle.
(Code 1996, § 3.10.002; Ord. No. 705-01, 5/21/01)

Sec. 3.10.003. Exceptions.

The provisions of section 3.10.002 shall not apply to the following:

(1) A recreational vehicle parked upon a lot where recreational vehicles are sold and where no person occupies such a recreational vehicle as a dwelling or sleeping place.

(2) A recreational vehicle temporarily parked upon a lot as an office or display unit and where no person occupies such recreational vehicle as a dwelling or sleeping place.

(3) A recreational vehicle temporarily parked upon a lot or tract of land and used to provide shelter or temporary living quarters for a guard, watchman, supervisor or construction worker of a public or private construction project, upon issuance of a temporary use permit by the city council.

(4) A recreational vehicle parked upon privately owned residential property in accordance with any applicable zoning, subdivision or parking regulations; provided, however, in no event shall such recreational vehicle be utilized as a temporary dwelling unit, or connected to public or private utilities, such as water, wells, sanitary sewer, wastewater, septic or electricity.
(Code 1996, § 3.10.003; Ord. No. 705-01, 5/21/01)

Sec. 3.10.004. Temporary use permit application, issuance and duration.

(a) Contents; transferability. The permit shall be specific to the person named in the application for the permit and shall not be transferred without the prior written consent of the city through the issuance of a new permit

(b) Application requirements. All applications for permits shall be made upon standard forms provided by the city secretary and shall contain the following:

(1) Name and address of the applicant.

(2) Location and legal description of the property where the recreational vehicle or HUD-code manufactured home will be located.

(3) Number of recreational vehicles or HUD-code manufactured home to be located on property with

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license plate numbers, names and addresses of registered owners.

(4) Number of persons to be temporarily housed per vehicle.

(5) Requested duration of temporary use permit with a stated rationale.

(c) Permit fee. All applications to the city secretary shall be accompanied by a fee in the amount provided in the city fee schedule ~~as set forth in the fee schedule found in appendix A to this code~~.

(d) Issuance of permit. In considering the application, the city manager may take into account the proposed location of the temporary use in relation to the present and anticipated land use and development surrounding the property. After review of the application and, upon determining that the application complies with this article and other applicable laws, codes and regulations, the permit shall be issued. The temporary use permit shall in no event be issued for more than one year. The permit shall be issued for the number of and specific vehicles listed in the application; provided, however, the vehicles may be exchanged with other vehicles, provided the number of vehicles covered by the permit shall not be increased. If the vehicles are exchanged, the license plates, names and addresses of the registered owners shall be submitted to the city secretary, prior to the parking of the vehicles.

(e) Duration of permit. Such temporary use permit may only be valid for the duration of the temporary purpose and must be removed within 24 hours of the completion of the temporary purpose, such as a construction project. The city manager shall determine the duration of the temporary use permit based upon information provided by the applicant and independent investigation. The duration of the temporary use permit shall be reasonable.
(Code 1996, § 3.10.004; Ord. No. 705-01, 5/21/01)

Sec. 3.10.005. Denial/revocation of temporary use permit.

(a) The city manager, in his discretion, may deny the issuance of the temporary use permit. In the event the city receives complaints from its citizens relative to a nuisance that might be or is created due to the use of such recreational vehicles or HUD-code manufactured home as temporary dwellings, the city manager may revoke the temporary use permit, upon seven days written notice. Appeal of such decision may be made to city council, upon submission of a notice of appeal to the city secretary within ten days of receipt of the notification; otherwise the decision of revocation is final and binding.

(b) Notwithstanding the notice of appeal, the permit shall remain revoked, and the vehicles removed, until such time as a hearing is held before city council.

(c) Upon revocation, the vehicles may be moved to a location designated as a recreational vehicle park or HUD-code manufactured home park. No new application for a permit shall be accepted within one year of the denial or revocation of a permit unless the denial is without prejudice to the refiling of same, or the revocation is conditional; provided, however, that the stated conditions for reapplication have been satisfied.
(Code 1996, § 3.10.005; Ord. No. 705-01, 5/21/01)

Sec. 3.10.006. Penalty.

(a) Any person violating or failing to comply with any provision or requirement of this article, who continues to violate or fail to comply with same after seven days' written notice is given, shall also be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in accordance with the

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general penalty provision found in section 1.01.009, such offenses being violations of the health, safety and zoning ordinances of the city. A separate offense shall be deemed committed upon each day during or on which a violation or failure to comply occurs or continues to occur.

(b) In addition to any other remedies or penalties contained herein, the city may enforce the provisions of this article pursuant to the applicable provisions of V.T.C.A., Local Government Code, ch. 54, which chapter provides for the enforcement of municipal ordinances.
(Code 1996, § 3.10.006; Ord. No. 705-01, 5/21/01)

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Chapter 62[165]

PROPERTY MAINTENANCE STANDARDS

ARTICLE I. IN GENERAL

Sec. 3.13.001. Authority; purpose and intent; liberal construction.[166]

(a) ~~Title. These regulations shall be known as the city substandard building code, and may be cited as such and will be referred to herein as "This code."~~ This chapter is adopted pursuant to the authority granted by V.T.C.A., Local Government Code, chs. 54 and 214 for purposes of:

(1) Protect the health, safety, and welfare of the citizens of the city by establishing minimum standards applicable to residential and specific nonresidential structures with respect to utilities, facilities, and other physical components essential to make structures safe, sanitary, and fit for human use and habitation, and permitting demolition of structures as a last resort when compliance with standards cannot reasonably be achieved.

(2) Create and establish a building and standards commission which shall have jurisdiction and authority to administer and enforce this chapter.

(b) This chapter is remedial in nature and essential to the public interest, and it is intended that this chapter be liberally construed to effect its purpose.
(Code 1996, § 3.13.001(a—b); Ord. No. O-10-10, 6/21/10)

Sec. #. Scope and applicability; conflicting zoning provisions to prevail.

(c) Scope. This chapter shall apply to all buildings and structures or portions thereof intended or used for human habitation and occupation, unless otherwise specified, which exist on June 21, 2010, or are constructed thereafter.

(d) Application to existing buildings and structures.

(1) Additions, alterations, or repairs. Additions, alterations or repairs required by This chapter will be done in accordance with, and meet, the requirements of the current building, plumbing, mechanical, or electrical code, as amended, whichever is applicable, unless a variance is granted as provided herein.

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[165] **Chapter 62. Property Maintenance Standards.** I suspect that much of this chapter is outdated and some duplication of the 2021 (or 2015?) ICC Property Maintenance Code adopted by the city by reference. I have kept the chapter mostly intact but after I receive feedback and direction from the city, I suggest that we rewrite provisions as necessary and reorganize the chapter to make navigation more user friendly.

[166] **Sec. 3.13.001. Authority; purpose and intent; liberal construction.** Short titles are unnecessary after codification and should be stricken as shown. Also, since "this Code" is defined in chapter 1 as this code of ordinances in its entirety, it cannot be used elsewhere in the code to describe only a chapter or other part of the compiled code.

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(2) Relocation. Buildings or structures moved into, or existing within, the city shall comply with the requirements of the current building, plumbing, mechanical or electrical code for new buildings and structures, as amended, whichever is applicable, unless a variance is granted as provided herein.

(e) Conflict with zoning regulations. Nothing in this chapter shall be construed to cancel, modify, or set aside any provision of the city's comprehensive zoning regulations.
(Code 1996, § 3.13.001(c—d); Ord. No. O-10-10, 6/21/10)

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. GENERALLY

DIVISION 2. BUILDING AND STANDARDS COMMISSION

Sec. 3.13.003. Building and standards commission created.

Pursuant to V.T.C.A., Local Government Code, ch. 54 the city has created a building and standards commission, composed of seven members.. The members of the city's planning and zoning commission shall serve as and perform the duties and functions of members of the building and standards commission. All members of the building and standards commission shall be appointed to serve two-year terms and may be reappointed following an initial term. In the event that a vacancy occurs on the building and standards commission which is not filled by a member of the planning and zoning commission, the city council will, by majority vote, appoint an individual to fill that vacancy.
(Code 1996, § 3.13.003; Ordinance O-10-10 adopted 6/21/10 ; Ordinance O-07-22 adopted 6/7/2022)

Sec. 3.13.004. Powers and duties of building and standards commission.

The commission has the following powers and duties:

(1) To require the reduction in occupancy load of an overcrowded structure or vacation of a structure that is reasonably dangerous to the health, safety or welfare of the occupants;

(2) To require, as an alternative to demolition of a structure found to be an urban nuisance, the repair of the structure by the owner or by the city;

(3) To require the demolition of a structure found to be an urban nuisance;

(4) To require the removal of personal property from a structure ordered vacated or demolished. Removal may be accomplished by use of city forces or a private transfer company if the owner of the personal property is not known, or the whereabouts of the owner cannot be ascertained, or the owner fails to remove the personal property. The commission may cause any personal property removed to be stored in the care and custody of a bonded warehouse facility. Such stored personal property shall be held for 60 days so that the owner may pay the costs of removal and storage and reclaim the property. Should the owner fail to reclaim the property within 60 days, the commission shall give the owner notice in writing and by publication one time in the city's official newspaper at least ten days prior to placing such property on sale at a public auction advertised for that purpose. The city may auction such personal property at a sale called to auction abandoned personal property otherwise acquired by the city. Should the owner fail to reclaim the property, it will be sold at the public auction and the proceeds from its sale will be applied

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to pay the costs of removal and storage and for any expenses incurred by the city in the demolition or removal of the structure from which it was removed. Cost of removal and storage are the responsibility of the owner of the personal property. An appeal by the owner for a judicial review of the commission's decision shall not stay the proceedings, but the district court, on application, on notice to the commission and for due cause shown, may grant a restraining order or injunction;

(5) To require a vacant structure or vacant portion of a structure constituting a dangerous condition or nuisance be securely closed and made safe;

(6) To require or cause the correction of a dangerous condition on the land. Correction of a dangerous condition may be accomplished by city forces or private contract. Costs of correction are the responsibility of the owner;

(7) To grant a variance when, in the opinion of the commission, a literal interpretation of this article would result in the imposition of an unnecessary or unreasonable hardship;

(8) To assess a civil penalty, not to exceed $1,000.00 a day, against a property owner for each day or part of a day that he fails to repair or demolish a structure in compliance with a commission order issued under this article;

(9) To cause an action to be brought in district court in accordance with Texas Local Government Code section 214.003, as amended, for the appointment of a receiver for property found to be an urban nuisance;

(10) To require relocation of the occupants of a structure found to be an urban nuisance;

(11) To declare a building substandard in accordance with the powers granted by Texas Local Government Code, ch. 54, subchapter C, as amended;

(12) To administer and enforce the provisions of this chapter; and

(13) To issue orders or directives to any peace officer of the state, including a sheriff or constable or the police chief of the city, to enforce and carry out the lawful orders or directives of the commission. (Code 1996, § 3.13.004; Ord. No. O-10-10, 6/21/10)

Sec. 3.13.005. Failure to comply with commission order.

(a) A person commits an offense if he fails to correct a violation of this article in compliance with a commission order that has become final.

(b) It is a defense to prosecution under subsection (a) of this section that the commission order has been appealed to the state district court.

(c) If, after the expiration of the time allotted under section 3.13.007 below, the owner fails to satisfy any requirement or mandate set forth therein, the city may:

(1) Proceed with the hearing, in the absence of the owner if the city sent the proper notices and performed the requisite due diligence to ascertain the owners, lienholders and mortgagees of the property;

(2) Vacate, remove, secure or demolish, or cause to be vacated, removed, secured or demolished, the

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building or relocate the occupants at its own expense, should the owner fail to do so within the allotted time. The expense may be assessed as a lien against the property as allowed by law;

(3) Repair or cause to be repaired the building only to the extent necessary to bring the structure into compliance with the minimum standards and only if the building is a residential building with ten or fewer dwelling units. The repairs may not improve the building to the extent that the building exceeds the minimum standards, as defined by This chapter, and expenses may be assessed, as provided in section 3.13.006 below; or

(4) Assess a civil penalty against the property owner for failure to repair, remove, demolish, or secure the building, as provided herein.
(Code 1996, § 3.13.005; Ord. No. O-10-10, 6/21/10)

DIVISION 3. PROCEDURE

Sec. 3.13.006. Enforcement.

(a) Generally.

(1) Authority. The building official is hereby authorized and directed to enforce all provisions of this chapter. For such purposes, he/she is empowered to make interpretations and rulings of this chapter.

(2) Inspections. For the purpose of ascertaining whether violations of this chapter exist, the building official, or his/her designee, is authorized to inspect:

(A) The exterior of a structure and premises which contain no structure; and

(B) The interior of a structure, if permission of the owner, occupant, or person in control is given. If such entry is refused, the building official shall have every recourse provided by law, including but not limited to an administrative search warrant or an injunction to secure entry.

(C) If the structure is unoccupied and open for unauthorized entry or use, or the owner, occupant, or person in control cannot be identified or located, the building official may enter the property to the extent allowed by law.

(b) Substandard buildings. All buildings or portions thereof which are determined to be substandard as outlined in this chapter are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal.

(c) Hearings. The building and standards commission, with the assistance of the city attorney, shall provide reasonable interpretations of the provisions of this chapter, mitigate specific provisions of this chapter which create practical difficulties in their enforcement and to hear cases and make determinations, as provided in this chapter.

(d) Violations.

(1) Criminal.

(A) A person who violates a provision of this chapter, or who fails to perform an act required of him by This chapter, commits a misdemeanor offense. A person commits a separate offense each day or

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portion of a day during which a violation is committed, permitted, or continued.

(B) An offense under This chapter is punishable by a fine not to exceed two thousand dollars ($2,000.00).

(C) Allegation and evidence of a culpable mental state is not required for the commission of an offense under This chapter.

(2) Civil.

(A) The city may, in accordance with chapter 54, subtitle B of the Texas Local Government Code, as amended, bring a civil action against a person violating a provision of this chapter relating to dangerously damaged or deteriorated structures or improvements.

(B) The civil action may include, but is not limited to, a suit to recover a civil penalty not to exceed $1,000.00 for each day or portion of a day during which the violation is committed, continued, or permitted by the owner or occupant of the property, as provided below.

(C) The city, by order of the commission, may assess and recover a civil penalty against a property owner, if the owner fails to take the requisite action as ordered by the commission, after an administrative hearing on the matter. The civil penalty may not exceed $1,000.00 a day for each violation or, if the owner shows that the property is the owner's lawful homestead, in an amount not to exceed $10.00 a day for each violation, if the city proves:

(i) The property owner was notified of the requirements of this chapter and the owner's need to comply with the requirements; and

(ii) After notification, the property owner committed an act in violation of this chapter or failed to take an action necessary for compliance with This chapter.

(D) A determination by the building and standards commission which involves the establishment of an amount and duration of a civil penalty shall be final and binding and constitute prima facie evidence of the penalty in any court of competent jurisdiction in a civil suit brought by the city for final judgment in accordance with the established penalty.

(E) To enforce any civil penalty under this section, the city secretary must file in the Dallas or Ellis County district clerk's office, as appropriate, a certified copy of the order of the commission establishing the amount and duration of the penalty. No other proof is required for a district court to enter final judgment on the penalty.

(3) Other available remedies. The city shall have all other available remedies at law and in equity to enforce the provisions of this article.

(4) Municipal court proceedings not affected. Action taken by the city under this article shall not affect the ability of the city to proceed under the jurisdiction of the city's municipal court.

(e) Authority to impose fees. If the city does or causes to be done any work pursuant to a commission order, including but not limited to the abatement, repair, demolition, or securing of a structure or lot, the city may proceed to secure payments for actual costs plus the administrative fee, as described in subsection (f) below, and as otherwise allowed by law. The building official shall keep an itemized

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account of any expenses incurred in abating, repairing, demolishing, or securing of a structure or lot or in abating any other condition on the property.

(f) Administrative fee. In addition to the actual costs incurred in abating, repairing, demolishing, or securing a structure or lot, there shall be an administrative fee assessed on each lot, tract, or parcel of property to cover the actual cost of clerical work, title searches, publications, and filing fees estimated to be twenty percent (20%) of the value of the property.

(g) Fee and due date. The actual cost of abating, repairing, demolishing, or securing a structure or lot, or abating any other condition on the property, plus the attendant administrative fee, shall become due and payable upon the completion of the repairing, demolishing, or securing of the structure or other abatement procedure. The building official shall send by certified mail, return receipt requested, and an optional second copy by regular mail, an itemized billing to the owner or owners of record, describing the work done. Any money recovered by payment of the charge or assessment or from the sale of property at foreclosure sale, to the extent allowed by law, shall be paid to the city treasurer, who shall credit the same to the repair and demolition fund. If after 30 days from the billing date, payment in full has not been made, then the city may proceed to collect all monies and fees due by filing a lien upon real property. All such charges shall bear interest at the rate of ten percent (10%) per annum from the date the owner of the real property receives the aforementioned notice of demand for payment of such charges. The city may bring suit in a court of competent jurisdiction to foreclose its liens and collect all monies and fees due. The written statement of such charges, or a certified copy thereof, shall be prima facie evidence of the city's claim for charges or right to foreclose the lien.

(h) Filing. The city shall file its notice of lien in the office of the county clerk of Dallas or Ellis County, as appropriate. The notice shall contain the name and address of the owner if that information can be determined with a reasonable effort, a legal description of the property on which the building was located, the amount of expenses incurred by the city and the balance due.

(i) Extinguishment of lien. The lien is extinguished if the property owner or other person having an interest in the legal title to the property reimburses the city for the expenses.

(j) Homestead exemption. Real property protected by the state constitution as a homestead shall not be subject to assessment of liens resulting in expenses involved in the abatement, repair, demolition, or in securing a structure or lot as described in the process of this chapter.
(Code 1996, § 3.13.006; Ord. No. O-10-10, 6/21/10)

Sec. 3.13.007. Notice; hearings; urban nuisance; repair, demolition, receivership and civil penalties.

(a) (1) The commission may adopt rules not inconsistent with this article. Meetings of the commission will be held at the call of the chairman, or in his absence the acting chairman, or as the board may determine from time to time. The chairman, or in his absence the acting chairman, may administer rolls and compel the attendance of witnesses. All meetings are open to the public.

(2) The building official or his designated representative shall act as secretary to the commission, but shall not be a member. The secretary shall keep a record of the cases, activities and actions of the commission and its determinations, give notice of the date and time of hearings, and perform such other duties as are consistent with or may be necessary for the enforcement of this article.

(3) Whenever the building official has inspected or caused to be inspected any structure or lot and has found and determined that such structure or lot is substandard, he/she may commence proceedings to

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cause repair, rehabilitation, vacation, or demolition of the structure or lot.

(b) Notice and administrative order to abate. The building official shall issue a notice and administrative order to abate a substandard structure or lot. The notice and administrative order shall contain:

(1) The street address and a legal description sufficient for identification of the premises upon which the structure is located.

(2) A statement that the building official has found the structure or lot to be substandard with a brief and concise description of the conditions found to render the structure or lot substandard under the provisions of this chapter.

(3) A statement of the action recommended to be taken, as determined by the building official, as follows:

(A) If the building official has determined that the structure or lot must be repaired, the administrative order shall require that all required permits be secured and work physically commenced within 30 days from the date of the administrative order.

(B) If the building official has determined that the structure or lot must be vacated, the administrative order shall require that the structure or lot must be vacated within thirty

(30) days of the date of the administrative order.

(C) If the building official has determined that the structure or lot must be demolished, the administrative order shall require that all required permits be secured and work physically commenced within 30 days from the date of the administrative order.

(4) A statement advising that a notice of hearing is forthcoming and a description of the hearing. The hearing shall provide the commission the means to consider or determine whether a structure or lot complies with the standards set forth herein and to consider or determine whether a structure or lot must be repaired or demolished, as recommended by the building official, in the notice and administrative order.

(5) Statements advising that if the owner or owners of record are in full agreement with a demolition order, and that if the owner or owners of record are financially unable to abate such nuisance, then the owner or owners of record may grant the city written permission to abate said nuisance, and, in doing so shall grant the city a lien against the real property as described in this chapter.

(c) Notice of hearing. The building official shall give notice of a public hearing to all known owners, lienholders, or mortgagees for the commission to consider or determine whether a structure or lot complies with This chapter and to consider or determine whether a structure or lot must be repaired, secured or demolished. The notice shall be mailed and posted as provided herein, and published in the official newspaper of the city on one occasion, on or before the tenth (10th) day before the date of the hearing. The notice of hearing shall contain:

(1) The name and address of the owner of the affected property, if known;

(2) A legal description of the property, as well as the physical address;

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(3) A description of the hearing;

(A) The date, time, and place of the public hearing. This date shall be established not less than ten days from the date of the administrative order;

(B) A statement advising that securing the required permits and physically commencing the required action shall be considered as intent to comply with the administrative order to abate, and that the hearing shall be temporarily postponed. Should abatement halt, or not progress at a rate determined to be reasonable by the building official, the hearing shall be recalled;

(C) A statement that the owner, lienholder, or mortgagee will be required to submit at the hearing proof of the scope of any work that may be required to comply with this article and the time it will take to reasonably perform the work.

(d) Service of notice and administrative order to abate and notice of hearing. The notice of the administrative order to abate, the notice of hearing and any supplemental notices or orders shall be served upon the owner, lessor, lienholder, and mortgagees of record and occupant, if different than the owner of the structure or lot. Service of these notices and orders shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice by certified mail, return receipt requested, and an optional second copy by regular mail, to each such person at his/ her address as it appears on the county tax rolls, or as discovered by due diligence, as defined by subsections (1) through (6) herein, and the notice shall be posted on the front door of each improvement situated on the affected property or as close to the front door as practical. The following of these procedures shall be prima facie evidence of notification. If a certified notice is returned as “refused” or “unclaimed,” the validity of the notice is not affected, and the notice shall be deemed delivered. The city has satisfied the requirements of this section to make a diligent effort to determine the identity and address of an owner, a lienholder, or a mortgagee if the city searches the following records:

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

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

(3) Records of the secretary of state;

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

(5) City tax records; and

(6) City utility records.

(e) Filing of notice and administrative order at the county. A copy of the notice and any administrative orders, or such orders as may be issued pursuant to these provisions, shall be filed with Dallas or Ellis County deed records, as appropriate. The notice must contain the name and address of the owner of the affected property if that information can be determined from a reasonable search of the instruments on file in the office of the county clerk, or upon a due diligence search as set forth herein, a legal description of the affected property, and a description of the proceeding. The filing of said notice and any said orders, is binding on subsequent grantees, lienholders, or other transferees of an interest in the property who acquire such interest after the filing of said notice or any said orders, and constitutes notice of said hearing and notice of any said orders, on any subsequent recipient of any interest in the

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property who acquires such interest after the filing of said notice or filing of any said orders.

(f) Meeting/public hearing procedures. During an officially convened meeting, the commission shall hold a public hearing on each case and shall hear such testimony as may be presented by any department of the city, the building official, inspector, or the owner, occupant, mortgagee or any other person having an interest in such building to determine whether a building complies with the standards of this chapter. The owner, lienholder, or mortgagee has the burden of proof to demonstrate the scope of any work that may be required to comply with This chapter and the time it will take to perform the work. After all testimony has been received, the public hearing shall be closed and the commission shall deliberate on the case in open session. The commission shall make written findings of fact from the testimony offered as to whether the building complies with the standards of this chapter.

(1) After the meeting, if a building is found in violation of standards set forth herein, the commission may order that the building be vacated, secured, repaired, removed, or demolished by the owner within a reasonable time as provided herein. The commission also may order that the occupants be relocated within a reasonable time, at the cost of the owner, lienholders or mortgagees. The commission reserves the right to determine what is a reasonable amount of time to perform the ordered work or what is a reasonable amount of time to relocate occupants.

(2) The commission shall require the owner, lienholder, or mortgagee of the building to, within 30 days:

(A) Secure the building from unauthorized entry or use; or

(B) Repair, remove, or demolish the building, unless the owner, lienholder, or mortgagee establishes at the hearing that the work cannot reasonably be performed within 30 days.

If the commission allows the owner, lienholder, or mortgagee more than 30
days to repair, remove, or demolish the building, the commission shall establish specific schedules for the commencement and performance of the work and shall require the owner, lienholder, or mortgagee to secure the property in an approved manner from unauthorized entry while the work is being performed, as determined by the commission.

(3) The commission may not allow the owner, lienholder, or mortgagee more than 90 days to repair, remove, or demolish the building or fully perform all work required to comply with the order unless the owner, lienholder, or mortgagee:

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

(B) Establishes at the hearing that the work cannot justifiably be completed within ninety

(90) days because of the scope and complexity of the work. If the commission allows the owner, lienholder, or mortgagee more than 90 days to complete any part of the work required to repair, remove, or demolish the building, the commission shall require the owner, lienholder, or mortgagee to regularly submit progress reports to the building official and to the commission to demonstrate that the owner, lienholder, or mortgagee has complied with the time schedules established for commencement and performance of work. The order may require that the owner, lienholder, or mortgagee appear before the commission to demonstrate compliance with the time schedule.

(g) After the meeting.

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(1) After the meeting, the city secretary shall, within ten days after the date the order is issued:

(A) File a copy of the order in the office of the city secretary;

(B) Publish in a newspaper of general circulation in the city 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; and

(iv) Instructions stating where a complete copy of the order may be obtained; and

(C) Shall promptly mail by certified mail, return receipt requested, and an optional second copy by regular mail, a copy of the order to the owner, any lienholder(s), and any mortgagee(s) of the building, as determined by due diligence, as defined herein.

(h) Repair of a structure may be accomplished by an owner, mortgagee or lienholder as compliance with this section or by the city, but only to the extent necessary to bring the structure into compliance with minimum standards and only if the structure is a residential structure with not more than ten dwelling units. Demolition of a structure may be accomplished by an owner, mortgagee or lienholder as compliance with this section or by the city. Voluntary demolition may be accomplished as follows:

(1) If a structure is determined by the building official to be in violation of the provisions of this article and an urban nuisance, and if the building official determines that the structure should be demolished, the owner may submit a written statement to the building official on a form supplied by the city stating that the owner consents to the demolition of the structure, that the costs of demolition would present an undue financial hardship on the owner, and that the owner waives further notice and public hearing by the commission. Upon receipt of such written consent, the city may proceed with demolition without further notice, without public hearings, and without commission action.

(2) If the owner submits a the written consent described in the this subsection and demolition would not present an undue financial hardship on the owner, the owner may proceed with demolition, after obtaining any necessary permits, at the owner's expense, waiving further notice, public hearings, and commission action.

(i) The expense of repair, vacation, removal, closure or demolition of a structure when performed under contract with the city or by city forces, and any civil penalty assessed against the owner, constitutes a nontransferable lien against the real property on which the structure stands or stood, unless it is a homestead protected by the state constitution, and the lien runs with the land. The city's lien attaches when notice of the lien is recorded and indexed in the office of the county clerk in the county in which the property is located. Notice must contain the name and address of the owner, if reasonably determinable, a legal description of the real property, the amount of expenses incurred by the city and the balance due. The city's lien for demolition, vacation, removal and closure expenses is a privileged lien subordinate only to tax liens and all previously recorded bona fide mortgage liens attached to the property, if each mortgagee and lienholder is given notice and an opportunity to repair or demolish the structure. The city's lien for repair expenses or civil penalties is inferior to any previously recorded bona fide mortgagee lien attached to real property if the mortgage lien was filed for record in the county clerk's office of the county

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in which the real property is located before the date the civil penalty is assessed or the repair is begun by the city, but is superior to all other previously recorded judgment liens. A lien acquired by the city under this subsection for repair expenses may not be foreclosed if the structure upon which the repairs were made is the residential homestead of a person 65 years of age or older and is occupied by that person.

(j) The city may use lawful means to collect repair, vacation, removal, closure and demolition costs and civil penalties from an owner. Any civil penalty or other assessment imposed on [under] this section accrues interest at the rate of ten percent a year from the date of the assessment until paid in full. In any judicial proceeding regarding enforcement of city rights under this article, the prevailing party is entitled to recover reasonable attorney's fees from the nonprevailing party.

(k) The building official shall give notice of demolition, repair by the city or the assessment of the civil penalty if the building official determines that the owner has not complied with an order to repair.

(l) The building official shall give notice of an order of the commission and notice of demolition, repair by the city or the assessment of a civil penalty, at the time of issue, to each person required to receive notice and shall file each order of the commission in the deed records. If an order to demolish or repair is timely effected, the building official or his designated representative shall, upon request and payment of the cost by the owner, file a notice of compliance in the deed records.

(m) When an order of the commission has been filed in the county deed records, the execution of the order is not affected by a sale or other transfer of the premises. A person acquiring interest in property after an order has been so filed is subject to the requirements of the order. Provisions of this subsection shall be included as part of each order.

(n) The building official or his designated representative shall serve notice required by this section by certified United States mail, return receipt requested, sent to the last known address of the person being notified. If the certified mail is returned undelivered, the building official or his designated representative may serve the notice personally if the person to be notified can be found in Dallas County or Ellis County, Texas. If the notice sent to an owner is returned undelivered, and after diligent search, the building official or his designated representative is unable to discover a correct address for the owner or is unable to serve the owner personally, then the building official or his designated representative shall give notice by publication of the order once in the official newspaper of the city at least five days before the hearing.

(o) At each hearing of the commission, an owner, lessor, occupant or lienholder may present witnesses in his own behalf and is entitled to cross-examine any witnesses appearing against him.

(p) After a public hearing, the decision of the commission is final as to the administrative remedies. (Code 1996, § 3.13.007; Ordinance O-10-10 adopted 6/21/10)

Sec. 3.13.008. Vacation of structure.

(a) When the building official or his designated representative has given notice of a hearing to consider vacation of a structure, the building official or his designated representative shall place a sign on the structure or dwelling unit. The sign shall serve as a warning of the unsafe, unsanitary and dangerous condition of the structure. A person commits an offense if he or she:

(1) Without authority from the building official, moves or destroys a sign placed by the building official;

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(2) Occupies a vacant structure or dwelling unit on which the building official has placed such sign;

(3) As the owner of a structure or dwelling unit, authorizes a person to occupy a vacant structure or dwelling unit on which the building official has placed such sign.

(b) Each occupant of a structure or dwelling unit that has been ordered vacated shall vacate the structure or dwelling unit within a specified time determined by the commission. No person shall occupy a structure or dwelling unit that has been ordered vacated.
(Code 1996, § 3.13.008; Ord. No. O-10-10, 6/21/10)) (Code 1996, § 3.13.008; Ord. No. O-10-10, 6/21/10)

Sec. 3.13.009. Closure of structure.

When the building official or designated representative gives notice of a hearing to consider closure of the structure, the building official or his designated representative may place a sign on the open and vacant structure or portion of a structure warning of its condition.

(1) No person, without authority from the building official, shall remove such sign;

(2) No person shall occupy an open and vacant structure in which such sign has been placed.
(Ordinance O-10-10 adopted 6/21/10)
§ 3.13.010. Minimum standards.

(a) Buildings, structures or dwellings that do not meet one or more of the minimum standards, set forth in the International Building Code, Mechanical, Plumbing Codes, and National Electrical Code as adopted by city council and as amended, such that conditions or defects exist that endanger the life, health, property or safety of its occupants or the general public, constitute uninhabitable, dangerous and substandard buildings, structures or dwellings. Such structures or buildings may be declared as unfit for human occupation, in violation of this article and subject to the procedures set forth herein.

[Text missing]

to remain in the absence of a primary use, for a fixed period of time provided that plans to construct a primary structure are submitted and attendant building permit application is issued within 90 days of the demolition.

Editor’s note–The provisions above are as they appear in Ord. O-10-10.

(e) If the owner, lienholder or mortgagee requests a variance from the current code requirements, the commission may grant such a variance, if:

(1) Evidence or information is submitted by the owner, lienholder or mortgagee generated by a certified inspector or registered structural engineer that such a variance will have no adverse impact on the integrity of the structure or facilities, to the satisfaction of the building official.

(2) This evidence must be presented at the public hearing and falls within the owner’s burden of proof that the structure can be repaired.

(3) In no event shall the variance permitted be less than the minimum standard required at the time of

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original construction.

The commission shall make specific findings of [and] financial hardship, in and of itself, is not sufficient basis for granting a variance.
(Code 1996, § 3.13.009; Ord. No. O-10-10, 6/21/10)

Sec. 3.13.011. Permits and inspections.

(a) Generally. No building or structure regulated by This chapter shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted, or demolished unless a separate permit for each building or structure has first been obtained from the building official or his/her designee in the manner and according to the applicable conditions prescribed in the current building code.

(b) Fees. Whenever a building permit or demolition permit is required by This chapter, the appropriate fees shall be paid to the city as specified in the city's fee schedule for building permits.

(c) Inspections. All buildings or structures within the scope of this chapter and all construction or work for which a permit is required shall be subject to inspection by the building official in accordance with, and in the manner provided by, This chapter and the current building code.
(Code 1996, § 3.13.011; Ord. No. O-10-10, 6/21/10)

Sec. 3.13.012. Authority to secure unoccupied or unsecured buildings and structures.

(a) Purpose. The owner or person in control of an unoccupied structure shall ensure that the building is in such condition that an unauthorized person cannot enter the structure through missing or unlocked doors or windows, or through other openings into the building. The city may secure unoccupied, unsecured structures, or structures occupied by persons who do not have the right of possession to the building. A lien may be filed on real property to assure the cost of securing the structure as set forth in this chapter.

(b) Definitions.

(1) An unsecured structure is hereby defined to be any structure or building which has missing or unlocked doors or windows, or other unsecured openings into the building through which unauthorized persons can enter.

(2) An unoccupied structure is hereby defined to be any structure or building that currently has no occupant with the right of possession of the building or appears vacant or abandoned as evidenced by: no active utility accounts, absence of personal property, general conditions of neglect and any other substantiated evidence of vacancy or abandonment that may be presented by the building official.

(3) Any unoccupied, unsecured structure or building is hereby declared to be a danger to public health and safety and is hereby declared to be a public nuisance.

(c) City may secure. The building official may secure a building that (i) violates the minimum standards of this chapter and (ii) is an unsecured, unoccupied structure. This authority is in addition to that regarding substandard buildings.

(d) Notice.

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(1) Before the eleventh (11th) day after the date the building is secured, the building official shall give notice to the owner of record by:

(A) Personally serving the owner with written notice;

(B) Sending a copy of the notice certified mail, return receipt requested, and an optional copy by regular mail, at the owner's post office or physical address;

(C) Publishing the notice at least twice within a ten day period in the city's official newspaper if personal service cannot be obtained and the owner's post office or physical address is unknown; or

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

(2) The notice must contain the following:

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

(B) A description of the violation of this chapter that is present at the building;

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

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

(3) The city shall conduct a hearing before the commission at which the owner may testify or present witnesses or written information about any matter relating to the city's securing of the building if, within 30 days after the date the city secures the building, the owner files with the city secretary, a written request for the hearing. The city shall conduct the hearing within 20 days after the date the request is filed.

(e) Method of securing. The securing of windows, doors, or any other opening allowing access to an unsecured unoccupied structure shall be done with such material and in such a fashion as to effectively bar entrance to the structure including but not limited to plywood, lumber, steel, replacement glass, nails, screws, and bolts. The use of cardboard, tar paper, window and door screens or any other material that will not effectively prevent entrance shall not be deemed sufficient in securing a structure.
(Code 1996, § 3.13.012; Ord. No. O-10-10, 6/21/10)

Sec. 3.13.013. Review.

(a) Judicial review. Any owner, lienholder, or mortgagee of record jointly or severally aggrieved by a decision of the commission may present a petition to a district court as provided by section 54.039, Texas Local Government Code. The petition must be presented to the court within thirty

(30) days after the date of copy of the final decision of the commission is personally delivered, mailed by first class mail with certified return receipt requested, or delivered by the United States Postal Service using signature confirmation service, to all persons to whom notice is required to be sent under section 54.035, Texas Local Government Code. On presentation of the petition, the court may allow a writ of certiorari pursuant to Texas Local Government Code ch. 54, subchapter C, as amended. If no appeals are

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taken from the decision of the commission within the required period, the decision of the commission shall, in all things, be final and binding. The appeal in district court shall be limited to a hearing under the substantial evidence rule. The decision of the commission shall become final as to each such owner, lienholder or mortgagee upon the expiration of each such 30-calendar-day period unless otherwise allowed by law.

(b) Final decision; reconsideration. If no appeals are taken from the decision of the commission within the required period, the decision of the commission shall, in all things, be final and binding. The commission shall not entertain a reconsideration of the final order except on motion of the city.

(c) Continuances. The commission, at its discretion, may continue or table a matter for consideration if the commission finds:

(1) The owner of the property, lienholder or mortgagee has made reasonable efforts to obtain information and evidence for the hearing but requires additional time to secure said information; and

(2) The property is secured from unlawful entry; and

(3) A delay in the proceedings will not pose a threat or danger to the general health, safety and welfare of the citizens.

City staff may request a continuance or a tabling of a matter, and the commission may continue or table a matter, when deemed to be necessary and when delay in the proceedings will not pose a threat or danger to the general health, safety and welfare of the citizens.
(Code 1996, § 3.13.013; Ord. No. O-10-10, 6/21/10)

Sec. 3.13.014. Disclaimer of liability.

No officer, agent or employee of the commission or the city shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this article. Any suit brought against the commission or any officer, agent or employee of the city, as a result of any act required or permitted in the discharge of his duties under this article, shall be defended by the city attorney or by such legal counsel engaged by the commission for that purpose until the final determination of the proceedings herein.
(Code 1996, § 3.13.014; Ord. No. O-10-10, 6/21/10)

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Chapter 64

ROADWAY IMPACT AND FACILITIES FEES

ARTICLE I. IN GENERAL

~~**Sec. 10.03.001. Short title.**~~[167]
~~This chapter shall be known and cited as the "Glenn Heights Roadway Impact Fees Article."~~
~~(Code 1996, § 10.03.001; Ord. No. 765-03, 9/16/03)~~

Sec. 10.03.002. Purpose.

This chapter is intended to assure the provision of adequate roadway facilities to serve new development in the city by requiring each development to pay its share of the costs of such improvements necessitated by and attributable to such new development.
(Code 1996, § 10.03.002; Ord. No. 765-03, 9/16/03)

Sec. 10.03.003. Authority.

This chapter is adopted pursuant to V.T.C.A., Local Government Code, ch. 395 and the city charter. The provisions of this chapter shall not be construed to limit the power of the city to utilize all powers and procedures authorized under V.T.C.A., Local Government Code, ch. 395, or other methods authorized under state law or pursuant to other city powers to accomplish the purposes set forth herein, either in substitution or in conjunction with this chapter. Guidelines may be developed by ordinance, resolution, or otherwise to implement and administer this chapter.
(Code 1996, § 10.03.003; Ord. No. 765-03, 9/16/03)

Sec. 10.03.004. Definitions.

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

Assessment. The determination of the amount of the maximum impact fee per service unit which can be imposed on new development pursuant to this chapter. The amount of the impact fee per service unit is a measure of the traffic impact on system facilities created by the new development.

Capital improvement. A roadway facility with a life expectancy of three or more years, to be owned and operated by or on behalf of the city. Capital improvement applies to a newly constructed roadway facility or to the expansion of an existing roadway facility.

Credit. The amount of the reduction of an impact fee arising from payments made for a capital improvement included in the Roadway Improvements Plan and made prior to September 16, 2003.

Final plat approval or approval of a final plat. The point at which the applicant has complied with all conditions of approval and the plat has been released for filing with Dallas or Ellis County, whichever may be applicable.

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[167] **Sec. 10.03.001. Short title.** Short titles are unnecessary after codification and should be stricken as shown.

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Final plat recordation or recordation of a final plat. The point at which the applicant has complied with all conditions precedent to recording an approved final plat in Dallas or Ellis County, whichever may be applicable, including any infrastructure or other improvements required by the finance or any other ordinance.

Impact fee. A roadway facilities fee.

Land use assumptions. The projections of population and employment growth and associated changes in land uses, densities and intensities adopted by the city, as may be amended from time to time, upon which the roadway improvement plan is based.

New development. A project involving the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure, or any use or extension of land, which has the effect of increasing the requirements for capital improvements, measured by the number of service units to be generated by such activity, and which requires either the approval and filing with Dallas or Ellis County, whichever may be applicable, of a plat pursuant to the city's subdivision regulations or the issuance of a building permit.

Offset. The amount of the reduction of an impact fee designed to fairly reflect the value of system facilities or other capital improvements pursuant to rules herein established or council-approved administrative guidelines, provided by a developer pursuant to the city's subdivision regulations or requirements.

Roadway. Any freeway, expressway, principal or minor arterial or collector roadways designated in the city's adopted thoroughfare plan, as may be amended from time to time. Roadway does not include any roadway designated as a numbered highway on the official federal or state highway system but may include the city's share of costs for roadways and associated improvements designated on the federal or state highway system, including matching funds and costs related to utility line relocation and the establishment of curbs, gutters, sidewalks, drainage appurtenances, and rights-of-way.

Roadway facility. An improvement or appurtenance to a roadway which includes, but is not limited to, rights-of-way, whether conveyed by deed or easement; intersection improvements; traffic signals; turn lanes; drainage facilities associated with the roadway; street lighting or curbs. Roadway facility also includes any improvement or appurtenance to an intersection with a roadway officially enumerated in the federal or state highway system. Roadway facility excludes those improvements or appurtenances to a roadway which are site-related facilities.

Roadway facilities fee. A fee imposed on new development by the city pursuant to this chapter in order to fund or recoup the costs of capital improvements necessitated by and attributable to such new development. Roadway facilities fees do not include the dedication of rights-of-way or easements for such facilities or the construction of such improvements. Roadway facilities fees also do not include road escrow payments for site-related facilities imposed under facility agreements in existence on September 16, 2003.

Roadway improvements plan. The adopted plan, as may be amended from time to time, which identifies the capital improvements and their costs for each roadway benefit area, which are necessitated by and which are attributable to new development within the benefit area, for a period not to exceed 10 years, which are to be financed in whole or in part through the imposition of road facilities fees pursuant to this chapter.

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Roadway service area. The geographic area within which roadway facilities fees for capital improvements will be collected for new development occurring within such area, and within which fees so collected will be expended for those capital improvements identified in the roadway improvements plan to be located within the roadway benefits area. Roadway service area does not include any land outside the city limits and shall not exceed six miles.

Recoup. To reimburse the city for capital improvements which the city has previously installed or caused to be installed.

Schedule 1. The schedule of maximum impact fees per service unit for each roadway benefit area, originally attached to Ord. No. 765-03, and now on file in the office of the city secretary, as amended from time to time.

Schedule 2. The schedule of impact fee per service unit which is to be paid by each new development within a roadway benefit area originally attached to Ord. No. 765-03, and now on file in the office of the city secretary, as amended from time to time.

Service unit. A vehicle mile in the p.m. peak hour of traffic, as set forth in the equivalency table contained in the city's roadway capital improvements plan maintained on file in the office of the city secretary, which serves as the standardized measure of consumption or use of roadway facilities attributable to a new development.

Service unit equivalent. The amount of a capacity created by contribution of a capital improvement in behalf of a new development, expressed in vehicle miles.

Single-family residential lot. A lot platted to accommodate a single-family or duplex dwelling unit, as authorized under the city's zoning regulations.

Site-related facility. An improvement or facility which is for the primary use or benefit of a new development or which is for the primary purpose of safe and adequate provision of roadway facilities to serve the new development, and which is not included in the roadway improvements plan and for which the developer or property owner is solely responsible under subdivision and other applicable regulations.

System facility. A capital improvement which is designated in the roadway improvements plan and which is not a site-related facility. System facilities may include a capital improvement which is located offsite, within, or on the perimeter of the development site.
(Code 1996, § 10.03.004; Ord. No. 765-03, 9/16/03)

Sec. 10.03.005. Applicability.

The provisions of this chapter apply to all new developments within the corporate boundaries of the city. The provisions of this chapter apply uniformly within each roadway benefit area.
(Code 1996, § 10.03.005; Ord. No. 765-03, 9/16/03)

Sec. 10.03.021. Roadway facilities land use assumptions adopted; roadway benefit area established.

(a) The Land Use Assumptions for Impact Fees, dated May 1, 2003, which includes the city's land use assumptions for roadway facilities, is adopted as the city's land use assumptions for roadway facilities, and a copy thereof shall be maintained on file in the office of the city secretary.

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(b) The city has established the roadway benefit area depicted in figure 3.1 in the city's roadway capital improvements plan on file in the office of the city secretary. The boundaries of the roadway benefit areas may be amended from time to time or new roadway benefit areas may be delineated.
(Code 1996, § 10.03.021; Ord. No. 765-03, 9/16/03)

Sec. 10.03.022. Roadway capital improvements plan adopted.

The roadway capital improvements plan maintained on file in the office of the city secretary is adopted by reference herein as it may be amended from time to time.
(Code 1996, § 10.03.022; Ord. No. 765-03, 9/16/03)

ARTICLE II. IMPACT FEES

~~**Sec. 10.03.006. Impact fees per service unit.**[168]~~
~~(a) Maximum impact fees per service unit for each roadway benefit area shall be as set forth in schedule 1, attached to Ordinance 765-03 and made a part of this chapter by reference.~~
~~(b) The impact fee per service unit which is to be paid by each new development within a roadway benefit area shall be as set forth in schedule 2 attached to Ordinance 765-03 and made a part of this chapter by reference.~~
~~(c) Impact fee schedules 1 and 2 may be amended from time to time by ordinance.~~
~~(Code 1996, § 10.03.006; Ord. No. 765-03, 9/16/03)~~
~~Sec. 10.03.023. Fees adopted by reference.[169]~~
~~The maximum impact fees per development unit for roadway facilities and the impact fees per development unit for roadway facilities which are to be paid by each new development are adopted and made a part hereof by reference. The impact fees may be amended from time to time.~~
~~(Code 1996, § 10.03.023; Ord. No. 765-03, 9/16/03)~~

Sec. 10.03.007. Assessment of impact fees.

(a) Assessment of the impact fee for any new development shall be made as follows:

(1) For land which is unplatted at the time of application for a building permit, or for a new development which received final plat approval prior to or on September 16, 2003, and for which no replatting is necessary pursuant to the city's subdivision regulations prior to development, assessment of impact fees shall occur at the time application is made for the building permit, and shall be the amount of the maximum impact fee per service unit as set forth in schedule 1 then in effect.

(2) For a new development which is submitted for approval pursuant to the city's subdivision regulations after September 16, 2003, or for which replatting results in an increase in the number of service units after such date, assessment of impact fees shall be at the time of final plat recordation, and shall be the amount of the maximum impact fee per service unit as set forth in schedule 1 then in effect.

(b) Following assessment of the impact fee pursuant to subsection (a), the amount of the impact fee

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[168] **Sec. 10.03.006. Impact fees per service unit.** Duplicative section is stricken as shown.

[169] **Sec. 10.03.023. Fees adopted by reference.** This section is stricken and definitions are substituted in the definitions section above for improved clarity.

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assessed per service unit for that development cannot be increased, unless the owner proposes to change the approved development by the submission of a new application for final plat approval, in which case new assessment shall occur at the schedule 1 rate then in effect.

(c) Following the vacating of any plat or submittal of any replat, a new assessment must be made in accordance with subsection (a)(2).

(d) Approval of an amending plat pursuant to V.T.C.S., Local Government Code, § 212.016, is not subject to reassessment for an impact fee.
(Code 1996, § 10.03.007; Ord. No. 765-03, 9/16/03)

Sec. 10.03.008. Payment and collection of impact fees.[170]

(a) For all new developments, impact fees shall be collected at the time of application for a building permit. ~~The impact fees to be paid and collected are listed in schedule 2.~~ The city may enter into an agreement with a developer for a different time and manner of payment of impact fees, in which case the agreement shall determine the time and manner of payment.

(b) The city shall compute the impact fees for the new development in the following manner:

(1) The number of service units attributable to the new development first shall be determined by using the equivalency table contained in the roadway capital improvements plan. The number of service units attributable to the new development shall be reduced by any allowable offsets or credits for roadway facilities, by determining the number of service unit equivalents resulting from the offset or credit and subtracting such number from the total number of service units for the project, in the manner provided in section 10.03.009.

(2) The number of development units shall be determined by dividing the net number of service units by the number of service units per development unit shown on the equivalency table contained in the roadway capital improvements plan.

(3) The amount of impact fees to be collected shall be determined by multiplying the number of development units for the project by the impact fee per development unit for the roadway benefit area.

(4) For single-family and duplex residential developments, the total amount of the impact fees for the new development shall be calculated at time of application of a building permit. For other residential and all nonresidential developments, the total amount of the impact fees for the new development shall be calculated after submittal of an application for a building permit and attached to the site plan file or plat file.

(c) If the building permit for which an impact fee has been paid has expired, and a new application is thereafter filed, the impact fees shall be computed using the schedule 2 then in effect, with credits for previous payment of fees being applied against the new fees due.

(d) For a new development which is unplatted at the time of application for a building permit, and for which no replatting is necessary pursuant to the city's subdivision regulations prior to development,

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[170] **Sec. 10.03.008. Payment and collection of impact fees.** Duplicative text is stricken as shown.

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collection of impact fees shall occur at the time application is made for the building permit, and shall be the amount of the impact fee per service unit, as set forth in the schedule 2 then in effect.

(e) When the property owner proposes to increase the number of service units for a development, the additional impact fees collected for such new service units shall be determined by using the schedule 2 then in effect, and such additional fee shall be collected at the times prescribed by this section.

(f) For a single-family residential lot of record existing on June 20, 1987, for which no replatting is necessary pursuant to the city's subdivision regulations prior to development, collection of impact fees shall be pursuant to schedule 2, and such fees shall be collected at the time of application for a building permit.
(Code 1996, § 10.03.008; Ord. No. 765-03, 9/16/03)

Sec. 10.03.009. Offsets and credits against impact fees.

(a) The city shall offset the reasonable value of any system facility which has been dedicated to and has been accepted by the city or credit the amount of any monetary contribution to such facility, against the amount of the roadway impact fees due, in accordance with the rules set forth in this section. The city may agree to offset the reasonable value of any other capital improvement which is not on the roadway improvements plan, but which is on the city's adopted thoroughfare plan. The value of an offset or credit may be stated in dollars or service units.

(b) This subsection applies only to an offset or credit associated with a capital improvement contributed to the city after September 16, 2003. Offsets or credits associated with a capital improvement contributed to the city prior to the effective date of this chapter are addressed in subsection (c).

(1) For purposes of this subsection (b), an offset or credit associated with a capital improvement contributed to the city after the effective date of this chapter is created at the time that the city accepts the system facility or other capital improvement for dedication or enters into a binding facilities agreement for the facility pursuant to the city's subdivision regulations.

(2) At the time the offset or credit is created, if no offset agreement exists or the existing agreement does not contain the terms identified herein on such date, the developer shall apply for an offset agreement, and the agreement thereafter shall be enforced in accordance with the following terms, providing:

(A) Identification of the plat with which the offset or credit is to be associated, with the exception of school districts;

(B) The amount of the capacity created by the capital improvement, expressed in service units equivalents;

(C) A provision stating that the offset or credit may be used to reduce impact fees imposed on new developments contained within the land subject to the associated plat after the effective date of the agreement;

(D) A provision that the amount of the offset or credit shall be determined by estimating the number of service unit equivalents of capacity supplied by the capital improvement, reduced by the number of service units developed within the plat since the contribution of the roadway facility, using the land use equivalency table; by the amount of the city's participation in the excess costs of the facility (expressed in

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equivalent service units) and by the amount of any payments received from other new developments utilizing the facility (expressed in equivalent service units);

(E) A provision for reimbursement of any unused offsets or credits consistent with subsection (b)(4); and

(F) A provision stating that the city may elect to buy back outstanding offsets or credits in accordance with subsection (f).

The developer may assign the offset agreement with the city's consent, but in no event shall the offsets and credits provided for in the agreement be transferred to any development not subject to the plat associated with such offsets and credits with the exception of school districts which may transfer the credits to any future development by the school district.

(3) The developer may petition the city council for offsets for contribution of a capital improvement, including road right-of-way, which is not identified in the roadway improvements plan, if the improvement will supply capacity to new developments other than to the development seeking the offset, at the time the facility is accepted by the city or a binding facilities agreement for the facility is executed pursuant to the city's subdivision regulations. In no event, however, may offsets attributable to such facility be used to reduce impact fees until the roadway improvements plan has been amended to include all or a portion of the capital improvement. If the petition is granted, the terms shall be incorporated into an offset agreement as provided in subsection (b)(2). The agreement also shall provide that the amount of the offset shall not exceed the capacity of the capital improvement that is included in the roadway improvements plan.

(4) As provided in the offset agreement required by subsection (b)(2), the developer may apply for reimbursement of excess offsets or credits following either completion of all development subject to the plat with which the offsets or credits are associated or after ten years following execution of the offset agreement. The following rules apply to such reimbursement, and shall be incorporated into the offset agreement:

(A) The developer must apply for reimbursement within six months following either completion of all development subject to the plat with which the offsets or credits are associated or ten years after the date of execution of the offset agreement.

(B) The following terms shall be incorporated in the reimbursement agreement and the agreement shall be enforced in accordance with such terms:

(i) A provision stating that the amount to be reimbursed shall be equal to the number of unused offsets (expressed as a number of service units) multiplied by a fraction equal to the impact fee per service unit to be collected, as set forth in schedule 2 in effect on the date of execution of the offset agreement, divided by the maximum impact fee per service unit, as set forth in schedule 1 in effect on the date of execution of the offset agreement;

(ii) A provision stating that the amount to be reimbursed may be further equitably reduced, if fewer than fifty percent (50%) of the number of service units in the plat with which the capital improvement giving rise to the offset have been developed on the date of application for reimbursement;

(iii) A provision stating that repayment shall be made within five years from the date of execution of the reimbursement agreement, from road facilities fees collected within the roadway benefit area, subject

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to the availability of such funds;

(iv) A provision that termination or reduction of the city's authority under state law to impose impact fees for roadway facilities shall terminate or correspondingly reduce any obligation to make payments under the offset agreement; and

(v) A provision stating that, in converting the offsets from service unit equivalents to a dollar value, the number of service unit equivalents shall be multiplied by the value of a service unit expressed in dollars using schedule 1 in effect at the time the offset agreement was executed.

(C) Execution of a reimbursement agreement shall automatically terminate any offsets or credits associated with a plat pursuant to an offset agreement. Thereafter, new development within the area subject to the plat shall pay roadway facilities fees in accordance with schedule 2 then in effect.

(c) This subsection applies only to offsets or credits associated with a capital improvement contributed to the city prior to September 16, 2003, and for which no development agreement exists providing for dedication or construction of system facilities and for offsets or credits against impact fees in proportion thereto. Any person who dedicated a system facility to the city or financed such facility prior to the effective date of this chapter, or any person who is subject to an impact fee for a new development in a plat associated with the system facility, may create offsets or credits for such facility by entering into an offset agreement within two years of the effective date of this chapter. The agreement shall be enforced in accordance with the following terms, providing:

(1) Identification of the plat with which the offset or credit is to be associated, with the exception of school districts;

(2) The amount of the capacity created by the capital improvement, expressed in service units equivalents;

(3) A provision stating that the offset or credit may be used to reduce impact fees imposed on new developments contained within the land subject to the associated plat after the effective date of the agreement;

(4) A provision stating that the amount of the offset or credit shall be determined by estimating the number of service units of capacity supplied by the system facility, reduced by the number of service units developed within the plat since the contribution of the roadway facility, using the land use equivalency table; by the amount of the city's participation in the excess costs of the facility (expressed in equivalent service units) and by the amount of any payments received from other new developments utilizing the facility (expressed in equivalent service units);

(5) A provision stating that offsets or credits created pursuant to the offset agreement shall expire at the time that development subject to the associated plat is completed;

(6) A provision stating that once the offset or credit has expired, no reimbursement for unused offsets or credits shall be due;

(7) A provision stating that, in converting offsets from service unit equivalents to a dollar value, the number of service unit equivalents shall be multiplied by the value of a service unit expressed in dollars using schedule 1 in effect at the time the offset agreement was executed; and

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(8) A provision stating that the city may elect to buy back outstanding offsets or credits in accordance with subsection (f).

The developer may assign the offset agreement with the city's consent, but in no event shall the offsets and credits provided for in the agreement be transferred to any development not subject to the plat associated with such offsets and credits, with the exception of school districts.

(d) All offsets and credits against roadway impact fees shall be subject to the following limitations and shall be granted based on this chapter and additional standards promulgated by the city council, which may be adopted as council-approved administrative guidelines:

(1) No offset or credit shall be given for the dedication of land or easements for or the construction of site-related facilities.

(2) No offset or credit shall exceed the documented and city-approved costs to the developer of the capital improvement which was dedicated to and accepted by the city, or the amount of the monetary contribution actually made.

(3) The costs or service unit equivalents used to calculate the offsets shall not exceed those assumed for the specific capital improvement included in the impact fees capital improvements plan or the actual costs of that improvement, whichever is less.

(e) Offsets or credits shall be associated with the approved preliminary plat for the new development and shall apply to development of all land subject to such plat, with the exception of school districts. For new developments that are to be developed in phases, offsets or credits may be created sequentially, and may be applied to any undeveloped portions of the plat with which the offset or credit is associated. The offset shall be expressed in service unit equivalents. The available offset or credit associated with the plat shall be applied against an impact fee in the following manner:

(1) For single-family residential lots which have received final plat approval, the offset or credit shall be applied to reduce the impact fee equally for all such lots within the final plat at the time of final plat recordation.

(2) For all other types of new developments, the offset or credit shall be applied to reduce the impact fee at the time of issuance of the first building permit, and thereafter to all subsequently issued building permits, for each new development within the associated plat, until the offset or credit has been exhausted.

(f) Notwithstanding any other provisions of this section relating to offsets and credits, the city in its sole discretion may choose to acquire all or a portion of any outstanding offsets or credits associated with a new development by giving the property owner 60 days' written notice of such intent and by tendering the dollar value of such offsets or credits using schedule 1 in effect at the time the applicable offset agreement was executed.

(g) Notwithstanding any other provision of this chapter to the contrary, for new developments subject to a development agreement predating September 16, 2003, which agreement provides for dedication or construction of system facilities and for offsets or credits against roadway impact fees in proportion thereto, offsets or credits shall apply to the amount of impact fees to be collected for each service unit pursuant to the schedule 2 then in effect in accordance with the terms of such development agreement. (Code 1996, § 10.03.009; Ord. No. 765-03, 9/16/03)

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Sec. 10.03.010. Use of proceeds of roadway impact fees.

(a) The impact fees collected within each roadway benefit area may be used to finance, pay for or to recoup the costs of any roadway facility identified in the roadway improvements plan for the roadway benefit area, including the construction contract price, surveying and engineering fees, land acquisition costs (including land purchases, court awards and costs, attorney's fees, and expert witness fees), and amounts designated in any reimbursement agreements executed pursuant to section 10.03.009.

(b) Impact fees may be used to pay for the contract services of an independent qualified engineer or financial consultant preparing or updating the roadway improvements plan who is not an employee of the political subdivision.

(c) Impact fees also may be used to pay the principal sum and interest and other finance costs on bonds, notes or other obligations issued by or on behalf of the city to finance such capital improvement.
(Code 1996, § 10.03.010; Ord. No. 765-03, 9/16/03)

Sec. 10.03.011. Appeals.

(a) The property owner or applicant for development may appeal the following administrative decisions to the city council:

(1) The applicability of an impact fee to the development;

(2) The amount of the impact fee due;

(3) The availability of, the amount of, or the expiration of an offset or a credit;

(4) The application of an offset or credit against an impact fee due;

(5) The amount of the impact fee in proportion to the benefit received by the new development; or

(6) Amount of a refund due, if any.

(b) The appellant shall state the basis for the appeal in writing with particularity. The burden of proof shall be on the appellant to demonstrate that the amount of the fee or the amount of the offset or credit was not calculated according to the rules set forth in this chapter or by administrative guideline. The appellant shall submit any traffic study or other documents upon which he relies to the city with the request for appeal.

(c) The appellant must file a notice of appeal with the city secretary within 30 days following the decision. If the notice of appeal is accompanied by a bond or other sufficient surety satisfactory to the city attorney in an amount equal to the original determination of the impact fee due, the development application may be processed while the appeal is pending.
(Code 1996, § 10.03.011; Ord. No. 765-03, 9/16/03)

Sec. 10.03.012. Refunds.

(a) Any impact fee or portion thereof collected pursuant to this chapter which has not been expended within the applicable roadway benefit area for an authorized purpose within ten years from the date of

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payment shall be refunded, upon application, to the record owner of the property at the time the refund is paid or, if the impact fee was paid by another governmental entity, to such governmental entity, together with interest calculated from the date of collection to the date of refund at the statutory rate as set forth in V.T.C.A., Finance Code, § 302.002 or any successor statute. The application for refund pursuant to this section shall be submitted in writing within 60 days after the expiration of the ten-year period for expenditure of the fee. An impact fee shall be considered expended on a first-in, first-out basis.

(b) An impact fee collected pursuant to this chapter shall be considered expended if the total expenditures for capital improvements authorized in section 10.03.010 within the roadway benefit area within ten years following the date of payment exceed the total fees collected for such improvements during such period.

(c) If a refund is due pursuant to subsection (a) or (b), the city shall prorate the refund by dividing the difference between the amount of expenditures and the amount of the fees collected by the total number of service units assumed within the roadway benefit area for the period to determine the refund due per service unit. The refund to the record owner shall be calculated by multiplying the refund due per service unit by the number of service units for the development for which the fee was paid, and interest due shall be calculated upon that amount.

(d) Upon completion of all the capital improvements identified in the roadway improvements plan for the roadway benefit area, the city shall recalculate the maximum impact fee per service unit using the actual costs for the improvements or expansions. If the maximum impact fee per service unit based on actual cost is less than the impact fee per service unit paid, the city shall refund the difference, if such difference exceeds the impact fee paid by more than ten percent. The refund to the record owner shall be calculated by multiplying such difference by the number of service units for the development for which the fee was paid, and interest due shall be calculated upon that amount.

(e) If the building permit for a new development for which an impact fee has been paid has expired, and a modified or new application has not been filed within six months of such expiration, the city shall, upon written application, refund the amount of the impact fee to the applicant. The city may establish guidelines for refunding of impact fees collected for which construction plans have been abandoned. (Code 1996, § 10.03.012; Ord. No. 765-03, 9/16/03)

Sec. 10.03.013. Relief procedures.

(a) Any person who has paid an impact fee or an owner of land upon which an impact fee has been paid may petition the city council to determine whether any duty required by this chapter has not been performed within the time so prescribed. The petition shall be in writing and shall state the nature of the unperformed duty and request that the act be performed within 60 days of the request. If the city council determines that the duty is required pursuant to this chapter and is late in being performed, it shall cause the duty to commence within 60 days of the date of
the request and to continue until completion.

(b) The city council may grant a variance or waiver from any requirement of this chapter, upon written request by a developer or owner of property subject to this chapter, following a public hearing, and only upon finding that a strict application of such requirement would when regarded as a whole result in confiscation of the property.

(c) If the city council grants a variance or waiver to the amount of the impact fee due for a new development under this section, it may cause to be appropriated from other city funds the amount of the

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reduction in the impact fee to the account for the roadway benefit area in which the property is located.
(Code 1996, § 10.03.013; Ord. No. 765-03, 9/16/03)

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Chapter 66

SIGNS AND ADVERTISING

ARTICLE I. IN GENERAL

~~**Sec. 15.01.001. Title.**~~[171]
~~These regulations shall be known as the city's sign ordinance, may be cited as such, and will be referred to herein as "this chapter."~~
~~(Code 1996, § 15.01.001; Ordinance O-18-12 adopted 9/18/12)~~

Sec. 15.01.002. Intent/purpose.

The regulations of this chapter are intended to coordinate the use, placement, physical dimensions and design of all signs within the city. The purpose of these regulations is to promote public health, safety and welfare, and develop an appropriate visual appearance within the city by:

(1) Protecting the public from damage or injury caused by signs which are poorly designed or maintained and from distractions or hazards to pedestrians or motorists caused by the indiscriminate placement or use of signs;

(2) Maintaining property values by eliminating signs that are incompatible with the surrounding land uses;

(3) Encouraging a viable economic environment through uniform control of signs;

(4) Facilitating communication by means of well-designed and proportioned signage;

(5) Encouraging quality sign design to promote a better visual environment; and

(6) Enhancing the physical appearance of the city through a program that ensures the removal of inadequately maintained, unpermitted, or illegal signs within a reasonable time period.
(Code 1996, § 15.01.002; Ordinance O-18-12 adopted 9/18/12)

Sec. 15.01.011. Definitions.

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

Alter. To change the size, shape, outline, configuration, intent, location or type of sign.

Animation. Copy or other images that flash or move or otherwise change in less than 10 seconds frequency.

Area of a sign. The area of a sign shall be measured as the area within a series of straight lines around the outermost extremities of all text, symbols, graphics, advertising surfaces, framing, background and

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[171] **Sec. 15.01.001. Title.** Short titles are unnecessary after codification and should be stricken as shown.

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ornamentation, but not including sign poles or other supporting structures. If dimensions and a means of calculating the area of circular, oval-shaped or triangular signs are readily available, they may be used for such signs.

Awning. An architectural projection designed to provide weather protection, identification or decoration, and supported by the structure to which it is attached. An awning is composed of a frame over which is placed a cover of fabric or other material.

Banner. A temporary sign containing a worded message or graphic image composed of lightweight material secured or mounted so as to allow movement caused by wind.

Canopy. A roof-like structure of permanent construction, either freestanding or supported by an adjacent structure and open on two or more sides. Examples of canopies include those structures erected above the fuel pumps at a service station or the lanes of a drive-thru facility.

Canopy sign. A sign attached to or painted upon an awning and visible to the exterior.

Changeable electronic variable message sign (CEVMS). A sign which permits light to be turned on or off intermittently or which is operated in a way whereby light is turned on off intermittently, including any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use, including an LED (light emitting diode) or digital sign, and which varies in intensity or color.

Copy. Letters, characters, illustrations, logos, graphics, symbols, writing or combination thereof, designed to communicate information of any kind, or to advertise, announce the purpose of, or identify the purpose of a person or entity, or to identify or advertise a business or business product, or to advertise the sale or lease of a premises.

Masonry pylon sign. A freestanding sign erected upon two masonry pylons or posts. Except the sign face, the pylons, decorative cap and base should be made of masonry material namely brick, stone, concrete, or stucco and designed to match with the primary structure elevation. Masonry pylon signs can have a monolithic form as well where rather than two masonry pylons the whole sign will be solid masonry sign with a base and a cap. The base or support(s) of any and all pylon signs shall be securely anchored to a concrete base or footing. The height of a pylon sign shall be measured from the average ground grade adjacent to the sign to the top of the sign.

Monument sign. A freestanding sign intended to be relatively broad in width compared to height build with masonry material like brick, stone, concrete or other masonry material that harmonizes with the architecture of the establishment it serves.

Neon sign. Neon tubing attached directly to a wall surface forming a border for the subject matter, or when attracting or directing attention to the subject matter, or when forming letters, logos or pictorial designs.

Obsolete sign. A sign which no longer serves a bona-fide use or purpose conforming to this chapter, or a sign which advertises a business no longer in operation or a product or service no longer offered at that location.

Premises. A lot or tract, or a combination of contiguous lots or tracts if the lot or tract, or combination, is under single ownership and is reflected as a single premises in the plat records of the city.

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Sign. Any device, flag, light, figure, picture, letter, word, message, symbol, plaque or poster visible from outside the premises on which it is located and designed to inform or attract the attention of persons not on the premises.

Sign installer. A person who is hired to install, construct, erect or repair such sign in the town, and his employees, representatives and subcontractors.

Sign support. Any pole, post, strut, cable or other structural fixture or framework necessary to hold and secure a sign, providing that such fixture or framework is not imprinted with any picture, symbol or word using characters in excess of one inch in height, or is internally or decoratively illuminated.

Visibility triangle.

(1) Alley intersects a public street right-of-way. The areas on both sides of the intersection of an alley and a public street shall have a triangular visibility area with two sides of each triangle being a minimum of ten feet (10') in length from the point of intersection, and the third side being a line connecting the ends of the other two sides.

(2) Street intersection or intersection of private driveway onto a public street. These areas shall have a triangular visibility area with two sides of each triangle being a minimum of 25 feet in length along the right-of-way lines (or along the driveway curbline and the street right- of-way line) from the point of the intersection, and the third side being a line connecting the ends of the other two sides.

Wall sign. A permanent sign other than a mural erected, displayed or maintained on the wall of a building.

Window sign. A sign painted on or attached to a window or erected, displayed or maintained inside a structure within five feet of a window and visible through such window.
(Code 1996, § 15.01.011; Ordinance O-18-12 adopted 9/18/12)

Sec. 15.01.003. Conflict and compliance.[172]

All signs erected or maintained pursuant to the provisions of this chapter shall be erected and maintained in compliance with all applicable state laws, V.T.C.A., Local Government Code, ch. 216 and with the ~~2010~~ 2021 International Building Code, 2023 National Electrical Code, and other applicable city regulations. In the event of conflict between this chapter and portions of this Code or state law, the most restrictive standard applies.
(Code 1996, § 15.01.003; Ordinance O-18-12 adopted 9/18/12)

Sec. 15.01.004. Responsibility for compliance.

Any sign permit holder, owner, manager, agent, occupant, person or persons in charge of a premises; person or persons having the beneficial use of the property on which a sign is erected, maintained or displayed; the owner of the land or structure on which a sign is located; a contractor or person or persons in charge of erecting, maintaining or displaying a sign; or, anyone who causes a sign to be erected,

[172] **Sec. 15.01.003. Conflict and compliance.** Edition is updated to conform to the building chapter code adoptions.

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displayed or maintained, shall be subject to the provisions of this chapter.
(Code 1996, § 15.01.004; Ordinance O-18-12 adopted 9/18/12)

Sec. 15.01.005. Enforcement.

The provisions of this chapter shall be administered and enforced by the city code enforcement officer as appointed by the city manager or his/her designee.

(1) Violation. Failure to comply with the provisions of this chapter shall constitute a violation of this chapter. Every day on which a violation exists, shall constitute a separate violation and a separate offense.

(2) Penalty. Any person who violates any provision of this chapter shall be guilty of a misdemeanor and shall be punished by a fine upon conviction in an amount not to exceed $500.00. A separate offense shall be deemed committed upon each day during or on which a violation or failure to comply occurs or continues to occur.
(Code 1996, § 15.01.005; Ordinance O-18-12 adopted 9/18/12)

Sec. 15.01.006. Applicability.

The regulations of this chapter shall govern the placement and construction of all outdoor advertising display within the city.
(Code 1996, § 15.01.006; Ordinance O-18-12 adopted 9/18/12)

Sec. 15.01.007. Nonconforming signs.

(a) The purpose of this chapter is to ensure that over time all privately owned signs shall either conform to the provisions of this chapter or be removed. By the passage of this chapter 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 chapter and all other ordinances of the city. Any sign which does not conform to all applicable provisions of this chapter shall be a nonconforming sign, even if it legally existed as a conforming sign under prior ordinances.

(b) Change of ownership, or occupant, or use, or any such event that requires a new certificate of occupancy (CO) or building permit to be processed shall make all existing and proposed signs on the property applicable to this chapter. Under such circumstance all signs on the property shall be brought in compliance with this chapter or shall be removed as required by this chapter.

(c) No nonconforming sign shall be repaired or renovated except to bring the sign into compliance with the provisions of this chapter. Any nonconforming sign which is damaged in excess of fifty percent (50%) of its current value must be demolished and not repaired unless such proposed repairs will bring the sign into compliance with the provisions of this chapter. A nonconforming sign on any property that has been vacant for a period of six months or more or that does not have a current certificate of occupancy issued by the city, must be brought into compliance with the provisions of this chapter.
(Code 1996, § 15.01.007; Ordinance O-18-12 adopted 9/18/12)

Sec. 15.01.008. Maintenance and removal.

Every sign in the city, regardless of whether any permit is required for such sign, shall be maintained in a safe, presentable and sound structural and operational condition at all times, including the replacement of nonfunctioning, broken, defective, or missing parts, painting, repainting, cleaning and any other acts

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required for the maintenance of such sign. All signs and sign supports, brackets and frames shall be kept painted or otherwise treated to prevent rust, rot or deterioration.

Signs not meeting the standards imposed by this chapter shall be subject to removal or repair at the expense of the person or persons responsible for the sign of this chapter. Obsolete signs shall be removed immediately by the city at the expense of the property owner or any person responsible for that sign. (Code 1996, § 15.01.008; Ordinance O-18-12 adopted 9/18/12)

Sec. 15.01.009. Sign control board; appeals; exceptions to sign regulations.

(a) Established; composition. The planning and zoning commission is hereby established to serve in a dual capacity as the sign control board ("SCB").

(b) Powers; duties. The planning and zoning commission in its capacity as the SCB is authorized to sit as a board of appeals and to exercise the powers set forth in this section.

(c) Appeals. Appeals to the SCB may be taken by any person aggrieved or by any officer, department, board or bureau of the city affected by any decision of the building official. Such appeal shall be taken within 30 days of the date of the decision appealed from, by filing with the building official and with the SCB a notice of appeal specifying the grounds thereof. The building official shall forthwith transmit to the SCB all the papers constituting the record upon which the action appealed from was taken.

(d) Quorum; voting: meetings. A majority of the members shall constitute a quorum. All motions shall be decided by a simple majority of the members present. A tie vote shall constitute failure of a motion. All meetings shall be open to the public and minutes shall be recorded.

(e) Appeal stays proceeding. An appeal stays all proceedings in furtherance of the action appealed unless the building official certifies to the SCB after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the SCB or by a court of record on application or notice to the building official and on due cause shown.

(f) Hearing. The SCB shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent. At the conclusion of the hearing, the SCB may grant the special exception requested, grant a special exception of a greater or lesser nature or degree than requested, or deny the special exception requested.

(g) Factors to be considered: burden of proof. The appellant or applicant for the exception bears the burden of proving facts justifying an exception. In considering requests under this section, the SCB, as a board of appeal, shall consider factors including, but not limited to:

(1) The degree of exception from the requirements of this chapter that is requested;

(2) The reasons for the exception requested;

(3) The location of the exception requested;

(4) The duration of the exception requested;

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(5) The effect on public safety;

(6) The impairment of use, if any, of adjacent property that is developed in compliance with the city requirements;

(7) The alteration of the character of the area adjacent to the property;

(8) The impairment of the purposes of the regulations of the sign ordinance;

(9) The degree of hardship or injustice involved; and

(10) The effect of the exception on the general plan for signing within the city.

(h) Submission to city council. All SCB actions on exception requests shall be submitted to the city council for review and such decisions of the SCB shall become final unless reversed or modified by the city council no later than the second regular called city council meeting following the SCB meeting at which formal action was taken by the SCB.
(Code 1996, § 15.01.009; Ordinance O-22-20 adopted 11/10/20)

Sec. 15.01.010. Prohibited signs.

(a) Signs that are not described or mentioned anywhere in this chapter are prohibited and the following signs are specifically prohibited in the city by this chapter:

(1) Balloon, banner, flags. Except as provided in section 15.01.064(b) grand opening signs of this chapter, any balloon, banner or flag signs for the explicit purpose of advertising a business or attracting attention to a business or place is prohibited.

(2) Changeable electronic variable message signs (CEVMS). A sign that permits light to be turned on or off intermittently, including any illuminated sign on which such illumination is not kept stationery or constant intensity and color at all times when such sign is in use, including an LED (light emitting diode) or digital sign, and which varies in intensity or color. This prohibition does not include time and temperature signs. Signs that have copy that changes, moves, flashes, or blinks in no less than 10 second intervals shall not be considered as animated and shall be reviewed by city's planning, permit and code enforcement officers on a case-by-case basis for approval/ denial. These signs must not be illuminated in such an intensity and glare to constitute traffic hazard as defined in Texas Uniform Traffic-Control Device Manual.

(3) Imitation signs. Any sign that imitate official traffic, warning, or governmental signs, lights or other similar devices, emergency signs, or block visibility of such signs are prohibited.

(4) Nuisance signs. No sign, name, number or advertising material other than building addresses may be applied to, placed or scattered upon streets, curbs, gutters, sidewalks, trees, rocks, natural features, fences, railings, public telephones, utility poles or any public property.

(5) Off-premises signs. Except as specified in this chapter all off-premises signs are prohibited. This includes all signs commonly referred to as billboards.

(6) Portable signs. Signs mounted on portable or movable frames or structures, including signs

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placed on, but not affixed or attached to, the ground, shall be prohibited.

(7) Roof signs. A sign mounted on the main roof portion of a building or on the uppermost edge of a parapet wall of a building and which is wholly or partially supported by such building are prohibited. Signs mounted on mansard facades, pent eaves, and architectural projections such as canopies or marquees shall not be considered to be roof signs.

(8) Signs causing safety concerns. No sign shall be erected in a manner that would interfere, confuse, or obstruct the view of moving traffic, traffic signs, signal or device, and no sign shall be erected within the visibility triangle as determined by the city's engineer, or within public right-of-way.

(9) Vehicular signs. Signs placed on or leaning on to vehicles or trailers that are parked on a public right-of-way, public property, or private property so as to be visible from a public right-of-way where the apparent purpose is to advertise a product or direct people to a business or activity located on the same or nearby property shall be prohibited. However, this is not in any way intended to prohibit signs affixed to vehicles and trailers, such as lettering on motor vehicles, where the sign is incidental to the primary use of the vehicle or trailer.

(b) Any prohibited sign mentioned herein if found in the city shall be removed and disposed of by the city's code enforcement officer and the cost incurred should be billed to the person responsible for such a sign along with the code violation ticket with a penalty for violation of this chapter.
(Code 1996, § 15.01.010; Ordinance O-18-12 adopted 9/18/12)

Sec. 15.01.012. through Sec. 15.01.030. (Reserved)

ARTICLE II. PERMITS AND INSPECTIONS

Sec. 15.01.031. Exempt signs for which no permit is required.

(a) Official signs. No permit shall be required for signs required or authorized by the local, state or federal government or any kind of governmental agency. These signs include but are not limited to, traffic-control signs, public utility signs, street names or city's directional signs, historical markers, railroad crossing signs, bus stop and transit agency signs.

(b) Holiday decoration. No permit shall be required for signs or materials displayed in a temporary manner on or prior to traditional civic, patriotic or religious holidays. These decorations shall not be displayed more than 15 days prior to the respective holiday and should not be displayed for more than 30 days altogether.

(c) Political signs. No permit shall be required for signs supporting, opposing, encouraging or identifying any candidate, or proposition in an upcoming election, or any sign displaying political speech.

(d) Real estate signs. No permit shall be required for signs not exceeding six square feet (6 sq. ft.) in sign area and three feet (3') in height advertising the sale, lease or rental of real estate in residential zoning districts. For nonresidential and agricultural zoning districts, no permit shall be required for signs not exceeding **thirty-six square feet (32 sq. ft.) [sic] in sign area and five feet (6') [sic]**[173] in heights

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[173] **Sec. 15.01.031. Exempt signs for which no permit is required.** Please provide the correct measurement: 36 or 32 square feet? Five feet or six feet?

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advertising the sale, lease or rental of real estate. For agricultural and nonresidential-zoned land, one such sign shall be allowed per property, parcel or lot of record.

(e) Gasoline signs. No permit shall be required for gasoline price or credit card signs placed on pump islands not exceeding four square feet (4 sq. ft.) in sign area.

(f) Window signs. No permit shall be required for signs in windows facing public rights-of-way that are limited to ten percent (10%) of the window area per facade in nonresidentially zoned districts.

(g) Special event banner. No permit shall be required for special event banners that are associated with a special event that has obtained a special events permit from the city's planning and permitting division. The banner should contain a message directly relating to a special event provided, however, that such banners may be displayed no more than seven days prior to the special event and must be removed within two days after the conclusion of the special event. The size of the banner is limited to fifty square feet (50 sq. ft.) and at least one-half (1/2) of the banner shall contain a message relating to the special event. Such banner shall be located within the private property where such event is taking place and not within any public rights-of-way.
(Code 1996, § 15.01.031; Ordinance O-18-12 adopted 9/18/12)

Sec. 15.01.032. Permit application and review procedure.

It is unlawful for any person to maintain, display, erect, replace, repair, alter or reface any sign or to cause same to be maintained, displayed, erected, replaced, repaired, altered or refaced within the city without first obtaining a permit to do so from the planning and permitting division, except for the signs specifically identified in section 15.01.031 exempt signs. A permit application should be submitted to the planning and permitting division with a complete application form (may be obtained at the planning and permitting offices), required drawings, information, and applicable fees (as per the city's adopted fee schedule). Application and associated information will be reviewed by planning and permitting division staff and the review will be coordinated with the development review committee (DRC). Upon completion of staff review and determination of compliance with this article and other applicable city ordinances a sign permit will be issued to the applicant. The permit number, primary contact/applicant's full name and phone number should be visibly displayed at the bottom of the sign at all times.
(Code 1996, § 15.01.032; Ordinance O-18-12 adopted 9/18/12)

Sec. 15.01.033. Duration of permit.

If the work authorized by a permit issued under this article has not been commenced within 60 days after the date of issuance, the permit shall become null and void.
(Code 1996, § 15.01.033; Ordinance O-18-12 adopted 9/18/12)

Sec. 15.01.034. Licensing and registration.

Any person or business engaging in the operation of erecting, installing, servicing or maintaining signs within the city must be registered with the city to conduct such business. For the purposes of this article, persons engaging in the business of erecting, installing and maintaining signs, shall be designated as sign installers, including those responsible for erecting temporary signs requiring a permit.
(Code 1996, § 15.01.34; Ordinance O-18-12 adopted 9/18/12)

Sec. 15.01.035. Insurance or bond requirement.

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(a) No permit for the installation, erection, relocation and maintenance of signs shall be issued to any sign installer until such person has provided proof of general liability insurance covering the work to be performed pursuant to the permit in the amount of at least $100,000.00 or filed with the city, a $5,000.00 surety bond in favor of the city as the beneficiary thereof, and shall be conditioned for the installation and erection of signs in accordance with the ordinances of the city, for any and all damages or liability which may accrue against it by reason of faulty installation, erection, demolition, repair, removal, or defects in, or collapse of, any signs, for a period of one year after erection and for such period of time that such sign is maintained or serviced by or under the direction of the maker of such bond.

(b) The bond shall further provide for the indemnification of any person who shall, while upon public property or in any public place, incur damage for which the principal named in the bond is legally liable.
(Code 1996, § 15.01.035; Ordinance O-18-12 adopted 9/18/12)

Sec. 15.01.036. Suspension and revocation.

Permits issued under this article may be suspended or revoked when it is determined that the permit is issued in error or on the basis of incorrect or false information supplied or when a sign for which such permit is issued violates any of the provisions of this Code or state or federal law. Such suspension or revocation shall be effective when communicated in writing to the person to whom the permit is issued, the owner of the sign or the owner of the premises upon which the sign is located.
(Code 1996, § 15.01.036; Ordinance O-18-12 adopted 9/18/12)

Sec. 15.01.037. Inspections; electrical wiring to comply with electrical code.

All signs for which a permit is required shall be subject to inspection at the discretion of the city's code enforcement officer. Signs containing electrical wiring shall be subject to the provisions of the governing electrical code, and the electrical components used shall bear the label of an approved testing agency.
(Code 1996, § 15.01.037; Ordinance O-18-12 adopted 9/18/12)

Sec. 15.01.038. through Sec. 15.01.060. (Reserved)

ARTICLE III. STANDARDS AND SPECIFICATIONS FOR SIGN TYPES

Sec. 15.01.061. Illumination; landscaping.

(a) An illuminated sign shall not directly front any residential district and must be located at least fifty feet (50') away from all residential property lines. All external lighting for sign illumination shall be properly shielded to obstruct glare for pedestrians or motorists.

(b) Any external illumination on signs shall follow glare, illumination and other applicable lighting standards as outlined in the city's lighting ordinance as was adopted and may be amended.

(c) Required landscaping associated with certain sign types as specified in section 15.01.063 shall comply with maintenance provisions of the city's landscaping ordinance as it was adopted and as may be amended.
(Code 1996, § 15.01.061; Ordinance O-18-12 adopted 9/18/12)

Sec. 15.01.062. Attached permanent signs.

(a) Wall sign. Wall signs are allowed in every zoning district and shall be placed on the principal

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structure only, and may be internally and externally illuminated.

(1) Number. Each parcel containing a single business shall be allowed not more than one wall sign. On parcels containing multiple businesses, each business shall be allowed a wall sign. Single business on a corner lot shall be allowed one wall sign per street frontage.

(2) Location. No wall sign shall be placed on any roof or on top of any structure. Except as otherwise set forth herein, no part of a wall sign shall extend beyond the roof line of the building. If a building has two or more stories, no signs shall be installed at a level above the bottom of the second floor windows, unless the building is a multitenant office or multitenant commercial structure wherein tenants have primary, direct access from their space to the outside. Their access must include outside walkways and stairways properly designed for public use. If the multi-stories building does not have the aforementioned direct, primary access, but has multiple businesses, a multitenant monument sign may be used in lieu of wall signs.

(3) Erection. All wall signs shall be safely and securely attached to the building wall, subject to the approval of the city's permit division.

(4) Size/calculation. The allowable front wall sign area for each building shall not exceed two square feet (2 sq. ft.) per linear foot of the front length of the building or portion thereof occupied. If the sign is a panel or box, the total area including background is included. If a sign consists of individual letters, each attached directly to a building or structure, the area of the sign shall be measured by the area of the smallest rectangle or series of contiguous rectangles which enclose all the letters.

(b) Canopy/awning sign. An awning or canopy sign is only allowed in town center (TC) zoning districts and can be used as the primary sign in lieu of a wall sign, subject to the following:

(1) The sign area shall not exceed forty percent (40%) of the total face area of the canopy or awning upon which the sign is affixed. The total face area of an awning or canopy is defined as the portion of the awning or canopy that is parallel, or within fifteen [percent] (15%) of parallel to the building facade upon which it is attached.

(2) The maximum vertical dimension of a canopy/awning sign shall be five feet and shall be limited to the first story only for multi-story buildings.

(3) Canopy/awning signs may extend three feet (3') into the public right-of-way and shall have a minimum clearance of eight feet (8') above the ground level unless projecting over a vehicular right-of-way, in which case clearance shall be fourteen feet (14').

(4) Backlit awnings shall be limited to building facades that contain signs, and shall not exceed twenty-five percent (25%) of the canopy/awning area of the facade upon which it is placed.

(5) Structural requirements. Canopy/awning shall be made of fabric that is flame retardant. It shall be supported with metal framework and mounting brackets. Rigid horizontal awning supports shall be no less than eight feet (8') above the sidewalk. Decorative supports may be lower if they are angled down to attach to the building. Fabric valances shall not hang lower than seven feet and six inches (7' 6") from the sidewalk. The canopy/awning color shall compliment or coordinate with the building color. No fluorescent colors shall be allowed. The awning/canopy shall be sized to match the opening that it is shading.

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(c) Neon sign. Neon sign is allowed in nonresidential zoning districts and can be used as the primary sign in lieu of a wall sign subject to the following:

(1) The sign area shall not exceed ten percent (10%) of the total sign area as would have been allowed under a wall sign.

(2) On a multitenant premises cumulative area of neon signs shall not exceed twenty-five percent (25%) of the building facade.
(Code 1996, § 15.01.062; Ordinance O-18-21 adopted 9/18/12 ; Ordinance O-07-21 adopted 5/4/21)

Sec. 15.01.063. Detached permanent signs.

(a) Monument sign. Monument signs shall be built on a monument base as opposed to a pole base with no separation between the base of the sign and natural grade. In addition to nonresidential zoning districts, monument signs may be erected within residential zoning districts to identify schools, churches, parks, residential subdivisions or apartment complexes provided they do not contain any off-premises advertisement. Monument signs are intended to be relatively broad in width compared to height. Monument signs are not intended to have gaps, cutouts, or penetrations but instead should be a solid face or area without openings or cutouts. The sign face shall be designed with materials that harmonize with the architecture of the establishment it services. All monument signs shall have landscaping comprised of shrubbery and flowering plants, not exceeding three feet (3') in height near the base of the sign. Only one monument sign per property along the street frontage shall be allowed. Monument signs shall be set back a minimum twelve feet (12') from any public right-of-way and shall not obstruct traffic visibility triangles. Monument signs shall be at least one hundred and twenty feet (120') apart. Monument signs shall be illuminated externally for visibility after dark.

(1) Residential subdivision. Each residential subdivision shall be permitted one monument sign and one wall sign mounted on a subdivision masonry screening wall for identification of the subdivision for each street frontage providing access to the subdivision. For the purposes of this article, identical subdivision signs on both sides of the access street shall be considered one sign. Such sign shall be a minimum eight feet (8') in height, twelve feet (12') in width and the sign face area shall be a minimum twenty square feet (20 sq. ft.) per sign face.

(2) Multifamily residential complex. Multifamily developments of 12 units or more shall be permitted one monument sign for identification of the development for each street frontage. Such sign shall not exceed eight feet (8') (including the masonry base) in height, twelve feet (12') in width and the sign face area shall not exceed sixty square feet (60 sq. ft.) per sign face.

(3) Other land uses in residential zoning. Church, school, park, or private club facilities shall be permitted one monument sign for identification purposes for each street frontage. Such sign shall not exceed eight feet (8') (including the masonry base) in height, twelve feet (12') in width and the sign face area shall not exceed sixty square feet (60 sq. ft.) per sign face.

(4) Manufactured home zoning. Mobile home parks located within manufactured home (MH) zoning shall be permitted one monument sign for identification purposes for each street frontage. Such sign shall not exceed eight feet (8') (including the masonry base) in height, twelve feet (12') in width and the sign face area shall not exceed sixty square feet (60 sq. ft.) per sign face.

(5) Nonresidential single-tenant premises. For single-tenant premises, one monument sign is allowed for each street frontage. The monument sign shall not exceed eight feet (8') (including the masonry base)

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in height, twelve feet (12') in width and the sign face area shall not exceed sixty square feet (60 sq. ft.) per sign face.

(6) Nonresidential multitenant premises. For multitenant premises, one monument sign for each street frontage is allowed. The monument sign shall not exceed twelve feet (12') in height (including the masonry base); sixteen feet (16') in width and the sign face area shall not exceed eighty square feet (80 sq. ft.) per sign face.

(b) Masonry pylon sign. Masonry pylon signs are allowed only on nonresidential properties with a minimum of three hundred feet (300') continuous frontage along IH-35E frontage road or any other four or more lane freeways or on F.M. 664 or Ovilla Road, except the height for such signs on F.M. 664 shall not exceed thirty-five feet (35'). Masonry pylon signs are large signs with two masonry columns supporting a sign face that is surrounded by minimum two feet (2') wide masonry border and a minimum three feet (3') high decorative cap on top. Two and a half feet (2.5') high masonry planter with landscaping should surround the base of the pylon sign. For multitenant premises the sign face area shall not exceed four hundred and fifty square feet (450 sq. ft.) and for single-tenant premises the sign face area shall not exceed three hundred square feet (300 sq. ft.). Maximum height of masonry pylon sign shall not exceed fifty feet (50') above the adjacent pavement level. Masonry pylon signs shall be set back at least two hundred feet (200') from public right-of-way. Section 15.01.091(e) shows an example of a similar sign in the city.

(c) Monument neon sign. In nonresidential zoning districts one monument style neon sign per parcel is allowed in lieu of a regular monument sign (as defined in section 15.01.011). For parcels with more than one street frontage one such sign is allowed for each street frontage. Monument neon signs shall not exceed eight feet (8') (including the masonry base) in height, twelve feet (12') in width and the sign face area shall not exceed sixty square feet (60 sq. ft.) per sign face.

(d) Gasoline canopy sign. Sign advertising fuel price and gas station’s name are allowed on the canopy of gasoline pumps. The sign area shall not exceed sixty square feet (60 sq. ft.) per side.

(e) Comprehensive sign package. For any nonresidential property with a proposal of one hundred thousand square feet (100,000 sq. ft.) or more nonresidential development that may require a combination of different sign types and number of signs to ably serve the business and provide enough visibility for potential visitors, a case-by-case review is necessary to determine feasibility of such a sign package proposal. For example, a big box retail or grocery chain might have on-site gasoline pumps, several detached leased out-parcels, etc. It is the intent of this article to require a comprehensive review of all the signage requirements and numbers to fully accommodate this large development rather than performing a piecemeal review. The comprehensive sign package will be reviewed by city staff and processed through the planning and zoning commission and city council in a manner similar to that of a variance request under the development regulations of this Code.

(f) Flags. Flags are permitted to include state, national, local, religious or institutional flag or emblem, in nonresidential zoning district classification within the city, provided the number of flagpoles does not exceed three flagpoles per platted lot with a maximum height of the flagpole not to exceed twenty-five feet (25') and the maximum flag area does not exceed **fifteen square feet (40 sq. ft.) [sic]**.[174] The state flag and all other assembled flags shall be arranged in accordance with the Texas Constitution

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[174] **Sec. 15.01.063. Detached permanent signs.** Regarding subsection (f), please provide the correct measurement—15 or 40 square feet?

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and flag etiquette rules. Governmental flags shall be maintained in good repair and shall be externally lit at night. Institutional or other uses allowed in a residential zoning may have flags subject to the provisions of this section. Residential lots in a residential subdivision are allowed one flagpole not to exceed twenty-five feet (25') in height and maximum flag area not to exceed thirty square feet (30 sq. ft.).

Schedule of Permanent Signs by Zoning Districts*

Zoning District	*Allowed*	*Total Number of Signs*
All residential zones	Wall or monument sign	1 per street frontage
Nonresidential zones (no freeway frontage).	Wall or neon sign and monument sign	1 wall sign per parcel, per business 1 monument sign per street frontage
Nonresidential zones (with freeway frontage)	Wall or neon sign and monument or pylon sign	1 wall sign per parcel, per business 1 monument or pylon sign per street frontage
Nonresidential zones	Comprehensive sign package	Reviewed on a case-by-case basis

For specific regulations regarding each sign type refer to the respective sections under sections 15.01.062 and 15.01.063 permanent signs.
(Code 1996, § 15.01.063; Ordinance O-07-21 adopted 5/4/21)

Sec. 15.01.064. Temporary signs.

(a) Garage sale sign. Garage sale signs shall follow the requirements as specified in the city's garage sale ordinance 0-715-01 as amended.

(b) Grand opening sign. For grand openings; pennants, flags, streamers, searchlights, and one banner not to exceed fifty square feet (50 sq. ft.) in area may be displayed one time for a maximum of 30 days. All signs must be removed after the thirty-day period. Small balloons less than fourteen inches (14") in diameter (one or a cluster) are exempt from sign permit requirements and are permitted at the time of grand opening or national holidays. If another grand opening or advertising event is required for the same business then signs associated with such event including the event itself should be processed under special events permit as outlined under section 15.01.031(g).

(c) New development/project sign. On-premises sign identifying any new development (commercial, retail, office, mixed use, etc.) in the city shall not exceed six feet (6') in height and the sign face shall not exceed sixteen square feet (16 sq. ft.). Such development signs are allowed for up to one year after the building permit has been issued or until the certificate of occupancy (CO) is issued whichever comes first. One sign is permitted per project and should be set back at least twenty feet (20') from public right-of-way.

(d) Model home sign. Signs identifying model homes, model home centers, including sales office shall be permitted one per builder/developer in the subdivision. Model home signs shall not exceed **twenty square feet (24') [sic]**[175] in area and four feet (4') in height.

(e) Kiosk sign plaza.

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[175] **Sec. 15.01.064. Temporary signs.** Regarding subsection (d), please provide the correct measurement—20 or 24 square feet? Regarding subsection (e)(1)(A—D), please provide the correct measurement—four or five feet?

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(1) Kiosk sign plazas provide a uniform, coordinated method of providing homebuilders, developers and municipalities a means of utilizing directional signs, while minimizing the negative impacts to the city and its residents. Sign plaza installation should be reviewed and processed through the planning and permit division of the city as outlined in division 2 permits and inspections of this article. Each identification panel shall be four feet (4') x eighteen inches (18"). The dimension of kiosk sign shall follow the schedule below:

(A) Three subdivision identification panel - six feet (6') x **four feet (5') [sic]** kiosk sign.

(B) Four subdivision identification panel - eight feet (8') x **four feet (5') [sic]** kiosk sign.

(C) Five subdivision identification panel - ten feet (10') x **four feet (5') [sic]** kiosk sign.

(D) Six subdivision identification panel - twelve feet (12') x **four feet (5') [sic]** kiosk sign.

(2) Section 15.01.091(f) shows some examples of similar sign kiosks present at another city within the Dallas-Fort Worth Metroplex. Once more than sixty percent (60%) of all lots are sold in these subdivisions the kiosk sign plaza should be removed. The location and number of these plazas are restricted to one each for every major arterial intersection which are, intersection of Bear Creek and S. Uhl Road, intersection of Hampton and Bear Creek, intersection of Bear Creek and Westmoreland Road, intersection of Bear Creek and Cockrell Hill Road, intersection of Hampton and Ovilla Road, intersection of Ovilla and S. Uhl Road; total six sign plazas within the city limits.

(f) Informational zoning change sign. Temporary informational signs are required to be installed by applicants for a change to the zoning category on a parcel of land. The city shall charge a fee of $50.00 to provide signs related to a zoning change application, if the applicant so desires. These informational signs shall be up at least seven days before the case is heard by the planning and zoning commission and at least ten days before it is heard by the city council. After the application has received a second reading at the city council, such signs shall be removed from the property.
(Code 1996, § 15.01.064; Ordinance O-18-12 adopted 9/18/12)

Sec. 15.01.065. through Sec. 15.01.090. (Reserved)

ARTICLE IV. ILLUSTRATIONS

Sec. 15.01.091. Illustration of different sign types.

(a) Examples of wall signs:

[GRAPHIC - Two side by side examples of wall signs]

(b) Examples of canopy/awning signs:

[GRAPHIC - Two side by side examples of canopy/awning signs]

(c) Examples of attached neon signs:

[GRAPHIC - Two side by side examples of attached neon signs signs]

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(d) Examples of monument signs:

[GRAPHIC - Two side by side examples of monument signs]
[GRAPHIC - Second set of two side by side examples of monument signs]

(e) Examples of masonry pylon sign and masonry pylon sign in monolithic form:

[GRAPHIC - Two side by side examples of masonry pylon signs signs]
[GRAPHIC - Second set of two side by side examples of masonry pylon signs signs]

(f) Kiosk sign plaza:

[GRAPHIC - Kiosk sign plaza--4 heights]

(Code 1996, § 15.01.091; Ordinance O-18-12 adopted 9/18/12)

Sec. 15.01.092. Typical on-premises sign types.

(a) Freestanding signs. Usually perpendicular to viewer's line sight. May be double or multi- faced and contain thematic embellishment and integral covers or cladding to conceal structural supports:

[GRAPHIC - Freestanding signs]

(b) Building signs.

[GRAPHIC - Building signs]

(Code 1996, § 15.01.092; Ordinance O-18-12 adopted 9/18/12)

Sec. 15.01.093. Sign area computational methodology/ground signs.

(a) Ground signs.

[GRAPHIC - Ground signs 1]
[GRAPHIC - Ground signs 2]
[GRAPHIC - Ground signs 3]
[GRAPHIC - Ground signs 4]
[GRAPHIC - Ground signs 5]

(b) Wall/fascia signs.

[GRAPHIC - Wall/fascia signs 1]
[GRAPHIC - Wall/fascia signs 2]
[GRAPHIC - Wall/fascia signs 3]

(Code 1996, § 15.01.093; Ordinance O-18-12 adopted 9/18/12)

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Sec. 15.01.094. Fascia signs on roof-like projections (not roof signs).

[GRAPHIC - Fascia signs on projections]

(Code 1996, § 15.01.094; Ordinance O-18-12 adopted 9/18/12)

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Chapter 68

SOIL EROSION AND SEDIMENT CONTROL

ARTICLE I. IN GENERAL

Sec. 3.15.001. Finding of fact.

The city has in the past experienced significant soil erosion and sedimentation problems. Large quantities of earth have been displaced from private property onto drainage easements, storm drains and other public places, access easements, public easements and public rights-of-way. Erosion is a dangerous activity in that it contaminates water supplies and water resources. Excessive sedimentation clogs watercourses, drainage easements and storm drains, and causes flooding which results in substantial damage to public and private lands. These problems result in a serious threat to the health, safety and general welfare of the community.
(Code 1996, § 3.15.001; Ord. No. O-08-11, 7/18/11)

Sec. 3.15.002. Statement of purpose.

This chapter sets forth the minimum performance standard necessary to protect against erosion and sedimentation problems within the city and to establish the various public and private responsibilities for providing this protection. It is the intent of this chapter to set forth performance standards which all erosion and sedimentation controls must, at a minimum, meet. It shall be the duty and responsibility of all persons, firms or corporations to which this chapter applies, to design and implement erosion and sedimentation control measures which meet the performance standards contained in this chapter. Further, it is the purpose of this chapter to:

(1) Protect human life, health and property;

(2) Minimize expenditures of public money for cleaning sediment out of streets, sidewalks, storm drains and watercourses;

(3) Ensure that those who expose soil to possible erosion losses are minimizing those soil losses;

(4) Preserve the natural beauty and aesthetics of the community;

(5) Prevent the pollution of streams, ponds and other watercourses by sediment;

(6) Provide for restoration of sites to reduce the negative environmental impacts of construction activity.
(Code 1996, § 3.15.002; Ord. No. O-08-11, 7/18/11)

Sec. 3.15.003. Scope of authority.

The provisions of this chapter apply to:

(1) Any person, firm, corporation or business proposing to develop land or improve property within the city;

(2) Any person, firm, corporation or business currently developing land or improving property within

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the city; and

(3) Any person, firm, corporation or business who own, possesses, is in custody of, or exercises control of, property within the city. This chapter applies to individual building structures, subdivisions, excavations and fill operations, all development and all other similar development activities.
(Code 1996, § 3.15.003; Ord. No. O-08-11, 7/18/11)

Sec. 3.15.016. Warning and disclaimer of liability.

The planning considerations given in this chapter for erosion controls rely on a degree of erosion and sedimentation control and flood protection that is considered reasonable for regulatory purposes and that is based on scientific, engineering, and economic considerations. This chapter does not imply that erosion and sedimentation controls will survive inundation by runoff from storms or that land below such controls will be free from flooding or flood damages. This chapter shall not create liability on the part of the city, or any officer or employee thereof, for any flood damages, or erosion or sedimentation damages, whether to persons or property, that result from reliance on this chapter or any administrative decision lawfully made thereunder.
(Code 1996, § 3.15.016; Ord. No. O-08-11, 7/18/11)

Sec. 3.15.004. Related ordinances.

Besides this chapter, the city has other regulations and specifications possibly affecting erosion and sedimentation control. In the event of a conflict between this chapter and any other ordinances of the city, the most restrictive provision shall govern.
(Code 1996, § 3.15.004; Ord. No. O-08-11, 7/18/11)

Sec. 3.15.005. Lands to which this chapter applies.

All properties (lands) within the city are subject to this chapter.
(Code 1996, § 3.15.005; Ord. No. O-08-11, 7/18/11)

Sec. 3.15.008. Variances.

The city council may grant a written variance from the provisions of this chapter if strict adherence to requirements will result in unnecessary hardship and not fulfill the intent of this chapter. The owner shall submit a written request for a variance to the city. The request shall state the specific variances sought and reasons for requesting the variance. The city shall not grant a variance unless and until sufficient specific reasons justifying the variance are provided by the owner.
(Code 1996, § 3.15.008; Ord. No. O-08-11, 7/18/11)

Sec. 3.15.011. Responsibilities of owners.

The owner, builder, developer, tenant, or any other person, firm, or corporation who owns, possesses, is in custody of, or exercises control of, property shall be responsible for any silt, mud, or sands transported from the property by drainage. The intent of this chapter is that owners, builders, and developers make provisions for preventing erosion and sedimentation problems at such time as their property is proposed for development, use, or modification, and to continue such preventive measures during the actual construction and development of the property. Additionally, all persons, firms, or corporations who, after construction and development, own, posses, are in custody of, or exercise control of, the property are responsible for preventing the erosion and sedimentation problems addressed by this chapter.

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(Code 1996, § 3.15.011; Ord. No. O-08-11, 7/18/11)

Sec. 3.15.010. Duties of city manager.

The city manager or his/her designee is hereby appointed to administer and implement this chapter. The duties of the city manager or his/her designee shall include, but not be limited to:

(1) Inspecting sites to determine compliance with this chapter;

(2) Determining if sureties shall be exercised. If so, the city manager shall arrange for the work to be done, and if not, the city manager shall return the sureties to the applicant; and

(3) Determining if a "stop-work order" shall be issued and, if so, when the "stop-work order" shall be removed from the project or construction, and work allowed to commence or recommence.

(Code 1996, § 3.15.010; Ord. No. O-08-11, 7/18/11)

Sec. 3.15.018. Stop-work orders.

All development, improvement, and construction on any land which is in violation of the provisions of this chapter may be halted and stopped by order of the city manager. No stop-work order may be issued until the notice provisions of this chapter are fully complied with by the city and the owner or agent of the premises is given reasonable time period to correct the public erosion nuisance and to clean up and remove the offending and burdensome sedimentation.
(Code 1996, § 3.15.018; Ord. No. O-08-11, 7/18/11)

Sec. 3.15.019. Penalty.

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not to exceed $500.00 and a separate offense shall be deemed committed upon each day during or on which violation occurs or continues.
(Code 1996, § 3.15.019; Ord. No. O-08-11, 7/18/11)

ARTICLE II. CONTROL PLAN

Sec. 3.15.013. Erosion and sedimentation control plan.

The objective of the erosion and sedimentation control plan is to prevent public erosion nuisances. The prevention of public erosion nuisances can be promoted, in part, by the following goals:

(1) Reduce sedimentation in streams, creeks, lakes, waterways, storm drains, etc.

(2) Protect the quality of the water in the city.

(3) Provide, protect, and preserve wildlife habitat.

(4) Provide for restoration of sites to reduce the negative environmental impacts of construction activity.

(Code 1996, § 3.15.013; Ord. No. O-08-11, 7/18/11)

Sec. 3.15.014. Methods of reducing erosion and sedimentation.

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(a) In order to implement the objectives of the control plan, the following design considerations are necessary:

(1) Limit the size of disturbed areas to the greatest extent possible.

(2) Stabilize any disturbed area as soon as possible.

(3) For construction activities in waterways, the following additional requirements must be met.

a. At the end of each working day the contractor shall remove all loose excavated material from the channel.

b. No construction or fill materials can be stored within the limits of the channel. All equipment and materials storage and staging areas must have erosion controls.

c. Rock berms or sand bag berms shall be used to entrap sediment.

d. Flooding potential should be considered when locating the control measures.

(4) Controls are required to intercept silt from all disturbed areas.

(5) Keep the velocities of stormwater runoff below the erosive level.

(6) Protect street areas and areas disturbed by development activity from upstream runoff.

(7) Capture and filter/drain stormwater runoff.

(8) Minimize the extent of sediment leaving the project site.

(9) Reduce flooding hazards and silt removal cost associated with excessive sediment accumulation in storm drains and waterways.

(10) Reduce the concentration of stormwater runoff and promote street flow to greatest extent possible.

(11) Revegetate all disturbed areas with a rapid, vigorous growth of long-term vegetation composed of a mixture of grasses, forbs and woody plants.

(12) Provide sedimentation or filtration pond to maintain and improve water quality.

(13) Erosion control plans should be phased to accommodate for changes in drainage patterns that occur during development.

(14) Reduce the silt leaving a construction site on the wheels of construction vehicles by providing vehicle washing areas or established construction entrances and exits.

(15) Preserve and protect existing vegetation to the greatest extent possible.

(16) Planning should consider the natural topography and soil condition in an attempt to limit the

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erosion potential.

(17) Design erosion/sedimentation controls to harmonize with natural character of the lands.

(18) When storm drain inlets must be protected, a perimeter filtration dike shall be used (triangular filtration dike or hay bale dike).

(b) The above listed considerations are illustrative only, and are not to be considered an exhaustive list of criteria effective erosion, and sedimentation plan should address in order to prevent a public erosion nuisance.

(c) It shall be the sole responsibility of the applicant to prepare and submit an erosion and sedimentation control plan which meets the requirements of the city and this chapter. The plan shall include sufficient information to evaluate the environmental characteristics of the affected areas, the potential impacts of the proposed grading on water resources, and the effectiveness and acceptability of measures proposed to minimize soil erosion and off-site sedimentation.

(d) The applicant shall certify on the drawings that all clearing, grading, drainage, construction, and development shall be conducted in strict accordance with the plan.
(Code 1996, § 3.15.014; Ord. No. O-08-11, 7/18/11)

Sec. 3.15.015. Effect of approval.

(a) It is to be understood that the approval of an erosion and sedimentation control plan by the city does not constitute recognition by the city that the erosion and sedimentation control plan will prevent any, or all, public erosion nuisances.

(b) By approval of the erosion and sedimentation control plan, the city does not warrant that the erosion and sedimentation control plan will be sufficient to prevent a public erosion nuisance, and the city waives no rights to pursue any legal remedies, both under this chapter, and all other applicable ordinances and laws.

(c) If for any reason, after an erosion and sedimentation control plan is approved by the engineering department, a public erosion nuisance occurs on property addressed by the erosion and sedimentation control plan, the approval of the erosion and sedimentation control plan shall not be a defense or bar to prosecution under this chapter.
(Code 1996, § 3.15.015; Ord. No. O-08-11, 7/18/11)

ARTICLE III. SUBDIVISION STANDARDS

Sec. 3.15.012. Standard for new subdivisions.

In addition to those requirements for subdivisions found in this code, all applicants for subdivision of land shall submit to the city manager an erosion and sedimentation control plan for approval prior to the commencement of construction. The erosion and sedimentation control plan shall be included in the engineering construction plans.
(Code 1996, § 3.15.012; Ord. No. O-08-11, 7/18/11)

Sec. 3.15.017. Surety for permanent erosion controls in new subdivisions.

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(a) The applicant shall provide a surety in the form of cash, certificate of deposit, surety bond, or irrevocable letter of credit acceptable to the city to insure that vegetative cover and other permanent erosion control measures are installed, maintained, and functioning properly up to a two year period from the date of final acceptance of the dedicated streets or utilities by the city. This surety shall be given to the city before the final acceptance of the streets or utilities. This surety shall be in the amount estimated by the developer, which is 100% of the cost of constructing and maintaining the permanent erosion controls for a two year period.

(b) However, such estimate is subject to review by the city manager and may be rejected, and the surety not accepted, if the city manager deems the estimate not to be a reasonable approximation of the costs of constructing and maintaining the erosion controls.

(c) Should the vegetative cover die or become sparse or the erosion controls fail to be maintained or are not functioning during this two-year period, the city may notify applicant in writing. The applicant has ten days after being notified to begin correcting the problems. If no corrections are started, the city may make the necessary repairs by exercising the surety or billing the applicant.

(d) If at the end of the two-year period the vegetative cover is still not established or is sparse, or the erosion controls are not functioning, the city may exercise the surety and have the erosion controls installed and established. The above procedures for ensuring that vegetation is established shall apply to all projects, whether or not the vegetation is the long- term maintenance responsibility of the city.

(e) Any vegetative cover which is planted and is a permanent part of the improvement project will not be accepted by the city until the growth has been established and maintained by the developer for a two year period from the date of final acceptance of the subdivision. After the two-year period has elapsed, the owner of the property shall be responsible for maintaining the erosion controls in good working order.

(f) If any future owner modifies or disturbs the erosion controls for the area, that owner must restore or replace the permanent erosion controls at the conclusion of the disturbing activity.
(Code 1996, § 3.15.017; Ord. No. O-08-11, 7/18/11)

ARTICLE III. EROSION NUISANCES

Sec. 3.15.006. Offense of failing to prevent a public erosion nuisance.

(a) A public erosion nuisance is an occurrence where erosion of, or sediment from, one location causes an unsafe, bothersome, or unsightly condition on public property and public rights-of-way. An unsafe, bothersome or unsightly condition or burden includes silt, mud or similar debris, originating on one property but being deposited onto a second off-site property, which is public property or a public right- of-way from which the city may have to remove or clean up the deposit due to liability, statutory, aesthetic, drainage or property damage concerns. Examples include, but are not limited to:

(1) Excessive sedimentation in storm drains, drainage easements and watercourses caused by erosion; and

(2) Excessive sedimentation on public streets, sidewalks, alleys, easements and other rights-of-way caused by erosion.

(b) It is unlawful for any person, firm or corporation which owns, possesses, is in custody of or

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exercises control of property to permit a public erosion nuisance to occur on the property; provided, however, that it is not a violation of this article if erosion and sedimentation occurs upon private property and is deposited upon private property. Only erosion and sedimentation which impacts upon public property and public rights-of-way are governed by this article.
(Code 1996, § 3.15.006; Ord. No. O-08-11, 7/18/11)

Sec. 3.15.007. Notice provisions.

(a) It shall be the duty of the appointed city manager or his designee to give 48 hours' notice in writing to the owner or agent in charge of any premises believed to be in violation of this article to correct the public erosion nuisance and to clean up and remove the offending and burdensome sedimentation.

(b) A notice of less than 48 hours may be given in the event that the city manager decides, in his/her judgment, that the situation believed to be in violation of this chapter poses a substantial and immediate threat to public health, safety, and welfare.
(Code 1996, § 3.15.007; Ord. No. O-08-11, 7/18/11)

Sec. 3.15.009. Abatement by city.

(a) If the owner of any lot, tract, parcel of land, or a portion thereof, situated within the corporate limits of the city shall fail to comply with this article, then the city manager, or his designee, shall notify such owner by letter, addressed to him at the address shown on the last approved tax rolls of the city or at any residence or business structure located on subject property or at the last known address. The mailing of notice in accordance with any of the above shall satisfy this section. In the alternative, the city may notify the owner by publication in the city's official newspaper on one occasion.

(b) At the expiration of ten days after notification or publication, the city may enter upon such premises and may do such work as is necessary, or cause the same to be done, in order that the premises may comply with the requirements set forth within this chapter.

(c) A statement of the cost incurred by the city to abate such condition shall be mailed to the owner of the premises, which statement shall be paid within 30 days of the date of the mailing thereof.

(d) If the statement has not been paid within such period, the city manager or the appointed city manager may file a statement with the Dallas County clerk of the expenses incurred to abate such condition on the premises, and the city shall have a privileged lien on any lot, tract or parcel of land upon which such expense is incurred, together with ten percent on the delinquent amount from the date such payment is due. For any such expenditure and interest, suit may be instituted and recovery and foreclosure had in the name of the city and the statement so made, or a copy thereof shall be prima facie proof of the amount expended in any such work performed by the city.

(e) The city manager or his/her designee shall file a statement of expenses incurred, giving the amount of such expenses, the date on which the work was done or improvements made, with the county clerk; and the city shall have a privileged lien on such lots or real estate upon which the work was done or improvements made to secure the expenditures so made, in accordance with the provisions of V.T.C.A., Health and Safety Code, ch. 342, which lien shall be second only to tax liens and liens for street improvements. The lien amount shall bear ten percent interest from the date the statement was filed.

(f) In addition, for any such expenditures and interests, suit may be instituted and recovery and foreclosure of the lien may be had in the name of the city; and the statement of expenses or a certified

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copy thereof, shall be prima facie proof of the amount expended for such work or improvements.
(Code 1996, § 3.15.009; Ord. No. O-08-11, 7/18/11)

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Chapter 70

STORMWATER MANAGEMENT AND CONTROL

ARTICLE I. IN GENERAL

Sec. 13.10.001. Definitions.[176]

For the purposes of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning, and any words not herein defined shall be construed in the context used and by ordinary interpretation and not as a word of art:

Agricultural stormwater runoff. Any stormwater runoff from orchards, cultivated crops, pastures, range lands, and other non-point source agricultural activities, but not discharges from concentrated animal feeding operations as defined in 40 CFR section 122.23 or discharges from concentrated aquatic animal production facilities as defined in 40 CFR section 122.24.

~~City. The City of Glenn Heights, Texas, or its agents.~~

Clean Water Act (CWA). The federal Water Pollution Control Act or the federal Water Pollution Control Act as amended, 33 USC 1251 et seq.

Code enforcement official. A city employee or person or entity acting under a contract with the city, authorized to enforce the provisions of this article and city ordinances, including but not limited to the building official, inspector, code enforcement officer, code compliance officer, or his/her designee.

Construction site notice. A signed and certified submission to the operator of the MS4 (i.e., the city) from an operator of a small construction activity identifying coverage pursuant to the construction general permit.

Contaminated. Containing a harmful quantity of any substance.

Contamination. The presence of or entry into a public water supply system, the MS4, surface water in the state, or waters of the United States of any substance which may be deleterious to the public health or the quality of the water, as determined by, or pursuant to, federal or state law.

Conveyance. Curbs, gutters, manmade channels and ditches, drains, pipes, and other constructed features designed or used for flood control or to otherwise transport stormwater runoff.

Discharge. Any addition or introduction of any pollutant, stormwater, or any other substance whatsoever into the MS4, surface water in the state, or waters of the United States.

Discharger. Any person who causes, allows, permits, or is otherwise responsible for a discharge including, without limitation, any operator of a construction site or industrial facility.

Environmental Protection Agency (EPA). The U.S. Environmental Protection Agency, the regional office

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[176] **Sec. 13.10.001. Definitions.** Minor corrections have been made throughout this section and definitions duplicative of chapter 1 have been stricken as shown.

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thereof, any federal department, agency, or commission that may succeed to the authority of the EPA, and any duly authorized official of the EPA or such successor agency.

Facility. Any building, structure, installation, process, or activity from which there is or may be a discharge of a pollutant.

Fertilizer. A solid or non-solid substance or compound that contains an essential plant nutrient element in a form available to plants and is used primarily for its essential plant nutrient element content in promoting or stimulating growth of a plant or improving the quality of a crop, or a mixture of two or more fertilizers. The term does not include the excreta of an animal, plant remains, or a mixture of those substances, for which no claim of essential plant nutrients is made.

Fire code. The International Fire Code as adopted by the city.

Fire department. The city fire department, or any duly authorized representative thereof.

Fire protection water. Any water, and any substances or materials contained therein, used by any person other than the fire department to control or extinguish a fire.

Garbage. For the purpose of this article, solid waste consisting of putrescible animal and vegetable waste materials resulting from the handling, preparation, cooking, and consumption of food, including waste materials from markets, storage facilities, handling, and sale of produce and other food products.

Groundwater infiltration. For the purposes of this article, groundwater that enters a municipal separate storm sewer system (including sewer service connections and foundation drains) through such means as defective pipes, pipe joints, connections, or manholes.

Harmful quantity. The amount of any substance that will cause pollution of surface water in the state or waters of the United States, or that will cause lethal or sub-lethal adverse effects on representative, sensitive aquatic monitoring organisms, upon their exposure to samples of any discharge into surface water in the state, waters of the United States, or the MS4, as determined by, or pursuant to, federal or state law.

Herbicide. A substance or mixture of substances used to destroy a plant or to inhibit plant growth.

Household hazardous waste. Waste from materials utilized for residential or housekeeping purposes containing regulated substances which either singularly or by their interaction with other wastes or by their accumulation in the MS4 becomes injurious or potentially injurious to human, plant, or animal life, or property. For purposes of this article, household hazardous wastes include but are not limited to paint, paint thinners, paint solvents, bleaches, and drain cleaners.

Illicit connection. Any manmade conveyance connecting an illicit discharge directly to a municipal separate storm sewer.

Illicit discharge. Any discharge to a municipal separate storm sewer that is not entirely composed of stormwater.

Industrial activity. Any activity subject to the multi-sector general permit.

Large construction activity. Construction activities including clearing, grading, and excavating that result

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in land disturbance of equal to or greater than five acres of land. Large construction activity also includes the disturbance of less than five acres of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than five acres of land. Large construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, and original purpose of a ditch, channel, or other similar stormwater conveyance. Large construction activity does not include the routine grading of existing dirt roads, asphalt overlays of existing roads, the routine clearing of existing rights-of-way, and similar maintenance activities.

Municipal separate storm sewer system (MS4). A separate storm sewer system owned or operated by the United States, a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, that discharges to surface water in the state.

National Pollutant Discharge Elimination System (NPDES). The federal program under which the administrator of the U.S. Environmental Protection Agency can authorize discharges of waste to waters of the United States according to section 402 of the Clean Water Control Act and may also delegate this permitting authority to the state.

No exposure certification (NEC). A written submission to the executive director of TCEQ from an applicant for the multi-sector general permit notifying the applicant's intent to obtain a conditional exclusion from permit requirements by certifying that there is no exposure of industrial material or activities to precipitation or runoff.

Notice of change (NOC). Written notification from a permittee pursuant to the multi-sector general permit or the construction general permit to the executive director of TCEQ providing changes to information that was previously provided to TCEQ in a notice of intent (NOI) or no exposure certification (NEC) form.

Notice of intent (NOI). A written submission to the executive director of TCEQ from an applicant requesting coverage under the multi-sector general permit or the construction general permit.

Notice of termination (NOT). A written submission to the executive director of TCEQ from a permittee authorized under the multi-sector general permit or the construction general permit requesting termination of coverage.

NPDES permit. A permit issued by EPA that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Operator. The person or persons who, either individually or taken together, meet the following two criteria:

(1) They have operational control over the facility specifications (including the ability to make modifications in specifications); and

(2) They have the day-to-day operational control over those activities at the facility necessary to ensure compliance with pollution prevention requirements and any permit conditions.

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Owner. The person who owns a facility or part of a facility.

~~Person. Any individual, firm, partnership, association, business, corporation, or other entity.~~

Pesticide. A substance or mixture of substances intended to prevent, destroy, repel, or mitigate any pest, or any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant (as those terms are defined in section 76.001 of the Texas Agriculture Code).

Pollutant. Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, filter backwash, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into any surface water in the state. The term "pollutant" does not include tail-water or runoff water from irrigation or rainwater runoff from cultivated or uncultivated rangeland, pastureland, and farmland. For the purpose of this article, the term "pollutant" includes sediment.

Pollution. The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any surface water in the state that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property or to public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

Property. All privately owned, occupied, or unoccupied property, including vacant land, or a building designed or used for residential, commercial, business, industrial, or religious purposes.

The term shall also include a yard, ground, wall, driveway, fence, porch, steps, or other structure appurtenant to the property or otherwise known as curtilage.

Publicly owned treatment works (POTW). A treatment works, as defined by section 212 of the Clean Water Act, owned by the city or other public entity, including any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any sewers, pipes, and other conveyances which convey wastewater to a treatment plant.

Regulated construction activity. A large construction activity or a small construction activity, as those terms are defined herein.

Release. Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the MS4, surface water in the state, or waters of the United States.

Rubbish. Nonputrescible solid waste, excluding ashes, consisting of both combustible and noncombustible waste materials. Combustible rubbish includes paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, brush, or similar materials; noncombustible rubbish includes glass, crockery, tin cans, aluminum cans, and similar materials that will not burn at ordinary incinerator temperatures (1,600 degrees Fahrenheit to 1,800 degrees Fahrenheit).

Small construction activity. Construction activities including clearing, grading, and excavating that results in land disturbance of equal to or greater that one acre and less than five acres of land. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres of land. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, and original purpose of a ditch, channel, or other similar stormwater conveyance. Small construction activity does not include the

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routine grading of existing dirt roads, asphalt overlays of existing roads, the routine clearing of existing rights-of-way, and similar maintenance activities.

Small municipal separate storm sewer system (small MS4). Refers to a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catchbasins, curbs, gutters, ditches, manmade channels, or storm drains):

(1) Owned or operated by the United States, a state, city, town, borough, county, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the Clean Water Act;

(2) Designed or used for collecting or conveying stormwater;

(3) Which is not a combined sewer;

(4) Which is not part of a publicly owned treatment works (POTW) as defined in 40 CFR § 122.2; and

(5) Which was not previously authorized under an NPDES or a TPDES individual permit as a medium or large municipal separate storm sewer system, as defined at 40 CFR section 122.26(b)(4) and (b)(7).

This term includes systems similar to separate storm sewer systems at military bases, large hospitals or prison complexes, and highways and other thoroughfares. This term does not include separate storm sewers in very discrete areas, such as individual buildings. A very discrete system also includes storm drains associated with certain municipal offices and education facilities serving a nonresidential population, where those storm drains do not function as a system, and where the buildings are not physically interconnected to an MS4 that is also operated by that public entity.

Solid waste. Any garbage, rubbish, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semi- solid, or containing gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations, and from community and institutional activities.

Stormwater and stormwater runoff. Rainfall runoff, snow melt runoff, and surface runoff and drainage.

Stormwater pollution prevention plan (SWPPP). A plan required by either the construction general permit or the multi-sector general permit which describes and ensures the implementation of practices that are to be used to reduce the pollutants in stormwater discharges associated with construction or other industrial activity at the facility.

Surface water in the state. Lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, wetlands, marshes, inlets, canals, the Gulf of America ~~Mexico~~ inside the territorial limits of the state (from the mean high water mark (MHWM) out 10.36 miles into the Gulf), and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or nonnavigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or subject to the jurisdiction of the state; except that waters in treatment

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systems which are authorized by state or federal law, regulation, or permit, and which are created for the purpose of waste treatment are not considered to be water in the state.

Texas Pollutant Discharge Elimination System (TPDES). The state program for issuing, amending, terminating, monitoring, and enforcing permits, and imposing and enforcing pretreatment requirements, under Clean Water Act sections 307, 318, 402, and 405, and the state water code and administrative code.

TPDES general permit for stormwater discharges associated with construction activity (or the construction general permit) (CGP). The construction general permit issued by TCEQ on February 15, 2008, TPDES General Permit No. TXR150000, as it exists and as it may be renewed or amended.

TPDES general permit for stormwater discharges associated with industrial activity (or the multi- sector general permit) (MSGP). The multi-sector general permit issued by TCEQ on August 14, 2006, TPDES General Permit No. TXR050000, as it exists and as it may be renewed or amended.

TPDES general permit for stormwater discharges from small municipal separate storm sewer systems (or the small MS4 general permit). The small MS4 general permit issued by TCEQ on August 13, 2007, TPDES General Permit No. TXR040000, as it exists and as it may be renewed or amended.

TPDES permit. A permit issued by TCEQ that authorizes the discharge of pollutants to surface water in the state or waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Uncontaminated. Not containing a harmful quantity of any substance, as determined by, or pursuant to, federal or state law.

Used oil (or used motor oil). Any oil that has been refined from crude oil or synthetic oil that, as a result of use, storage, or handling, has become unsuitable for its original purpose because of impurities or the loss of original properties but that may be suitable for further use and is recyclable in compliance with state and federal law.

Waters of the United States (or waters of the U.S.).

(1) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

(2) All interstate waters, including interstate wetlands;

(3) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds that the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:

(A) Which are or could be used by interstate or foreign travelers for recreational or other purposes;

(B) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or

(C) Which are used or could be used for industrial purposes by industries in interstate commerce;

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(4) All impoundments of waters otherwise defined as waters of the United States under this definition;

(5) Tributaries of waters identified in subsections (1) through (4) of this definition;

(6) The territorial sea; and

(7) Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in subsections (1) through (6) of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the CWA (other than cooling ponds as defined in 40 CFR section 423.11(m) which also meet the criteria of this definition) are not waters of the United States. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the United States (such as disposal areas in wetlands) nor resulted from the impoundment of waters of the United States. Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the CWA, the final authority regarding CWA jurisdiction remains with the EPA.

Yard waste. Leaves, grass clippings, yard and garden debris, and brush that results from landscape maintenance and land-clearing operations.
(Code 1996, § 13.10.001; Ordinance O-16-08 adopted 6/16/08)

Sec. 13.10.002. Abbreviations.

The following abbreviations, when used in this article, shall have the designated meanings:

CFR Code of Federal Regulations

CGP Construction general permit, TPDES General Permit TXR150000

CWA Clean Water Act

EPA U.S. Environmental Protection Agency

MS4 Municipal separate storm sewer system

MSGP Multi-sector general permit, TPDES General Permit No. TXR050000

NEC No exposure certification

NOC Notice of change

NOI Notice of intent

NOT Notice of termination

NPDES National Pollutant Discharge Elimination System

POTW Publicly owned treatment works SWMP Stormwater management program SWPPP Stormwater

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pollution prevention plan

TCEQ Texas Commission on Environmental Quality

TPDES Texas Pollutant Discharge Elimination System
(Code 1996, § 13.10.002; Ordinance O-16-08 adopted 6/16/08)

Sec. 13.10.003. Applicability.

This article, including any amendments or revisions thereto, shall apply to all water entering the MS4 generated on any developed and undeveloped lands lying within the city.
(Code 1996, § 13.10.003; Ordinance O-16-08 adopted 6/16/08)

Sec. 13.10.004. Administration.

The code enforcement official shall administer, implement, and enforce the provisions of this article. Any powers granted or duties imposed upon the code enforcement official may be delegated by the code enforcement official to persons or entities acting in the beneficial interest of or in the employ of the city.
(Code 1996, § 13.10.004; Ordinance O-16-08 adopted 6/16/08)

Sec. 13.10.005. Regulatory consistency.

This article shall be construed to assure consistency with the Clean Water Act and the state water code, and amendments thereto, or any applicable implementing regulations.
(Code 1996, § 13.10.005; Ordinance O-16-08 adopted 6/16/08)

Sec. 13.10.006. Ultimate responsibility of discharger.

The standards set forth herein and promulgated pursuant to this article are minimum standards; therefore, this article does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants into surface water in the state or waters of the United States caused by said person. This article shall not create liability on the part of the city, or any agent or employee thereof, for any damages that result from the discharger's reliance on this article or any administrative decision lawfully made thereunder.
(Code 1996, § 13.10.006; Ordinance O-16-08 adopted 6/16/08)

Sec. 13.10.007. General prohibition.

(a) No person shall, and it shall be an offense to, introduce or caused to be introduced into the municipal separate storm sewer system (MS4) any discharge that is not composed entirely of stormwater.

(b) It is an affirmative defense to any enforcement action for violation of subsection (a) of this section that the discharge was composed entirely of one or more of the following categories of discharges:

(1) A discharge authorized by, and in full compliance with, a TPDES permit or an NPDES permit (other than the TPDES permit authorizing discharges from the MS4);

(2) A discharge or flow from water line flushing, but not including a discharge from water line disinfection by superchlorination or other means unless it contains no harmful quantity of total residual chlorine (TRC) or any other chemical used in line disinfection;

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(3) A discharge or flow from runoff or return flow from landscape irrigation, lawn irrigation, and other irrigation utilizing potable water, groundwater, or surface water sources;

(4) A discharge or flow from a potable water source not containing any harmful substances or material from the cleaning or draining of a storage tank or other container;

(5) A discharge or flow from a diverted stream;

(6) A discharge or flow from rising groundwaters and springs;

(7) Uncontaminated groundwater infiltration (as defined by 40 CFR § 35.2005(20)) to the MS4;

(8) A discharge or flow from uncontaminated pumped groundwater;

(9) An uncontaminated discharge or flow from foundation and footing drains;

(10) A discharge or flow from air conditioning condensation that is unmixed with water from a cooling tower, emissions scrubber, emissions filter, or any other source of pollutant;

(11) An uncontaminated discharge or flow of water from crawl space pumps;

(12) A discharge or flow from individual residential vehicle washing;

(13) A discharge or flow from wetlands and riparian habitats;

(14) A discharge or flow of swimming pool water that contains no harmful quantity of chlorine, muriatic acid, or other chemical used in the treatment or disinfection of the swimming pool water or in pool cleaning;

(15) A discharge or flow from street wash water that is not contaminated with any soap, detergent, degreaser, solvent, emulsifier, dispersant, or any other harmful cleaning substance;

(16) A discharge or flow from firefighting activities by the fire department (firefighting activities do not include washing of trucks, runoff water from training activities, test water from fire suppression systems, and similar activities);

(17) A discharge or flow of fire protection water that does not contain oil or hazardous substances or materials that the fire code requires to be contained and treated prior to discharge, in which case treatment adequate to remove harmful quantities of pollutants must have occurred prior to discharge;

(18) Agricultural stormwater runoff; and

(19) A discharge or flow from other similar occasional incidental non-stormwater discharges, as determined by the city manager.

(c) No affirmative defense shall be available under subsection (b) of this section if:

(1) The discharge or flow in question has been determined by the code enforcement official to be a source of a pollutants or pollution to surface water in the state, waters of the United States, or the MS4;

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(2) Written notice of such determination has been provided to the discharger; and

(3) The discharge has continued after the expiration of the time given in the notice to cease the discharge. The correctness of the code enforcement official's determination that a discharge is a source of a pollutant or pollutants may be reviewed in any administrative or judicial enforcement proceeding in accordance with city ordinances and state law, as may be applicable.
(Code 1996, § 13.10.007; Ordinance O-16-08 adopted 6/16/08)

Sec. 13.10.008. Specific prohibitions and requirements.

(a) The specific prohibitions and requirements in this section are not inclusive of all the discharges prohibited by the general prohibition in section 13.10.007.

(b) A person commits an offense if the person introduces or causes to be introduced into the MS4 any harmful quantity of any substance.

(c) A person commits an offense if the person introduces or causes to be introduced into the MS4 any discharge that causes or contributes to causing the city to violate a water quality standard or the city's authorization pursuant to the small MS4 general permit for discharges from its MS4.

(d) A person commits an offense if the person dumps, spills, leaks, pumps, pours, emits, empties, discharges, leaches, disposes, or otherwise introduces or causes to be introduced, allows, or permits to be introduced any of the following substances into the MS4:

(1) Any used motor oil, antifreeze, or any other motor vehicle fluid;

(2) Any industrial waste;

(3) Any hazardous waste, including household hazardous waste;

(4) Any domestic sewage or septic tank waste, grease trap waste, or grit trap waste;

(5) Any garbage or rubbish;

(6) Any wastewater from a commercial carwash facility; from any vehicle washing, cleaning, or maintenance at any new or used automobile or other vehicle dealership, rental agency, body shop, repair shop, or maintenance facility; or from any washing, cleaning, or maintenance of any business or commercial or public service vehicle, including a truck, bus, or heavy equipment, by a business or public entity that operates more than ten such vehicles;

(7) Any direct discharge of a pesticide or fertilizer;

(8) Any wastewater from the washing, cleaning, de-icing, or other maintenance of aircraft;

(9) Any wastewater from a commercial mobile power washer or from the washing or other cleaning of a building exterior that contains any soap, detergent, degreaser, solvent, or any other harmful cleaning substance;

(10) Any wastewater from commercial floor, rug, or carpet cleaning;

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(11) Any wastewater from the wash-down or other cleaning of pavement that contains any harmful quantity of soap, detergent, solvent, degreaser, emulsifier, dispersant, or any other harmful cleaning substance; or any wastewater from the wash-down or other cleaning of any pavement where any spill, leak, or other release of oil, motor fuel, or other petroleum or hazardous substance has occurred, unless all harmful quantities of such released materials has been previously removed;

(12) Any effluent from a cooling tower, condenser, compressor, emissions scrubber, emissions filter, or the blow-down from a boiler;

(13) Any ready-mix concrete, mortar, ceramic, or asphalt base material or hydro-mulch material, or material from the cleaning of commercial vehicles or equipment containing, or used in transporting or applying, such material;

(14) Any runoff or wash-down water from any animal pen, kennel, or fowl or livestock containment area containing more than five animals;

(15) Any filter backwash from a swimming pool, fountain, or spa;

(16) Any swimming pool water containing any harmful quantity of chlorine, muriatic acid, or other chemical used in the treatment or disinfection of the swimming pool water or in pool cleaning;

(17) Any discharge from water line disinfection by superchlorination or other means if it contains any harmful quantity of chlorine or any other chemical used in water line disinfection;

(18) Any fire protection water containing oil or hazardous substances or materials that the fire code in this Code requires to be contained and treated prior to discharge, unless treatment adequate to remove pollutants occurs prior to discharge (this prohibition does not apply to discharges or flow from firefighting activities by the fire department as further set forth herein);

(19) Any water from a water curtain in a spray room used for painting vehicles or equipment;

(20) Any contaminated runoff from a vehicle salvage yard, junkyard, auto repair activities, or storage of vehicles on unimproved surfaces;

(21) Any substance or material that will damage, block, or clog the MS4;

(22) Any release from a petroleum storage tank (PST), or any leachate or runoff from soil contaminated by a leaking PST, or any discharge of pumped, confined, or treated wastewater from the remediation of any such PST release, unless the discharge satisfies all of the following criteria:

(A) Compliance with all state and federal standards and requirements;

(B) No discharge containing a harmful quantity of any pollutant; and

(C) No discharge containing more than 50 parts per billion of benzene; 500 parts per billion combined total quantities of benzene, toluene, ethylbenzene, and xylene (BTEX); or 15 milligrams per liter of total petroleum hydrocarbons (TPH).

(e) Yard waste regulation. A person commits an offense if the person:

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(1) Discharges, deposits, discards, or dumps, or causes or allows to be discharged, deposited, discarded, or dumped any grass clippings, leaf litter, brush cuttings, or animal waste into the MS4.

(2) Places or causes to be placed or dropped, grass clippings, leaf litter, brush cuttings, or animal waste within any street in the corporate limits of the city in such a manner that the same may be washed by the flow of water into the MS4.

It shall be a defense to prosecution that these wastes occurred naturally or from normal landscape maintenance (e.g., leaves falling from trees, grass clippings left on lawns). Intentionally sweeping or blowing grass clippings or leaves into the streets or gutters is prohibited.

(f) A person commits an offense if the person introduces or causes to be introduced into the MS4 any harmful quantity of sediment, silt, earth, soil, or other material associated with clearing, grading, excavation, or other construction activities, or associated with filling or other placement or disposal of soil, rock, or other earthen materials, in excess of what could be retained on-site or captured by employing sediment and erosion control measures to the maximum extent practicable.

(g) Illicit connection regulation.

(1) The construction, use, maintenance, or continued existence of illicit connections to the MS4 is prohibited.

(2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(h) A person commits an offense if the person causes or allows any pavement wash water from a service station to be discharged into the MS4 unless such wash water has passed through a properly functioning and maintained grease, oil, and sand interceptor before discharge into the MS4.

(i) Used oil regulation. A person commits an offense if the person:

(1) Discharges used oil into the MS4 or a sewer, drainage system, septic tank, surface water, groundwater, or watercourse;

(2) Knowingly mixes or commingles used oil with solid waste that is to be disposed of in a landfill or knowingly directly disposes of used oil on land or in a landfill; or

(3) Applies used oil to a road or land for dust suppression, weed abatement, or other similar use that introduces used oil into the environment.
(Code 1996, § 13.10.008; Ordinance O-16-08 adopted 6/16/08)

Sec. 13.10.009. Nuisance and general violation.

(a) An actual or threatened discharge to the MS4 that violates or would violate this article is declared to be a nuisance.

(b) A line conveying sewage or designed to convey sewage that is connected to the MS4 is declared to be a nuisance.

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(c) Notwithstanding any other provision herein to the contrary, the code enforcement official shall not be required to provide written notice or a warning prior to taking criminal enforcement action or any other legally available enforcement action.

(d) If the city mails notice in accordance with the provisions stated in this article, and the notice is returned "refused" or "unclaimed," said notice shall be deemed delivered for purposes of enforcement action as provided herein.
(Code 1996, § 13.10.009; Ordinance O-16-08 adopted 6/16/08)

Sec. 13.10.010. Submission of NOI or construction site notice to city.

(a) The operator of a facility, including construction sites, required to have a TPDES permit to discharge stormwater associated with industrial activity or regulated construction activity shall submit a copy of the NOI, construction site notice, NOC, NOT, or NEC to the director of municipal services at the same time the operator submits the original NOI, NOC, NOT, or NEC to the TCEQ or is required to submit the construction site notice to the operator of the MS4 (i.e., the city) by the construction general permit.

(b) The copy of the NOI, construction site notice, NOC, NOT, or NEC may be delivered to the director of municipal services either in person or by mailing it to: Notice of Intent to Discharge Stormwater, Director of Municipal Services, City of Glenn Heights 1938 South Hampton, Glenn Heights, Texas 75154.

(c) A person commits an offense if the person operates a facility that is discharging stormwater associated with an industrial activity or a regulated construction activity without having submitted a copy of the NOI or the construction site notice to do so to the director of municipal services.
(Code 1996, § 13.10.010; Ordinance O-16-08 adopted 6/16/08)

Sec. 13.10.011. Modification of stormwater pollution prevention plans.

(a) The city manager may require any operator of a facility to modify the facility's stormwater pollution prevention plan (SWPPP) if in the best professional judgment of the city manager, the SWPPP does not comply with this article or with the requirements of the facility's TPDES or NPDES permit to discharge stormwater associated with an industrial activity or a regulated construction activity.

(b) The deficiencies in a facility's SWPPP will be identified in writing, and the city manager will give the facility operator a reasonable amount of time, not to exceed 30 days, to make the necessary changes in the SWPPP.
(Code 1996, § 13.10.011; Ordinance O-16-08 adopted 6/16/08)

Sec. 13.10.012. Right of entry; inspection and sampling.

(a) The code enforcement official shall have the right to enter the premises of any person discharging stormwater to the MS4, to surface water in the state, or to waters of the United States to determine if the discharger is complying with all requirements of this article. Dischargers shall allow the code enforcement official ready access to all parts of the premises for purposes of inspection, sampling, records examination, and copying, and for the performance of any additional duties. Dischargers shall make available to the code enforcement official, upon request, any SWPPPs, modifications thereto, self-inspection reports, monitoring records, compliance evaluations, NOIs, construction site notices, NOCs,

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NOTs, NECs, and any other records, reports, and other documents related to compliance with this article.

(b) Where the discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the code enforcement official will be permitted to enter without delay for the purposes of performing his/her responsibilities.

(c) The code enforcement official shall have the right to set up on the discharger's property, or require installation of, such devices as are necessary to conduct sampling or metering of the discharger's operations, at the discharger's sole cost and expense.

(d) The code enforcement official may require any discharger to the MS4, surface water in the state, or waters of the United States to conduct specified sampling, testing, analysis, and other monitoring of its stormwater dischargers, and may specify the frequency and parameters of any such required monitoring, at the discharger's sole cost and expense.

(e) The code enforcement official may require the discharger to install monitoring equipment as necessary at the discharger's sole cost and expense. The facility's sampling and monitoring equipment, as required by this section, shall be maintained at all times in a safe and proper operating condition by the discharger at the discharger's sole cost and expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

(f) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected or sampled shall be promptly removed by the discharger at the written or verbal request of the code enforcement official and shall not be replaced. The costs of clearing such access shall be borne by the discharger.

(g) Unreasonable delays in allowing the code enforcement official access to the discharger's premises shall be a violation of this article.

(h) If entry onto the property is refused, the code enforcement official shall have every recourse provided by law, including but not limited to an administrative search warrant or an injunction to secure entry. If the owner, operator, discharger, or person in control of the property cannot be identified or located, the code enforcement official shall be authorized to enter the property to the extent allowed by, and in accordance with, law.
(Code 1996, § 13.10.012; Ordinance O-16-08 adopted 6/16/08)

Sec. 13.10.013. Administrative enforcement remedies.

(a) Warning notice. When the code enforcement official finds that any person has violated, or continues to violate, any provision of this article, or any order issued hereunder, the code enforcement official may serve upon that person a written warning notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation or resolution of the matter in response to the warning notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the warning notice. Nothing in this subsection shall limit the authority of the code enforcement official to take any action, including emergency action or any other enforcement action, without first issuing a warning notice.

(b) Notification of violation. When the code enforcement official finds that any person has violated,

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or continues to violate, any provision of this article, or any order issued hereunder, the code enforcement official may serve upon that person a written notice of violation. Within ten days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention of reoccurrence thereof, to include specific required actions, shall be submitted by the alleged violator to the code enforcement official. If the alleged violator denies that any violation occurred or contends that no corrective action is necessary, an explanation of the basis of any such denial or contention shall be submitted to the code enforcement official within ten days of receipt of the notice. Submission of an explanation or plan in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the code enforcement official to take any action, including emergency action or any other enforcement action, without first issuing a notice of violation.

(c) Consent orders. The city manager may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any person responsible for noncompliance with any provision in this article or any order issued hereunder. Such documents may include specific action to be taken by the person to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to subsections (e), and (f) of this section and shall be judicially enforceable.

(d) Show cause hearings. The city manager may order any person who has violated, or continues to violate, any provision of this article, or any order issued hereunder, to appear before the city manager and show cause why a proposed enforcement action should not be taken. Notice shall be served on the alleged violator specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the alleged violator show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten days prior to the hearing. Such notice may be served on any authorized representative of the alleged violator. The hearing shall be conducted pursuant to the rights and procedures specified in section 13.10.016 of this article. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the alleged violator, including, but not limited to, criminal or injunctive relief.

(e) Compliance orders. When the city manager finds that any person has violated, or continues to violate, any provision of this article, or any order issued hereunder, the city manager may issue an order to the violator directing that the violator come into compliance within a specified time period. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the MS4, surface water in the state, and waters of the United States. A compliance order may not extend the deadline for compliance established by a state or federal standard or requirement, nor does a compliance order relieve the person of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the violator, including, but not limited to, criminal or injunctive relief.

(f) Emergency cease and desist orders. When the city manager finds that any person has violated, or continues to violate, any provision of this article, or any order issued hereunder, or that the person’s past violations are likely to recur, and that the person’s violations have caused or contributed to an actual or threatened discharge to the MS4, surface water in the state, or waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the city manager may issue an order to the violator directing the violator to immediately cease and desist all such violations and directing the violator to:

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(1) Immediately comply with all requirements of this article; and

(2) Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations or terminating the discharge.

Any person notified of an emergency order directed to it under this subsection shall immediately comply and stop or eliminate its discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the city manager may take such steps as deemed necessary to prevent or minimize harm to the MS4, surface water in the state, or waters of the United States, or endangerment to persons or to the environment. The city manager may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the city manager that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this article. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the city manager within five days of the receipt of the emergency order. Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the violator.
(Code 1996, § 13.10.013; Ordinance O-16-08 adopted 6/16/08)

Sec. 13.10.014. Emergency suspension of utility service and MS4 access.

(a) The city may, without prior notice, suspend water service, sanitary sewer service, or MS4 discharge access to a person discharging to the MS4, surface water of the state, waters of the United States, or the POTW when such suspension is necessary to stop an actual or threatened discharge which:

(1) Presents or may present imminent and substantial danger to the environment or to the health or welfare of persons; or

(2) Presents or may present imminent and substantial danger to the MS4, surface water in the state, or waters of the United States.

(b) When the code enforcement official determines that city-provided water or sanitary sewer service or MS4 access needs to be suspended pursuant to subsection (a), the code enforcement official shall request the city manager to do so.

(c) As soon as is practicable after the suspension of service or MS4 access, the code enforcement official shall notify the violator of the suspension in person or by registered mail or certified mail (return receipt requested) and shall order the violator to cease the discharge immediately. When time permits, the code enforcement official should also attempt to notify the violator prior to suspending service or access.

(d) If the violator fails to comply with an order issued under subsection (c), the city manager may take such steps as the city manager deems necessary to prevent or minimize damage to the MS4, surface water in the state, or waters of the United States, or to minimize danger to persons.

(e) The city shall not reinstate suspended services or MS4 access to the violator until:

(1) The violator presents proof, satisfactory to the city manager, that the noncomplying discharge has been eliminated and its cause determined and corrected;

(2) The violator pays the city for all costs the city incurred in responding to, abating, and remediating

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the discharge or threatened discharge; and

(3) The violator pays the city for all costs the city will incur in reinstating service or access.

(f) A violator whose service or access has been suspended or disconnected may appeal such enforcement action to the city manager, in writing, within ten days of notice of the suspension in accordance with section 13.10.016 of this article.

(g) The city may obtain a lien against the property to recover its response costs pursuant to the procedure set out in section 13.10.017 of this article.

(h) The remedies provided by this section are in addition to any other remedies set out in this article. Exercise of this remedy shall not be a bar against, nor a prerequisite for, taking other action against a violator.
(Code 1996, § 13.10.014; Ordinance O-16-08 adopted 6/16/08)

Sec. 13.10.015. Non-emergency suspension of utility service and MS4 access.

(a) The city may terminate the city-provided water supply, sanitary sewer connection, or MS4 access of any person discharging to the MS4 in violation of this article, if such termination would abate or reduce the illicit discharge.

(b) The code enforcement official will notify a violator of the proposed termination of its water supply, sanitary sewer connection, or MS4 access. The violator may petition the city manager for a reconsideration and hearing pursuant to section 13.10.016 of this article.

(c) The city shall not reinstate suspended services or MS4 access to the discharger until:

(1) The violator presents proof, satisfactory to the city manager, that the noncomplying discharge has been eliminated and its cause determined and corrected; and

(2) The violator pays the city for all costs the city will incur in reinstating service or MS4 access.

(d) The remedies provided by this section are in addition to any other remedies set out in this article. Exercise of this remedy shall not be a bar against, nor a prerequisite for, taking other action against a violator.

(e) A person commits an offense if the person reinstates, causes to reinstate, permits or receives a benefit from the reconnection of the water service, sanitary sewer service, or MS4 access to premises terminated pursuant to this section, without the prior approval of the city manager.
(Code 1996, § 13.10.015; Ordinance O-16-08 adopted 6/16/08)

Sec. 13.10.016. Right to reconsideration and hearing.

(a) Any person subject to a compliance order under section 13.10.013(e), an emergency cease and desist order under section 13.10.013(f), an emergency suspension of utility service or MS4 access under section 13.10.014, or a non-emergency suspension of utility service or MS4 access under section 13.10.015 of this article may petition the city manager to reconsider the basis of his/her order or suspension within ten days of the affected person’s notice of issuance of such an order or suspension.

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(b) Failure to submit a timely written petition for reconsideration shall be deemed to be a waiver of any further right to administrative reconsideration or review of the order or suspension.

(c) In its petition, the petitioning party must indicate the provisions of the order or suspension objected to, the reasons for the objections, any facts that are contested, the evidence that supports the petitioning party's view of the facts, any alternative terms of an order that the petitioning party would accept, and whether the petitioning party requests a hearing on its petition.

(d) The effect of any compliance order under section 13.10.013(e) or non-emergency suspension of utility service or MS4 access under section 13.10.015 shall be stayed pending the city manager's reconsideration of the petition, and any hearing thereon, unless the city manager expressly makes a written determination to the contrary. The effectiveness of any emergency cease and desist order under section 13.10.013(f) or emergency suspension of utility service or MS4 access under section 13.10.014 shall not be stayed pending the city manager's reconsideration, or any hearing thereon, unless the city manager expressly and in writing stays his/her emergency order or emergency suspension of utility service or MS4 access.

(e) Within 15 days of the submittal of a petition for reconsideration, the city manager shall either:

(1) Grant the petition and withdraw or modify the order or suspension accordingly;

(2) Deny the petition, without hearing if no material issue of fact is raised; or

(3) If a hearing has been requested and a material fact has been raised, set a hearing on the petition.

(f) The city manager may also set a hearing if the city manager determines that a show cause hearing should be conducted, if grounds exist to revoke or suspend a permit issued under this article, or if grounds exist to terminate utilities on a non-emergency basis.

(g) Written notice of any hearing set by the city manager pursuant to subsection (e) or (f), above, shall be served on the petitioning party personally or by registered or certified mail (return receipt requested) at least ten days prior to the hearing. Such notice may be served on any authorized representative of the petitioning party.

(h) The notice shall specify the date, time, and place of the hearing. Notice that is mailed shall be deemed received three days after it is placed in a mail receptacle of the United States Postal Service.

(i) No decision may be rendered at a hearing by reason of the petitioning party's/alleged violator's failure to appear unless proof of actual service is shown.

(j) The city manager may himself/herself conduct the hearing and take evidence, or he/she may designate any employee of the city or any specially-designated attorney or engineer to:

(1) Issue in the name of the city notices of hearing requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing;

(2) Take evidence; and

(3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the city manager for action thereon. At any hearing held pursuant to this

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section, testimony taken is under oath and recorded. For purposes of this section, the city manager or his/her designee shall be empowered to administer oaths and to promulgate procedural rules for the conduct of the hearing. Any party is entitled to present his/her case or defense by oral or documentary evidence and to conduct such cross- examination as may be required for a full and true disclosure of the facts. A transcript will be made available to any party to the hearing upon payment of the usual charges thereof.

(k) Whenever any deadline specified in this section falls upon a Saturday, Sunday, or a city-recognized holiday, the deadline shall be the next regular city business day.

(l) The date of an order or ruling required to be made under this section shall be deemed to be the date it is signed.

(m) Decisions shall be based on a preponderance of the evidence. The city shall have the burden of proof in all hearings.

(n) After the city manager has reviewed the evidence, he/she shall either grant or deny the petition or grant the petition in part and deny it in part. The city manager shall make written findings of fact and conclusions of law and shall issue a written decision without undue delay. The city manager may modify his/her order as is appropriate based upon the evidence and arguments presented at the hearing and his/her action on the petition. Further orders and directives as are necessary and appropriate may be issued.

(o) A hearing shall exhaust all administrative remedies of the petitioning party/alleged violator. (Code 1996, § 13.10.016; Ordinance O-16-08 adopted 6/16/08)

Sec. 13.10.017. Nuisance abatement.

(a) Unless specifically stated otherwise, any nuisance as defined within this article is declared a public nuisance if it exists within the corporate limits of the city or within five thousand (5,000) feet of such limits.

(b) The code enforcement official may give notice to cease, abate, remove or otherwise remedy a nuisance immediately to:

(1) The owner of property upon which a nuisance is located or from which a nuisance originated or is emanating. If the person creating, allowing, or maintaining the nuisance is not the owner of the property, notice shall also be given to such person;

(2) Any person creating, allowing, or maintaining a nuisance;

(3) Any person with care, custody or control over the premises containing such nuisance.

(c) The notice must be given:

(1) Personally to the owner/person in writing; or

(2) By letter addressed to the owner/person at the owner's/person's post office address and sent registered or certified mail (return receipt requested). However, if personal or registered or certified mail service cannot be obtained or the owner's/person's post office address is unknown, notice may be given:

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(A) By publication in the official newspaper of the city at least twice within ten consecutive days;

(B) By posting the notice on or near the front door of each building on the property to which the nuisance relates; or

(C) By posting the notice on a placard attached to a stake driven into the ground on the property to which the nuisance relates, if the property contains no buildings.

(d) The notice may order the owner/person to undertake and implement any appropriate action:

(1) To remediate or abate any adverse effects of the nuisance upon the MS4, the surface water in the state, the waters of the United States, or any other aspect of the environment; or

(2) To restore any part of the MS4, the surface water in the state, the waters of the United States, or any other aspect of the environment that has been harmed.

(e) Such remedial, abatement, and restoration action may include, but not be limited to:

(1) Monitoring, assessment, and evaluation of the adverse effects and determination of the appropriate remedial, abatement, or restoration action;

(2) Confinement, removal, cleanup, treatment, and disposal of any discharged or released pollution or contamination;

(3) Prevention, minimization, or mitigation of any damage to the public health, welfare, or the environment that may result from the nuisance; and

(4) Restoration or replacement of city property or natural resources damaged by the nuisance.

(f) The notice may direct that the remediation, abatement, or restoration be accomplished on a specified compliance schedule or be completed within a specified period of time. An order issued under this section does not relieve the violator of liability for any violation, including any continuing violation.

(g) If the owner/person does not comply with the notice within ten days of service, the code enforcement official may enter any public or private property containing the nuisance and do any work necessary to abate the nuisance, except the demolition of buildings, unless otherwise permitted in accordance with other state law or ordinances.

(h) If the immediate abatement of the nuisance is deemed necessary by the code enforcement official to protect the environment or the public health, safety, or welfare from an imminent and substantial endangerment, the code enforcement official may, without complying with the notice provisions of this section or without waiting the ten-day period, enter the subject property and do or cause to be done any work necessary to abate the nuisance and remediate and restore the environment.

(i) The city manager shall conduct an abatement hearing, if a person required to receive notice, requests, not later than the thirtieth (30th) day after the date of the abatement, [and] the person files a written request to the city for the abatement hearing. An abatement hearing must be held not later than the twentieth (20th) day after the date of the request for a hearing is filed. The person may testify, [and] present evidence through witnesses or tangible documents relating to the city's abatement.

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(j) After abating the nuisance, the code enforcement official may inform the owner/person in a notice sent registered or certified mail (return receipt requested) that if the owner/person commits another violation of the same kind or nature that poses a danger to the environment or to the public health and safety on or before the first anniversary date of the original notice, the city may without further notice correct the violation at the owner's expense and assess the expense against the owner's property.

(k) All costs incurred by the city to abate a nuisance and remediate and restore the environment, including the cost of giving notice as required, shall be initially paid by the city and charged to the owner of the property.

(l) To obtain a lien against the property, the code enforcement official shall file a statement of expenses with the county clerk for the county in which the property is located. The lien statement shall state the name of the owner, if known, and the legal description of the property. The lien shall be security for the costs incurred and interest accruing at the rate of ten percent on the amount due from the date of payment by the city.

(m) The lien is inferior only to:

(1) Tax liens; and

(2) Liens for street improvements.

(n) A lien may not be filed against real estate protected by the homestead provisions of the Texas Constitution, except as otherwise may be permitted by applicable law.
(Code 1996, § 13.10.017; Ordinance O-16-08 adopted 6/16/08)

Sec. 13.10.018. Civil penalties.

(a) The city may enforce the provisions of this article pursuant to the applicable provisions of V.T.C.A., Local Government Code, ch. 54, which provides for the enforcement of municipal ordinances.

(b) A civil penalty in an amount not to exceed $5,000.00 per violation of this article may be imposed. Each violation of a particular section of this article shall constitute a separate offense, and each day an offense continues shall be considered a new violation for purposes of enforcing this article.
(Code 1996, § 13.10.018; Ordinance O-16-08 adopted 6/16/08)

Sec. 13.10.019. Criminal penalties.

(a) It shall be an offense and a violation of this article for any person to intentionally or knowingly violate the provisions of this article, or fail to comply with any requirement set forth herein, including but not limited to:

(1) Installing or maintaining sampling or monitoring equipment;

(2) Causing or attempting to cause or create a nuisance as defined herein.

(b) A conviction for a violation of this article shall be deemed a misdemeanor. A person convicted of a violation of this article shall be fined in an amount not to exceed $2,000.00 per violation, such offense being a violation of the health and safety ordinances of the city. Each violation of a particular section of this article shall constitute a separate offense, and each day an offense continues shall be considered a

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new violation for purposes of enforcing this article.
(Code 1996, § 13.10.019; Ordinance O-16-08 adopted 6/16/08)

Sec. 13.10.020. Injunction.

Any violation of any provision of this article that constitutes an immediate danger or threat to the health, safety, and welfare of the public may be enjoined in a suit brought by the city for such purposes.
(Code 1996, § 13.10.020; Ordinance O-16-08 adopted 6/16/08)

Sec. 13.10.021. Remedies nonexclusive.

The remedies provided for in this article are not exclusive of any other remedies that the city may have under state or federal law or other city ordinances. The city may take any, all, or any combination of these actions against a violator. The city is empowered to take more than one enforcement action against any violator. These actions may be taken concurrently.
(Code 1996, § 13.10.021; Ordinance O-16-08 adopted 6/16/08)

Sec. 13.10.022. through Sec. 13.10.040. (Reserved)

ARTICLE II. DESIGN CRITERIA

Sec. 13.10.041. Purpose.

(a) The purpose of this article is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-construction stormwater runoff and nonpoint source pollution associated with new development and redevelopment.

(b) It has been determined that development and redevelopment alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, soil erosion, stream channel erosion, nonpoint source pollution, and sediment transport and deposition, as well as reduce groundwater recharge. These changes in stormwater runoff contribute to increased quantities of waterborne pollutants and alterations in hydrology which are harmful to public health and safety as well as to the natural environment. These effects can be managed and minimized by applying proper design and well planned controls to manage stormwater runoff from development sites.

(c) It has been determined by the city that proper management of construction-related and post-construction stormwater runoff will minimize damage to public and private property and infrastructure, safeguard the public health, safety, and general welfare, and protect water and aquatic resources.

(d) This article seeks to meet its general purpose through the following specific objectives and means:

(1) Establishing decision-making processes for development that protect the integrity of watersheds and preserve the health of water resources;

(2) Minimizing changes to the predevelopment hydrologic response for new development and redevelopment in their post-construction state in accordance with the requirements of this article

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for the applicable design storm in order to reduce flooding, stream bank erosion, and nonpoint and point source pollution, as well as to maintain the integrity of stream channels, aquatic habitats and healthy stream temperatures;

(3) Establishing minimum post-construction stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;

(4) Establishing design and review criteria for the construction, function, and use of structural stormwater best management practices (BMP's) that may be used to meet the minimum post-development stormwater management standards;

(5) Encouraging the use of better management and site design practices, such as the use of vegetated conveyances for stormwater and preservation of green space, buffers and other conservation areas to the maximum extent practicable;

(6) Establishing provisions for the long-term responsibility for and maintenance of structural and nonstructural stormwater BMP's to ensure that they continue to function as designed, are maintained appropriately, and pose minimum risk to public safety; and

(7) Establishing administrative procedures for the submission, review, approval and disapproval of stormwater management plans, for the inspection of approved projects, and to assure appropriate long-term maintenance.

(Code 1996, § 13.10.041; Ordinance O-09-11 adopted 7/18/11)

Sec. 13.10.042. Definitions.[177]

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:

Best management practices (BMP's). A structural management facility used singularly or in combination for stormwater quality and quantity treatment to achieve water quality protection goals.

Buffer. A natural or vegetated area through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants.

Buffer widths. Viewed aerially, the stream buffer width is measured horizontally on a line perpendicular to the surface water, landward from the top of the bank on each side of the stream.

Built-upon area (BUA). That portion of a development project that is covered by impervious or partially impervious surface including, but not limited to, buildings; such as tennis courts. "Built-upon area" does not include wooden slatted deck or the water area of a swimming pool.

~~City manager. City of Glenn Heights city manager or the designee of the city to act as the representative in such capacity.~~

[177] **Sec. 13.10.042. Definitions.** A standardized introduction is substituted for consistency and definitions duplicative of chapter 1 are stricken as shown.

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Development. New development created by the addition of built-upon area to land void of built-upon area as of the effective date of this article.

Disturbance. Any use of the land by any person or entity which results in a change in the natural cover or topography of the land.

Drainage area. That area of land that drains to a common point on a project site.

Larger common plan of development or sale. Any contiguous area where multiple separate and distinct construction or land-disturbing activities will occur under one plan. A plan is any announcement or piece of documentation (including but not limited to public notice or hearing, drawing, permit application, zoning request, or site design) or physical demarcation (including but not limited to boundary signs, lot stakes, or surveyor markings) indicating that construction activities may occur on a specific plot.

Nonpoint source (NPS) pollution. Forms of pollution caused by sediment, nutrients, organic and toxic substances originating from land use activities and carried to lakes and streams by surface runoff.

Owner. The legal or beneficial owner of land, including but not limited to a fee owner, mortgagee or vendee in possession, receiver, executor, trustee, or long-term or commercial lessee, or any other person or entity holding proprietary rights in the property or having legal power of management and control of the property. A secured lender not in possession of the property does not constitute an owner, unless the secured lender is included within the meaning of "owner" under another description in this definition, such as management entity.

~~Persons. Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, or other legal entity.~~

Redevelopment. Rebuilding activities on land containing built-upon area as of the effective date of this article.

Stormwater management design criteria. The stormwater management design criteria (exhibit A to Ordinance O-09-11) for the city approved for use for the proper implementation of the design requirements for the city. All references herein to the stormwater management design criteria are the latest published edition or revision.

Stormwater management permit. A permit required for all development and redevelopment unless exempt pursuant to this article, which demonstrates compliance with this article.

Top of bank. The landward edge of the stream channel during high water or bank full conditions at the point where the water begins to overflow onto the floodplain.

Total suspended solids (TSS). Total suspended matter in water which includes particles collected on a filter with a pore size of 2 microns as measured by standard method 2540-D, which is commonly expressed as a concentration in terms of milligrams per liter (mg/l) or parts per million (ppm).
(Code 1996, § 13.10.042; Ordinance O-09-11 adopted 7/18/11)

Sec. 13.10.043. Requirements.

(a) Applicability and jurisdiction.

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(1) General. The requirements of this article shall apply to all developments of the city and redevelopments within the corporate limits or in the extraterritorial jurisdiction, unless one of the following exceptions applies to the development or redevelopment as of the effective date of this article:

(A) Preliminary subdivision plan application or in the case of minor subdivisions, construction plan for required improvements, submitted and accepted for review;

(B) Zoning use application submitted and accepted for review for uses that do not require a building permit;

(C) Valid building permit issued, so long as the permit remains valid, unexpired, and unrevoked; or

(D) Common law vested right established (e.g., the substantial expenditure of resources (time, labor, money) based on a good faith reliance upon having received a valid governmental approval to proceed with a project).

(2) Exemptions.

(A) Development that cumulatively disturbs less than one acre and is not part of a larger common plan of development or sale is exempt from the provisions of this article.

(B) Redevelopment or expansion that cumulatively disturbs less than one acre and is not part of a larger common plan of development or sale is exempt from the provisions of this article.

(C) Redevelopment or expansion that results in no net increase in built-upon area and provides equal or greater stormwater control that the previous development is exempt from the requirements of this article.

(D) Development and redevelopment that disturb less than one acre are not exempt if such activities are part of a larger common plan of development or sale, even though multiple, separate or distinct activities take place at different times on different schedules.

(E) Activities exempt from permit requirements of section 404 of the Federal Clean Water Act, as specified in 40 CFR 232 (primarily, ongoing farming and forestry activities).

(3) No development or redevelopment until permit is issued. No development or redevelopment shall occur except in compliance with the provisions of this article or unless exempted. No development for which a permit is required pursuant to this article shall occur except in compliance with the provisions, conditions, and limitations of the permit.

(b) Interpretation.

(1) Meaning and intent. All provision, terms, phrases, and expressions contained in this article shall be construed according to the general and specific purposes set forth in section 13.10.041, purpose. If a different or more specific meaning is given for a term defined elsewhere in this Code, the meaning and application of the term in this article shall control for purposes of application of this article.

(2) Interpretation authority. The city manager or designee has authority to interpret this article. Any person may request an interpretation by submitting a written request to the city manager or designee who

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shall respond in writing within 30 days. The city manager or designee shall keep on file a record of all written interpretations of this article.

~~(3) References to statutes, regulations and documents. Whenever reference is made to a resolution, ordinance, statute, regulation, manual, or document, it shall be construed as a reference to the most recent edition of such that has been finalized and published with the due provision for notice and comment, unless otherwise specifically stated.~~

~~(4) Computation of time. The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday or holiday observed by the city, the deadline or required date of action shall be the next day that is not a Saturday, Sunday or holiday observed by the city. References to days are calendar days unless otherwise stated.~~

(5) Delegation of authority. Any act authorized by this article to be carried out by the city manager or the designee of the city.

~~(6) Usage.~~

~~(A) Mandatory and discretionary terms. The words "shall," "must," and "will" are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words "may" and "should" are permissive in nature.~~

~~(B) Conjunctions. Unless the context clearly indicates the contrary, conjunctions shall be interpreted as follows: The word "and" indicates that all connected items, conditions, provisions or events apply. The word "or" indicates that one or more of the connected items, conditions, provisions, or events apply.~~

~~(C) Tense, plurals, and gender. Words are used in the present tense include the future tense. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender, and vice versa.~~

(7) Measurement and computation. Disturbed area refers to the amount of horizontal land area contained inside the limits of the land-disturbance. Lot area refers to the amount of horizontal land area contained inside the limits of the lot lines of a lot or site.

(c) Stormwater management design criteria.

(1) Reference to stormwater management design criteria.

(A) The city manager or designee shall use the policy, criteria, and information, including technical specifications and standards, in the stormwater management design criteria as the basis for decisions about stormwater management permit and about the design, implementations and performance of structural and nonstructural stormwater BMP's.

(B) The stormwater management design criteria includes a list of acceptable stormwater treatment practices, including the specific design criteria for each stormwater practice. Stormwater treatment practices that are designed and constructed in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards of this article and the Federal Phase II Stormwater Rules. Failure to construct stormwater treatment practices in accordance with these criteria

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may subject the violator to a civil penalty as described in section 13.10.047, violations and enforcement of this article.

(2) Relationship of stormwater management design criteria to other law and regulations. If the specifications or guidelines of the stormwater management design criteria are more restrictive or apply a higher standard than other laws or regulations, that fact shall not prevent application of the specifications or guidelines in the stormwater management design criteria.

(3) Changes to standards and specifications. Standards, specifications, guidelines, policies, criteria, or other information in the stormwater management design criteria in affect at the time of acceptance of a complete application shall control and shall be utilized in reviewing the application and in implementing this article with regard to the application.

(4) Amendments to stormwater management design criteria. The stormwater management design criteria may be updated and expanded from time to time, based on advancements in technology and engineering, improved knowledge of local conditions, or local monitoring or maintenance experience.

(d) Relationship to other laws, regulations and private agreements.

(1) Conflict of laws. This article is not intended to modify or repeal any other article, rule, regulation or other provision of law. The requirements of this article are in addition to the requirements of any other ordinance, rule, regulation or other provision of law, and have when this article imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human or environmental health, safety, and welfare, shall control.

(2) Private agreements. This article is not intended to revoke or repeal any easement, covenant, or other private agreement. However, where the regulations of this article are more restrictive or impose higher standards or requirements than such easement, covenant, or other private agreement, then the requirements of this article shall govern. Nothing in this article shall modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not legitimize any failure to comply with this article. In no case shall the city be obligated to enforce the provisions of any easements, covenants, or agreements between private parties.

~~(e) Severability. If the provisions of any section, subsection, paragraph, subdivision or clause of this article shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this article.~~

(f) Effective date and transitional provisions.

(1) Effective date. This article shall take effect upon adoption.

(2) Final approvals, complete applications. All development and redevelopment projects for which complete and full applications were submitted to the city prior to the effective date of this article shall be exempt from complying with the provisions of this article.

(3) Violations continue. Any violation of the provisions of this article existing as of the effective date of this article shall continue to be a violation under this article and be subject to penalties and enforcement unless the use, development, construction, or other activity complies with the provisions of this article. (Code 1996, § 13.10.043; Ordinance O-09-11 adopted 7/18/11)

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Sec. 13.10.044. Administration procedure.

(a) Review and decision making entities.

(1) Designation. A city manager or designee shall be designated by the city for the purpose of administering and enforcing this article.

(2) Powers and duties. In addition to the powers and duties that may be conferred by other provisions of the city's zoning ordinance and other laws, the city manager or designee shall have the following powers and duties under this article:

(A) To review and approve or disapprove applications submitted pursuant to this article.

(B) To make determinations and render interpretations of this article.

(C) To establish application requirements and schedules for submittal and review of applications and appeals.

(D) To enforce this article in accordance with its enforcement provisions.

(E) To maintain records, maps, and official materials as relate to the adoption, amendment, enforcement, or administration of this article.

(F) To provide expertise and technical assistance upon request to the city and its board of adjustment.

(G) To designate appropriate other persons who shall carry out the powers and duties of the city manager.

(H) To provide information and recommendations relative to variances and information as requested by the board of adjustment in response to appeals.

(I) To take any other action necessary to administer the provisions of this article.

(b) Review procedures.

(1) Permit required - must apply for permit. A stormwater management permit is required for all development and redevelopment unless exempt pursuant to this article. A permit may only be issued subsequent to a properly submitted, reviewed and approved permit application, pursuant to this section.

(2) Effect of permit.

(A) A stormwater management permit shall govern the design, installation and construction of stormwater management and control practices on the site, including structural BMP's and elements of site design for stormwater management other than structural BMP's.

(B) The permit is intended to provide a mechanism for the review, approval and inspection of the approach to be used for the management and control of stormwater for the development or redevelopment site consistent with the requirements of this article, whether the approach consists of structural BMP's or other techniques such as low- impact or low-density design. Compliance after project construction is

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assured by the maintenance provision of this article.

(3) Authority to file applications. All applications required pursuant to this article shall be submitted to the city manager or designee by the landowner or the landowner's duly authorized agent or anyone having interest in the property by reason of a written contract with the owner.

(4) Establishment of application requirements, schedule and fees.

(A) Application contents and form. The city manager or designee shall establish requirements for the content and form of all applications and shall amend and update those requirements from time to time. At a minimum, the stormwater management permit application shall describe in detail how post-construction stormwater runoff will be controlled and managed, the design of all stormwater facilities and practices, and how the proposed project will meet the requirements of this article.

(B) Submission schedule. The city manager or designee shall establish a submission schedule for applications. The schedule shall establish deadlines by which complete applications must be submitted for the purpose of ensuring that there is adequate time to review applications, and that the various stages in the review process are accommodated.

(C) Permit review fees. The city establishes a permit fee in the amount of $250.00 plus all actual costs associated with the professional review of the plans. If an application is withdrawn prior to review and inspection the city may refund this fee minus reasonable administrative costs. This fee may be amended and updated as deemed necessary from time to time.

(5) Submittal of complete application. Applications shall be submitted to the city manager or designee pursuant to the application submittal schedule in the form established by the city manager or designee, along with the appropriate fee established pursuant to this section. An application shall be considered as timely submitted only when it contains all elements of a complete application pursuant to this article, along with the appropriate fee. If the city manager finds that an application is incomplete, the applicant shall be notified of the deficient elements and shall be provided with an opportunity to submit a complete application. However, the submittal of an incomplete application shall not suffice to a deadline contained in the submission schedule established above.

(6) Review. Within three weeks after a complete application is submitted, the city manager or designee shall review the application and determine whether the application complies with the standards of this article. On projects which will require a floodplain development permit, the review time will be extended to four weeks. The following guidelines will be considered:

(A) Approval. If the city manager or designee finds that the application complies with the standards of this article, the city manager shall approve the application and issue a stormwater management permit to the applicant. The city manager may impose conditions of approval as needed to ensure compliance with this article. The conditions shall be included in the permit as part of the approval.

(B) Failure to comply. If the city manager or designee finds that the application fails to comply with the standards of this article, the city manager shall notify the applicant and shall indicate how the application fails to comply. The applicant shall have an opportunity to submit a revised application.

(C) Revision and subsequent review. A complete revised application shall be reviewed by the city manager or designee within 15 working days after its resubmittal and shall be approved, approved with conditions or disapproved. If a revised application is not resubmitted within 60 calendar days from the

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date the applicant was notified, the application shall be considered withdrawn, and a new submittal for the same or substantially the same project shall be required along with the appropriate fee.

(c) Applications for approval.

(1) Concept plan and consultation meeting. Before a stormwater management permit application is submitted, the city manager or landowner or the landowner's duly authorized agent or anyone having interest in the property by reason of a written contract with the owner may request consultations on a concept plan for the post-construction stormwater management system to be utilized in the proposed development project. This consultation meetings should take place at the time of the preliminary plan of the subdivision or other early step in the development process. The purpose of this meetings is to discuss the post-construction stormwater management measures necessary for the proposed project, as well as to discuss and assess constraints, opportunities and potential approaches to stormwater management designs before formal site design engineering is commenced. Local watershed plans and other relevant resource protection plans may be consulted in the discussion of the concept plan. At the time of concept plan submittal, the following information should be included in the concept plan:

(A) Existing condition/proposed site plans. Existing conditions and proposed site layout sketch plans, which illustrate at a minimum: existing and proposed topography; perennial and intermittent streams; mapping of predominant soils from soil surveys; boundaries of existing predominant vegetation and proposed limits of clearing and grading; and location of existing and proposed roads, buildings, parking areas and other impervious surfaces.

(B) Natural resource inventory. A written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project. This description should include a discussion of soil conditions, forest cover, geologic features, topography, wetlands, and native vegetative areas on the site, as well as the location and boundaries of other natural feature protection and conservation areas such as lakes, ponds, floodplains, stream buffers and other setbacks (e.g., drinking water well setbacks, septic systems setbacks, etc.). Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development.

(C) Stormwater management system concept plan. A written or graphic concept plan of the proposed post-construction stormwater management system including: preliminary selection and location of proposed structural stormwater controls; low impact design elements; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of all floodplain/ floodway limits; relationship of site to upstream and downstream properties and drainages; and preliminary location of proposed stream channel modifications, such as bridge or culvert crossings.

(2) Stormwater management permit application.

(A) The stormwater management permit application shall detail how post-construction stormwater runoff will be controlled and managed and how the proposed project will meet the requirements of this article, including section 13.10.045, standards. All such plans submitted with the application shall be prepared by a registered state professional engineer or landscape architect.

(B) The engineer or landscape architect shall perform services only in their area of competence, and shall verify that the design of all stormwater management facilities and practices meets the submittal requirements for complete applications, that the designs and plans are sufficient to comply with applicable standards and policies found in the stormwater management design criteria, and that the designs and plans ensure compliance with this article. The submittal shall include all of the information

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required in the submittal checklist established by the city manager or designee. Incomplete submittals shall be treated pursuant to subsection (b)(5) of this section.

(3) As-built plans and final approval. The applicant shall certify that the completed project is in accordance with the approved stormwater management plans and designs, and shall submit actual "as-built" plans for all stormwater management facilities or practices after final construction is completed. Failure to provide approved as-built plans within the frame specified by the city manager may result in assessment of penalties as specified in section 13.10.047, violations and enforcement. At the discretion of the city manager, performance securities or bonds may be required for stormwater management facilities or practices until as-built plans are approved. As-built plans shall show the final design specifications for all stormwater management facilities and practices and the filed location, size, depth, and planted vegetation of measures, controls and devices, as installed. The designer of the management measures and plans shall certify, under seal, that the as-built stormwater management plans and designs and [comply] with the requirements of this article. Final as- built plans and a final inspection and approval by the city manager are required before a project is determined to be in compliance with this article. At the discretion of the city manager, certificates of occupancy may be withheld pending receipt of as-built plans and the completion of a final inspection and approval of a project.

(d) Approvals.

(1) Effect of approval. Approval authorizes the applicant to go forward with only the specific plans and activity authorized in the permit. The approval shall not be construed to exempt the applicant from obtaining other applicable approvals from local, state, and federal authorities.

(2) Time limit/expiration. A stormwater management permit and accompanying plan approved under the provisions of this article shall remain valid for a period of three years from the date of approval. If no work on the site in furtherance of the plan has commenced within the three-year period, the permit and plan approval will become null and void and a new application will be required to develop the site. If work on the site in furtherance of the plan has commenced that involves any utility installations or street improvements except grading, the permit and plan shall remain valid and in force and the project may be completed in accordance with the approved plan. Any permit granted under this subsection shall expire and be subject to renewal requirements 12 months from the date of issuance. A thirty-day (30) grace period shall be granted after permit expiration before the permittee is considered in violation of this article.

(e) Appeals.

(1) Right of appeal. Any aggrieved person affected by any decision, order, requirement, or determination relating to the interpretation or application of this article may file an appeal to the city manager first. The city manager will have two weeks to review and render a decision. If the aggrieved person is not satisfied with the city manager's decision, order, requirement, or determination, they may file an appeal to the board of adjustment for the city within 30 days.

(2) Filing of appeal and procedures. Appeals shall be taken within the specified time period by filing a notice of appeal and specifying the grounds for appeal on forms provided by the city. The city manager shall forthwith transmit to the board of adjustment all documents constituting the record on which the decision appealed was taken. The hearing conducted by the board of adjustment shall be conducted in the nature of a quasi-judicial proceeding in accordance with the city's zoning ordinance.

(3) Statutory exceptions.

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(A) The city manager ~~engineering~~ may grant exceptions from the buffer requirements of this article as well as the deed restrictions and protective covenant requirements as follows:

(i) Unnecessary hardships would result from strict application of this article.

(ii) The hardships result from conditions that are peculiar to the property, such as location, size, or topography of the property.

(iii) The hardships did not result from action taken by the petitioner.

(iv) The requested exception is consistent with the spirit, purpose, and intent of the act; will protect water quality; will secure public safety and welfare; and will preserve substantial justice. Merely proving that the exception would permit a greater profit from the property shall not be considered adequate justification for the exception.

(B) Notwithstanding subsection (A) above of this section, exceptions shall be granted in any of the following instances:

(i) When there is a lack of practical alternatives for a road crossing, railroad crossing, bridge, airport facility, or utility crossing as long as it is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of BMP's.

(ii) When there is a lack of practical alternatives for a stormwater management facility; a stormwater management pond; or a utility, including, but not limited to, water, sewer, or gas construction and maintenance corridor, as long as it is located 15 feet landward of all perennial and intermittent surface waters and as long as it is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of BMP's.

(iii) A lack of practical alternatives may be shown by demonstrating that, considering the potential for a reduction in size, configuration, or density of the proposed activity and all alternative designs, the basic project purpose cannot be practically accomplished in a manner which would avoid or result in less adverse impact to surface waters.
(Code 1996, § 13.10.044; Ordinance O-09-11 adopted 7/18/11)

Sec. 13.10.045. Standards.

(a) General standards. All development and redevelopment to which this article applies shall comply with the standards of this section.

(b) Development standards.

(1) Development standards for low density projects. Any drainage area within a project is considered low-density when said drainage area has less than twenty-four percent (24%) built-upon area. Such low-density projects shall comply with each of the following standards:

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(A) Vegetated conveyances. Stormwater runoff from the development shall be transported from the development by vegetated conveyances to the maximum extent practicable.

(B) Stream buffers. All built-upon area shall be at a minimum of 30 feet landward of all perennial and intermittent streams. Perennial streams shall have a two hundred foot (200) undisturbed buffer and intermittent streams shall have a one hundred foot (100) undisturbed buffer. Buffer widths shall be measured horizontally on a line perpendicular to the surface water, landward from the top of the bank on each side of the stream. Allowable stream buffer uses include the following: road crossings, driveway crossings, greenway/hiking trails, bike trails, fences, utility line crossings, parallel or near parallel utility lines, flood control structures, stream and bank stabilization/restoration projects, grading and revegetation, stormwater best management practices, temporary sediment and erosion control devices, animal trails and activities permitted under section 404 of the Clean Water Act.

(2) Development standards for high-density projects. Any drainage area within a project is considered high-density when said drainage area has greater than or equal to twenty-four percent (24%) built-upon area. Such high-density projects shall implement stormwater treatment systems that comply with each of the following standards:

(A) Stormwater quality treatment volume. Stormwater quality treatment systems shall treat the difference in the stormwater runoff from the predevelopment and post- development conditions for the one year, twenty-four-hour storm.

(B) Stormwater quality treatment. All structural stormwater treatment systems used to meet these requirements shall be designed to have a minimum of eighty-five percent (85%) average annual removal for total suspended solids.

(C) Stormwater management design. General engineering design criteria for all projects shall be in accordance with the city's stormwater management design criteria and shall also consider North Central Texas Council of Governments Integrated Stormwater Management Design Standards.

(D) Stream buffers. Perennial streams shall have a two hundred foot (200) undisturbed buffer and intermittent streams shall have a one hundred foot (100) undisturbed buffer. Buffer widths shall be measured horizontally on a line perpendicular to the surface water, landward from the top of the bank on each side of the stream. Allowable stream buffer uses include the following: road crossings, driveway crossings, greenway/hiking trails, bike trails, fences, utility line crossings, parallel or near parallel utility lines, flood control structures, stream and bank stabilization/ restoration projects, grading and revegetation, stormwater best management practices, temporary sediment and erosion control devices, animal trails, and activities permitted under section 404 of the Clean Water Act.

(E) Stormwater volume control. Stormwater treatment systems shall be installed to control the difference in the stormwater runoff from the predevelopment and post- development conditions for the one-year, twenty-four-hour storm. Runoff volume drawdown time shall be a minimum of twenty-four-hours, but not more than 120 hours.

(F) Stormwater peak control. For developments greater than or equal to twenty-four percent (24%) built-upon area, peak control shall be installed for the ten-year and twenty-five-year, six hour storms. Controlling the one year, 24-hour volume achieves peak control for the two year, six hour storm. The emergency overflow and outlet works for any pond or wetland constructed as stormwater BMP shall be capable of safely passing a discharge with a minimum recurrence frequency as specified in the stormwater management design criteria. For detention basins, the temporary storage capacity shall be

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restored within 72 hours. The requirements of V.T.C.A., Water Code, § 12.052 ~~the Dam Safety Act~~ shall be met when applicable.

(c) Stream buffer delineation.

(1) Determination of streams to be buffered. The stream buffer requirements of this article shall apply if a stream is shown on either the most recent version of the soil survey map prepared by the natural resources conservation service of the United States Department of Agriculture (USDA) or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geological Survey (USGS). Streams that do not appear on either of the aforementioned maps shall not be subject to the aforementioned buffer requirements of this article. Streams that appear on either of the aforementioned maps shall be subject to this article unless one of the following applies:

(A) Exemption when an on-site determination shows that streams are not present. When a landowner or other affected party believes that the USDA or USGS stream buffer delineation maps described in this section inaccurately depict streams, he or she shall consult with the city manager. Upon request, the city manager shall make on-site determinations. Such determinations can also be made at the discretion of the city manager in the absence of a request from a landowner or other concerned party. The buffer requirements of this article shall apply based on these determinations. Surface waters that appear on the maps shall not be subject to this article if an on-site determination by the city manager shows that they fall into one of the following categories:

(i) Ditches and manmade conveyances other than modified natural streams.

(ii) Manmade ponds and lakes that are not intersected by a buffered stream segment and that are located outside natural drainage ways.

(B) Exemption when existing uses are present and ongoing. This article shall not apply to portions of buffers where a use is existing and ongoing according to the following:

(i) A use shall be considered existing if it was present within the buffer as of the effective date of this article. Existing uses shall include, but not be limited to, agriculture, buildings, industrial facilities, commercial areas, transportation facilities, maintained lawns, utility lines, and on-site sanitary sewage systems. Only the portion of the buffer that contains the footprint of the existing use is exempt from this article. Activities necessary to maintain uses are allowed provided that no additional vegetation except that grazed or trampled by livestock and existing diffuse flow is maintained.

(ii) At the time the existing use is proposed to be converted to another use, this article shall apply. An existing use shall be considered converted to another use if any of the following applies:

a. Impervious surface is added to the buffer in locations where it did not exist previously.

b. An agricultural operation within the buffer is converted to a nonagricultural use.

c. A lawn within the buffer ceases to be maintained.

(2) Stream buffer identification. The following buffer identifications are required:

(A) Streams and buffer boundaries must be clearly identified on all construction plans, including grading and clearing plans, erosion, drainage and sediment control plans and site plans.

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(B) Outside buffer boundaries must be clearly marked on site prior to any land-disturbing activities.

(C) The outside boundary of the buffer must be permanently marked at highway stream crossings.

(D) Streams and buffer boundaries must be specified on all surveys and record plats.

(E) Buffer boundaries as well as all buffer requirements must be specified on all surveys and record plats, on individual deeds and in property association documents for lands held in common.

(d) Ponds. Ponds which intersect the stream channel shall have the same buffers as the original stream measured from the top of the bank of the pond.

(e) Standards for stormwater control measures.

(1) Evaluation according to contents of stormwater management design criteria. All stormwater control measures and stormwater treatment practices (also referred to as best management practices, or BMP's) required under this article shall be evaluated by the city manager according to the policies, criteria, and information, including technical specifications, standards and the specific design criteria for each stormwater best management practice contained in the city's stormwater management design criteria and should also consider North Central Texas Council of Governments Integrated Stormwater Management Design Standards. The city manager shall determine whether these measures will be adequate to meet the requirements of this article.

(2) Determination of adequacy; presumptions and alternatives. Stormwater treatment practices that are designed, constructed, and maintained in accordance with the criteria and specifications in the stormwater management design criteria will be presumed to meet the minimum water quality and quantity performance standards of this article. Whenever an applicant proposes to utilize a practice or practices not designed and constructed in accordance with the criteria and specifications in the stormwater management design criteria, the applicant shall have the burden of demonstrating that the practices will satisfy the minimum water quality and quantity performance standards of this article before it can be approved for use. The city manager may require the applicant to provide such documentation, calculations, and examples as necessary for the city manager to determine whether such an affirmative showing is made.

(f) Deed recordation and indications on plat. The approval of the stormwater management permit shall require an enforceable restriction on property usage that runs with the land, such as plat, recorded deed restrictions or protective covenants, to ensure that future development and redevelopment maintains the site consistent with the approved project plans. Streams and buffers boundaries must be specified on all surveys and record plats. The applicable operations and maintenance agreement with the Dallas or Ellis County Register of Deeds Office so as to appear in the chain of title of all subsequent purchasers under generally accepted searching principles. A copy of the recorded maintenance agreement shall be provided to the city manager within 14 days following receipt of the recorded document. A maintenance easement shall be recorded for every structural BMP to allow sufficient access for adequate maintenance. The specific recordation and deed restriction requirements as well as notes to be displayed on final plats and deeds shall be contained in the city record file at city hall.
(Code 1996, § 13.10.045; Ordinance O-09-11 adopted 7/18/11)

Sec. 13.10.046. Maintenance.

(a) General standards for maintenance.

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(1) Function of BMP's as intended. The owner of a structural BMP installed pursuant to this article shall maintain and operate the BMP so as to preserve and continue its function in controlling stormwater quality and quantity at the degree or amount of function for which the structural BMP was designed.

(2) Single-family residential BMP's accepted for maintenance. The city may, upon specific official city council action, accept maintenance responsibility of structural BMP's that are installed pursuant to this article following a warranty period of two years from the date of as-built certification described in section 13.10.044(c)(3), provided by the BMP:

(A) Only serves a single-family detached residential development or townhomes all of which have public street frontage;

(B) Is satisfactorily maintained during the two year warranty period by the owners or designee;

(C) Meets all the requirements of this article and the stormwater management design criteria; and

(D) Includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection, maintenance, repair or reconstruction. The city manager must receive an application for transfer of maintenance responsibilities for the structural BMP along with the stormwater management permit application.

(3) Annual maintenance inspection and report.

(A) The person responsible for maintenance of any BMP installed pursuant to this article above shall submit to the city manager an inspection report from a qualified registered state professional engineer or landscape architect performing services only in their area of competence. The inspection report shall contain all of the following;

(i) The name of address of the landowner;

(ii) The recorded book and page number of the lot of each structural BMP;

(iii) A statement that an inspection was made of all structural BMP's;

(iv) The date the inspection was made;

(v) A statement that all inspected structural BMP's are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this article; and

(vi) The original signature and seal of the engineer, surveyor, or landscape architect.

(B) All inspection reports shall be on forms supplied by the city manager that are contained in the city record file at city hall. An original inspection report shall be provided to the city manager beginning one year from the date of as-built certification and each year thereafter on or before the anniversary date of the as-built certification.

(b) Operation and maintenance agreement.

(1) General. At the time that as-built plans are provided to the city manager as described in section

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13.10.044(c)(3) and prior to final approval of a project for compliance with this article, but in all cases prior to placing the BMP's in service, the applicant or owner of the site must execute an operation and maintenance agreement that shall be binding on all current and subsequent owners of the site, portions of the site, and lots or parcels served by the structural BMP. Failure to execute an operation and maintenance agreement within the time frame specified is a violation of this article ~~in section 13.10.047, violations and enforcement~~. Until the transference of all property, sites, or lots served by the structural BMP, the original owner or applicant shall have primary responsibility for carrying out the provisions of the maintenance agreement.

(#) At the discretion of the city engineer, certificates of occupancy may be withheld pending receipt of an operation and maintenance agreement.

(#) The operation and maintenance agreement shall require the owner or owners to maintain, repair and, if necessary, reconstruct the structural BMP, and shall state the terms, conditions, and schedule of maintenance for the structural BMP. In addition, it shall grant to the city a right of entry in the event that the city manager has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the structural BMP; however, in no case shall the right of entry, of itself, confer an obligation on the city to assume responsibility for the structural BMP. Standard operation and maintenance agreements for BMP's shall be developed by the city manager.

(#) The operation and maintenance agreement must be approved by the city manager prior to plan approval, and it shall be referenced on the final plat and shall be recorded by the applicant or owner with the Dallas County registrar of deeds upon final plat approval as described in section 13.10.045(f). A copy of the recorded maintenance agreement shall be given to the city manager within 14 days following its recordation.

(2) Special requirement for homeowners' and other associations. For all structural BMP's required pursuant to this article and that are to be or are owned and maintained by a homeowners' association, property owners' association, or similar entity, the required operation and maintenance agreement shall include all such maintenance provisions and responsible parties.

(c) Inspection program.

(1) Inspections and inspection programs by the city may be conducted or established on any reasonable basis, including but not limited to routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges; surface water, groundwater; and material or water in BMP's; and evaluating the condition of BMP's.

(2) If the owner or occupant of any property refuses to permit such inspection, the city manager shall proceed to obtain an administrative search warrant. No person shall obstruct, hamper or interfere with the city manager while carrying out his or her official duties.

(d) Performance security for installation and maintenance. The city may require the submittal of a performance security or bond with surety, cash escrow, letter of credit or other acceptable legal arrangement prior to issuance of a permit.

(e) Records of installation and maintenance activities. The owner of each structural BMP shall keep records of inspections, maintenance, and repairs for at least five years from the date of creation of the

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record and shall submit the same upon reasonable request to the city manager.

(f) Nuisance. The owner of each BMP, whether structural or nonstructural, shall maintain it so as not to create a nuisance condition.

(g) Maintenance easement. Every structural BMP installed pursuant to this article shall be made accessible for adequate inspection, maintenance, reconstruction and repair by a maintenance easement. The easement shall be recorded as described in section 13.10.045(f) and its terms shall specify who may make use of the easement and for what purposes.

(h) Renewals. Permit renewal requirements, and conditions of renewal are as follows:

(1) The post-construction stormwater permit shall be renewed biannually and certified by a professional engineer.

(2) The owner/developer shall submit a post-construction stormwater permit renewal packet within 30 days of expiration of the permit. The renewal packet shall include:

(A) A completed renewal form;

(B) A completed certificate of proper operation; and

(C) An as-built certification by a professional engineer.

(3) The city shall conduct, at its discretion, an inspection of the structural stormwater quality control prior to approval of the renewal request. Inspection results shall be used as part of the evaluation process for the renewal request.

(i) Exemptions. Any new development or redevelopment project that has or will have permit coverage under the state pollutant discharge elimination system industrial stormwater permit issued by the Texas Commission on Environmental Quality (TCEQ). In lieu of the post- construction stormwater permit, the owner/developer/operator shall submit an industrial activity certification (to be provided by the city manager) and any one of the following:

(1) A copy of the application for an individual permit from the TCEQ or the U.S. Environmental Protection Agency (EPA) for stormwater discharges associated with industrial activity at the facility.

(2) A copy of the permit issued by the TCEQ or EPA for stormwater associated industrial activity at the facility.

(3) A statement of commitment to file an application for an individual permit from the TCEQ for stormwater discharges associated with industrial activity at the facility.

(4) A statement of commitment to file an NOI for coverage under a general permit for stormwater discharges associated with industrial activity issued by the TCEQ.
(Code 1996, § 13.10.046; Ordinance O-09-11 adopted 7/18/11)

Sec. 13.10.047. Violations and enforcement.

(a) General.

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(1) Authority to enforce. The provisions of this article shall be enforced by the city manager, his or her designee or any authorized agent of the city. Whenever this section refers to the city manager, it includes his or her designee as well as any authorized agent of the city.

(2) Violation unlawful. Any failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by this article, or the terms or conditions of any permit or other development or redevelopment approval or authorization granted pursuant to this article, is unlawful and shall constitute a violation of this article.

(3) Each day a separate offense. Each day that a violation continues shall constitute a separate and distinct violation or offense.

(4) Responsible persons/entities. Any person who erects, constructs, reconstructs, alters (whether actively or passively), or fails to erect, construct, reconstruct, alter, repair or maintain any structure, BMP, practice, or condition is violation of this article, as well as any person who participates in, assists, directs, creates, causes, or maintains a condition that results in or constitutes a violation of this article, or fails to take appropriate action, so that a violation of this article results or persists; or any other person, who has control over, or responsibility for, the use or development of the property on which the violation occurs shall be subject to the remedies, penalties, or enforcement actions in accordance with this section. For the purposes of this article, responsible persons shall include but not be limited to:

(A) Person maintaining condition resulting in or constituting violation. Any person who participates in, assists, directs, creates, causes, or maintains a condition that constitutes a violation of this article, or fails to take appropriate action, so that a violation of this article results or persists.

(B) Responsibility for land or use of land. The owner of the land on which the violation occurs, any tenant or occupant of the property, any person who is responsible for stormwater controls or practices pursuant to a private agreement or public document, or any person, who has control over, or responsibility for, the use, development or redevelopment of the property.

(b) Inspections and investigations.

(1) Authority to inspect. The city manager shall have the authority, upon presentation of proper credentials, to enter and inspect any land, building, structure, or premises to ensure compliance with this article, or rules or orders adopted or issued pursuant to this article, and to determine whether the activity is being conducted in accordance with this article and the approved stormwater management plan, stormwater management design criteria and whether the measures required in the plan are effective. No person shall willfully resist, delay, or obstruct the city manager while the city manager is inspecting or attempting to inspect an activity under this article.

(2) Notice of violation and order to correct. When the city manager finds that any building, structure, or land is in violation of this article, the city manager shall notify in writing the responsible person/entity. The notification shall indicate the nature of the violation, contain the address or other description of the site upon which the violation occurred or is occurring, or the necessary action to abate the violation, and give a deadline for correcting the violation. The notice shall, if required, specify a date by which the responsible person/ entity must comply with this article, and advise that the responsible person/entity is subject to remedies or penalties or that failure to correct the violation within the time specified will subject the responsible person/entity to remedies or penalties as described in subsection (c) of this section. In determining the measures required and the time for achieving compliance, the city manager shall take

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into consideration the technology and quantity of work required, and shall set reasonable and attainable time limits. The city manager may deliver the notice of violation and correction order personally, by certified mail or registered mail, return receipt requested, or by any means authorized for the service of documents. If a violation is not corrected within a reasonable period of time, as provided in the notification, the city manager may take appropriate action, as provided in subsection (c) below, remedies and penalties, to correct and abate the violation and to ensure compliance with this article.

(3) Extension of time. A responsible person/entity who receives a notice of violation and correction order, or the owner of the land on which the violation occurs, may submit to the city manager a written request for an extension of time for correction of the violation. On determining that the request included enough information to show that the violation cannot be corrected within the specified time limit for reasons beyond the control of the responsible person/entity requesting the extension, the city manager may extend the time limit as is reasonably necessary to allow timely correction of the violation, up to, but not exceeding 60 days. The city manager may grant thirty-day extensions in addition to the foregoing extension if the violation cannot be corrected within the permitted time due to circumstances beyond the control of the responsible person/entity violating this article. The city manager may grant an extension only by written notice of extension. The notice of extension shall state the date prior to which correction must be made, after which the violator will be subject to the penalties described in the notice of violation and correction order.

(4) Penalties assessed concurrent with notice of violation. Penalties may be assessed concurrently with a notice of violation for any of the following in which case the notice of violation shall also contain a statement of the civil penalties to be assessed, the time of their accrual, and the time within which they must be paid or be subject to collection as debt:

(A) Failure to submit a stormwater management plan.

(B) Performing activities without an approved stormwater management plan.

(C) Obstructing, hampering or interfering with an authorized representative who is in the process of carrying out official duties.

(D) A repeated violation for which a notice was previously given on the same project and to the same responsible person/entity responsible for the violation.

(E) Willful violation of this article.

(F) Failure to install or maintain best management practices per the approved plan.

(5) Authority to investigate. The city manager shall have the authority to conduct such investigations as it may reasonably deem necessary to carry out its duties as prescribed in this article, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting. No person shall refuse entry or access to the city manager who requests entry for purpose of inspection or investigation, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with the city manager while in the process of carrying out official duties. The city manager shall also have the power to require written statements, or the filing of reports under oath as part of an investigation.

(6) Enforcement after time to correct. After the time has expired to correct a violation, including any extensions if authorized by the city manager, the city manager shall determine if the violation is corrected.

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If the violation is not corrected, the city manager may act to impose one or more of the remedies and penalties authorized by subsection (c) below.

(7) Emergency enforcement. If delay in correcting a violation would seriously threaten the effective enforcement of this article or pose an immediate danger to the public health, safety, or welfare, then the city manager may order the immediate cessation of a violation. Any person so ordered shall cease any violation immediately. The city manager may seek immediate enforcement, without prior written notice, through any remedy or penalty specified in subsection (c) below.

(c) Remedies and penalties. The remedies and penalties provided for violations of this article, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

(1) Remedies.

(A) Withholding of certificate of occupancy. The city manager or other authorized agent may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site and served by the stormwater practices in question until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

(B) Disapproval of subsequent permits and development approvals. As long as a violation of this article continues and remains uncorrected, the city manager or other authorized agent may withhold, and the city my disapprove, any request for permit or development approval or authorization provided for by this article or the zoning, subdivision, or building regulations, as appropriate for the land on which the violation occurs.

(C) Injunction, abatements, etc. The city manager, with the written authorization of the city manager may institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement to correct a violation of this article. Any person violating this article shall be subject to the full range of equitable remedies provided in the general statutes or at common law.

(D) Correction as public health nuisance, costs as lien, etc. If the violation is deemed dangerous or prejudicial to the public health or public safety, the city manager, with the written authorization of the city manager, may cause the violation to be corrected and the costs to be assessed as a lien against the property.

(E) Stop-work order. The city manager may issue a stop-work order to the persons violating this article. The stop-work order shall remain in effect until the person has taken the remedial measures set forth in the notice of violation or has otherwise corrected the violation or violations described therein. The stop-work order may be withdrawn or modified to enable the person to take the necessary remedial measures to correct such violation or violations.

(F) Restoration of areas affected by failure to comply. By issuance of an order of restoration, the city manager may require a persons who engaged in a land development activity and failed to comply with this article to restore the waters and land affected by such failure so as to minimize the detrimental effects of the resulting pollution. This authority is in addition to any other civil penalty or injunctive relief authorized under this article.

(2) Civil penalties.

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(A) Violation of article. A violation of any of the provisions of this article or rules or other orders adopted or issued pursuant to this article may subject the violator to a civil penalty. A civil penalty may be assessed from the date the violation occurs. No penalty shall be assessed until the person alleged to be in violation has been notified of the violation except as provided in subsection (b)(4) of this section in which case the penalty is assessed concurrently with a notice of violation. Refusal to accept the notice or failure to notify the city manager of a change of address shall not relieve the violator's obligation to comply with this article or to pay such a penalty.

(B) Amount of penalty. The maximum civil penalty for each violation of this article is $2,000.00. Each day of continuing violation shall constitute a separate violation. In determining the amount of the civil penalty, the city manager shall consider any relevant mitigating and aggravating factors including, but not limited to, the effect, if any, of the violation; the degree and extent of harm caused by the violation; the cost of rectifying the damage; whether the violator saved money through noncompliance; whether the violator took reasonable measures to comply with this article; whether the violation was committed willfully; whether the violator reported the violation to the city manager; and the prior record of the violator in complying or failing to comply with this article or any other post-construction ordinance or law. The city manager is authorized to vary the amount of the per diem penalty based on relevant mitigating factors. Civil penalties collected pursuant to this article shall be credited to the city's general fund as nontax revenue.

(C) Notice of assessment of civil penalty. The city manager shall determine the amount of the civil penalty and shall notify the violator of the amount of the penalty and the reason for assessing the penalty. This notice of assessment of civil penalty shall be served to violator and shall direct the violator to either pay the assessment or file an appeal within 30 days of receipt of the notice as specified in subsection (E) below.

(D) Failure to pay civil penalty assessment. If a violator does not pay a civil penalty assessed by the city manager within 30 days after it is due, or does not request a hearing as provided in subsection (E) below, the city manager shall request initiation of a civil action to recover the amount of the assessment. The civil action shall be brought in Dallas or Ellis County superior court or in any other court of competent jurisdiction. A civil action must be filed within three years of the date the assessment was due. An assessment that is appealed is due at the conclusion of the administrative and judicial review of the assessment.

(E) Appeal and remedy or penalty. The issuance of an order of restoration or notice of assessment of a civil penalty by the city manager shall entitle the responsible party or entity to an appeal before the board of adjustment for the city if such person submits written demand for an appeal hearing within 30 days of the receipt of an order of restoration or notice of assessment of a civil penalty. The appeal of an order of restoration or notice of assessment of a civil penalty shall be conducted as described in section 13.10.044(e) of this article.

(3) Criminal penalties. Violation of this article may be enforced as a misdemeanor subject to the maximum fine permissible under state law.

(Code 1996, § 13.10.047; Ordinance O-09-11 adopted 7/18/11)

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Chapter 72

SUBDIVISIONS

ARTICLE I. IN GENERAL

Sec. 10.01.001. Purpose, authority, and jurisdiction.

(a) Purpose. The subdivision regulations as herein established for the subdivision and development of land, have been made to: guide future growth and development in accordance with a comprehensive plan; to guide public and private policy and action in providing adequate and efficient transportation, water, sewerage, and other public and private requirements; and establish reasonable standards of design and procedures for subdivision and re-subdivision and to further the orderly layout of land.

(b) Authority. The code is adopted pursuant to V.T.C.A., Local Government Code, ch. 212, and the appropriate chapters of the city charter which governs the subdivision of land.

(c) Jurisdiction. The code shall be effective for all areas within the boundaries of the city. In addition, provisions of this code regulating the procedures and establishment of standards for the subdivision or re-subdivision of land shall be applicable within the city, the limits of which are defined by agreement with adjoining cities, or as permitted by state statutes.
(Code 1996, § 10.01.001; Ord. No. O-10-19, 12/3/19)

Sec. 10.02.001. Adoption of comprehensive plan.

The comprehensive plan, including the future land use plan, thoroughfare plan, density plan, park plan and all the maps which are attached to Ordinance 749-03 and incorporated herein by reference for all purposes, is adopted by the city council as a guide and public policy. The plan is intended to constitute the comprehensive or master plan for the city for all matters relating to long-range guidance relative to zoning decisions, land subdivision, thoroughfare construction, park development and growth management.
(Code 1996, § 10.02.001; Ord. No. 749-03, 4/7/03 ; Ord. No. O-01-11, 1/18/11)

ARTICLE II. PROCEDURE

Sec. 10.01.002. Procedure for submission and approval.

(a) *Review by city planning and zoning commission.* Prior to the issuance of any building permit, the property for which the permit is being issued shall have been platted and shall exist as an official lot or tract of record. The city planning and zoning commission shall exercise the power and authority to administer standards established by this Code and shall approve, approve with conditions or disapprove a plan or plat within 30 days after the date the plan or plat is filed with the city.

(b) *Approval or disapproval by city council.* Within 30 days of an approval or approval with conditions by the city planning and zoning commission, the city council shall approve, approve with conditions or disapprove a plan or plat. No improvements should be initiated, or development commenced, nor contracts executed until approval by the city planning and zoning commission and the city council has been given.

(c) *Fees.* Fees as provided in the city fee schedule ~~established in accordance with the approved fee schedule adopted in the city's Code of Ordinances~~ shall be paid upon submission of a signed application.

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(d) *Preliminary plat and plans.* The developer is required to submit a preliminary plat of the subdivision to the city. Submittal shall include an application and required submittal information requesting approval accompanied by the required filing fees. The purpose of the submittal is to allow city staff to review and city planning and zoning commission to and the city council to take action for the overall platting of the tract, water and sewer service, and street patterns within the subdivision for conformance with the requirements of the city. The preliminary plat shall receive approval of the city planning and zoning commission and the city council prior to preparation of the final plat.

(e) *Final plat and plans.* The developer or his engineer shall submit to the city for review of the final plat, complete construction plans, along with an application requesting approval of the plat and the required fees. The final plat shall require action by the city planning and zoning commission and approval by the city council.

(f) *Replats.* Replats shall follow the requirements of V.T.C.A., Local Government Code, ch. 212. If a proposed replat requires a variance or exception, a written notice shall be mailed, no later than 15 days in advance of the public hearing by city to each owner that is within 200 feet of the lots to be replatted. If a proposed replat does not require a variance or exception, a written notice shall be mailed, no later than 15 days after action, to each owner that is within 200 feet of the lots to be replatted. The notice of a replat approval must include the zoning designation of the property after the replat and the telephone number and e-mail address of the city.

(g) *Amending plats.* Correction of error and omissions on a plat shall follow the procedure set in V.T.C.A., Local Government Code, § 212.016 in existence at the time of correction.

(h) *Pre-development meeting*. Prior to applying for a plat, the subdivider should consult with the city concerning the ultimate land use of the proposed development, the most advantageous subdivision plan, the suitability of the location of the proposed subdivision, the arrangement of streets, alleys, and lots, the layout of utility lines and availability of service from trunk mains and other regulations and policies of the city regarding development.

(i) *Letter of intent.* The subdivider shall submit a letter to the city showing his name and address and that of his land planner, engineering consultant or surveyor and stating his intent to subdivide a particular property, briefly describing the location, amount of land, particulars as to the intended use of the property and any variances, if requested. Such letter of intent shall be accompanied by a completed application for plat approval, the appropriate fee and drawings of the plat, as indicated herein.

(j) *General development plan.* A general development plan shall be approved by the planning and zoning commission and the city council. The planning and zoning commission and the city council shall take final action on the general development plan prior to submittal of an application for a preliminary plat on subdivisions with more than four lots. The general development plan shall include:

(1) Arrangement and correlation of street pattern, particularly collector streets and major street system, to provide good traffic circulation throughout the neighborhood;

(2) General location and size of school sites, park and recreation areas, and other public areas;

(3) Location of shopping centers, multi-family residential, and other land uses;

(4) Proposals for water, sewer, and drainage systems in relation to master plans where they exist

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for these facilities;

(5) Proposals for service as furnished by private utility companies;

(6) Summary of uses by type, number, and acreage; and

(7) Identification of any flood prone areas and general proposals for such areas.

(k) Only after approval of the general development plan by the city planning and zoning commission and the city council shall the preliminary plats be prepared. If development is to take place in several phases, the general development plan should be submitted as supporting data for each part. (Code 1996, § 10.01.002; Ord. No. O-10-19, 12/3/19)

Sec. 10.01.003. Dormancy and expiration of approvals.

(a) *General development plan.* The approval of a general development plan shall remain in effect so long as progress is being made toward completion of the project on the subject property. If, however, a final plat for all or a part of the subject property has not been filed for recordation with the county clerk within a period of five years following the original approval of the general development plan, the general development plan's approval shall terminate and become void. Following the expiration of a general development plan, the subdivider at any time thereafter may submit a new general development plan for city planning and zoning commission and city council action following the procedures and regulations then in effect.

(b) *Preliminary and final plat.* Dormancy and expiration of plat approvals are as follows:

(1) When a preliminary plat has been approved by the city planning and zoning commission and the city council or is otherwise deemed approved, a final plat for all or a part of the area shall be submitted within six months of the last such approval; otherwise the approval shall terminate and shall be void. However, prior to the expiration of said approval, the time for filing of the application for the final plat may be extended at the written request of the subdivider.

(2) The first filing extension (not to exceed 90 days) shall be considered and may be granted by the city manager or his/her designee. Any further requests for extensions shall be considered by the city council.

(3) If a final plat for any portion of the area shown on the preliminary or final plat has been filed for record with the county clerk, the preliminary plat's approval shall remain valid indefinitely.

(4) If a preliminary plat expires, the general development plan, if one was approved, that underlies and forms the basis for the preliminary plat shall also expire contemporaneously with the expiration of the preliminary plat.

(c) *Submission of new general development plan.* Following the expiration of the plat, the applicant at any time thereafter may submit a new general development plan, if required, or preliminary-final plat for commission or council approval following the procedures and regulations then in effect. (Code 1996, § 10.01.004; Ord. No. O-10-19, 12/3/19)

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Sec. 10.01.004. Preliminary plat administrative completeness and effective filing date.

(a) *Filing date.* The appropriate fees and number of copies of the preliminary plat shall be submitted to the city planning department, who shall note the date that the preliminary plat is received by the city. The filing is subject to the following:

(1) The preliminary plat shall not be considered to be "filed" with the city, until it has been determined to be administratively complete.

(2) The preliminary plat shall be considered administratively complete after it is examined and determined to be in compliance with the general and administrative provisions of these regulations.

(3) The date of determination of administrative completeness is the effective filing date for the preliminary plat.

(4) The city shall make a determination of whether the preliminary plat is administratively complete within 10 days after the date the preliminary plat is received by the city and shall promptly notify the applicant of that determination.

(b) *Plat not administratively complete.* If the preliminary plat is found not to be administratively complete:

(1) The city shall inform the applicant, in writing, of the specific information or corrective action needed to render the preliminary plat administratively complete.

(2) The applicant may, within 30 days after the date that the written determination of administrative incompleteness is issued, resubmit the preliminary plat for further administrative completeness review and determination or request that the preliminary plat be scheduled for consideration by the city planning and zoning commission at the first available planning and zoning commission meeting as determined by the city secretary. A preliminary plat so placed on the city planning and zoning commission agenda that has been determined not to be administratively complete will be placed on the agenda with a recommendation of disapproval from city staff based upon the finding of administrative incompleteness.

(3) If the preliminary plat is not disapproved by the planning and zoning commission, it shall be scheduled for action by the city council.

(4) If the applicant does not resubmit the preliminary plat or request placement of the preliminary plat on the planning and zoning commission agenda within the required 30-day period provided to allow the applicant to do so, the preliminary plat will be considered withdrawn.

(c) *Administratively complete plat.* If the preliminary plat is determined to be administratively complete by the city, the preliminary plat shall be scheduled for consideration by the city planning and zoning commission at the first available city planning and zoning commission meeting following the determination of administrative completeness. Following city planning and zoning commission approval or approval with conditions the preliminary plat will be scheduled for action by the city council.
(Code 1996, § 10.01.004; Ord. No. O-10-19, 12/3/19)

Sec. 10.01.005. Final plat administrative completeness and effective filing date.

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(a) *Filing date.* The appropriate fees and number of copies of the final plat shall be submitted to the city planning department, who shall note the date that the final plat is received by the city. The filing date is subject to the following:

(1) The final plat shall not be considered to be filed with the city, until it has been determined to be administratively complete.

(2) The final plat shall be considered administratively complete after it is examined and determined to be in compliance with the general and administrative provisions of these regulations by the city.

(3) The date of the determination of administrative completeness is the effective filing date for the preliminary plat.

(4) The city shall make a determination of whether the final plat is administratively complete within 10-days after the date the final plat is received by the city and shall promptly notify the applicant of that determination.

(b) *Plat not administratively complete.* If the final plat is found not to be administratively complete:

(1) The city, shall inform the applicant, in writing, of the specific information or corrective action needed to render the final plat administratively complete.

(2) The applicant may, within 30 days after the date that the written administrative completeness determination is issued, resubmit the final plat for further administrative completeness review and determination or request that the final plat be scheduled for consideration by the planning and zoning commission at the first available planning and zoning commission meeting as determined by the city secretary. A final plat so placed on the planning and zoning commission agenda that has been determined not to be administratively complete will be placed on the agenda with a recommendation of disapproval from city staff based upon the finding of administrative incompleteness.

(3) If the applicant does not resubmit the final plat or request placement of the final plat on the city planning and zoning commission agenda within the required 30-day period provided to allow the applicant to do so, the final plat will be considered withdrawn.

(c) *Administratively complete plat.* If the final plat is determined to be administratively complete by the city, the final plat shall be scheduled for consideration on the first available city planning and zoning commission agenda as determined by the date of acceptance for review and the calendar schedule as maintained by the city secretary. Following city planning and zoning commission approval or approval with conditions, the final plat will be scheduled for action by the city council.
(Code 1996, § 10.01.005; Ord. No. O-10-19, 12/3/19)

Sec. 10.01.006. Preliminary plat requirements.

(a) The preliminary plat phase of land subdivision includes detailed subdivision planning, submittal, review, and approval of the preliminary plat. To avoid delay in processing the application, the subdivider's engineer or surveyor should provide the city with all information essential to determine the character and general acceptability of the proposed development. The subdivision shall be designed

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within the requirements for the specific zoning district within which it is located. Any change in zoning required in relation to the preliminary plat shall have been adopted by the city council prior to preliminary plat approval by the city planning and zoning commission.

(b) The following are required for preliminary plat submission:

(1) Five copies of a preliminary plat showing the general features of the proposed development.

(2) This preliminary plat shall be drawn on a scale of one inch equals one hundred feet (100') or larger and shall show the following:

(3) The outline of the tract that is proposed to be subdivided, with boundary dimensions.

(4) The proposed plan of subdivision, showing streets, blocks, lots, alleys, easements, building lines, parks, etc., with principal dimensions. The preliminary plat shall cover all of the tract intended to be developed whether in total or by sections.

(5) The location, width, and name of existing streets and any blocks, lots, alleys, easements, building lines, water courses, floodplain, boundary of tree cover, or other natural features in the area affected, with principal dimensions, and any other significant information on all sides for a distance of not less than two hundred feet (200').

(6) The names of proposed streets.

(7) The location of the nearest existing sewers, water and gas mains, and other public utilities if any. If none near vicinity, so state.

(8) An approved general development plan for drainage to include calculation of 100-year storm for any stream, creek, or channel and the limits of any floodplain either as designated by FEMA mapping or limits as may be determined by the owner’s registered professional civil engineer.

(9) The proposed drainage plan shall include: a topographical map in sufficient detail showing all abutting drainage areas either contributing to the stormwater flows within the proposed subdivision; preliminary, plans for drainage improvements within the proposed subdivision; and all calculations relating to the design of the drainage plan and its impact on the downstream system.

(10) The name of the proposed subdivision, north point, scale, and date.

(11) The name of the owner or owners and the signature, date, and seal of the registered professional engineer, landscape architect, or registered public surveyor who has prepared the preliminary, plat.

(12) A vicinity sketch or key map at a scale of not more than one thousand (1,000) feet to the inch which shall show all existing subdivisions, streets, and tracts of acreage in the area.

(13) The contours at not more than two-foot (2') intervals.

(14) The proposed plan of improvements and utilities to be constructed in the subdivision, prepared by a registered professional engineer, shall be shown with indication of street widths and utility line sizes. The accurate location of any existing utilities within the subdivision shall be shown on the preliminary, plat.

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(15) One copy of the signed plat shall be returned to the developer.
(Code 1996, § 10.01.006; Ord. No. O-10-19, 12/3/19)

Sec. 10.01.007. Preliminary plat review.

On receipt of the preliminary plat, the city shall:

(1) Review the preliminary plat for compliance with public objectives, giving special attention to design principles and standards; to streets and thoroughfares as related to the master street plan of the comprehensive plan and to neighborhood circulation; to existing and proposed zoning and land use of the tract and adjacent tracts; and to sites required for schools, parks, and other public facilities.

(2) Distribute copies of the preliminary plat to the following offices for review as determined by the city manager or their designee:

(A) City departments.

(B) Public utilities.

(C) County engineer or school district (when concerned with a specific plat).

(3) The reviewing offices will transmit their recommendations to the city planning department. The city planner or representative of the city planning department will then summarize the recommendations of the reviewing offices and present them to the city planning and zoning commission for their consideration in action on the preliminary plat. Following city planning and zoning commission approval or approval with conditions, the preliminary plat will be scheduled for action by the city council.
(Code 1996, § 10.01.007; Ord. No. O-10-19, 12/3/19)

Sec. 10.01.008. Preliminary plat approval.

If the requirements of this code have been met, the city planning and zoning commission shall render a decision within 30 days of the effective filing date of the preliminary plat. Following city planning and zoning commission action approving or approving with conditions the preliminary plat will be scheduled for action by the city council within 30 days of such action by the city planning and zoning commission.

(1) The approval or approval with conditions of a preliminary plat by the city planning and zoning commission and the city council is the authorization to proceed with the preparation of the final plat and application to consider the final plat. Approval or approval with conditions of a preliminary plat does not constitute the acceptance of a subdivision or the improvements placed therein.

(2) The approval with conditions of a preliminary plat by the city planning and zoning commission and the city council is the approval of the plat subject to compliance with all conditions prescribed by the city council. All conditions prescribed by the planning and zoning commission and the city council shall be furnished in writing to the developer following city council action. Compliance with the conditions imposed shall be reflected on the “approved preliminary plat” to be submitted and on the final plat and related documents required for consideration of the final plat. Failure to comply with the conditions imposed shall constitute disapproval of the preliminary plat.

(3) The disapproval of a preliminary plat by the city planning and zoning commission or the city

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council shall be final. Written notice of the reasons for disapproval shall be provided to the developer following planning and zoning commission or city council action disapproving the preliminary plat.

(4) If the developer intends to develop a proposed subdivision in sections or phases, he shall so state at the time of application for preliminary plat consideration.

(5) Upon city planning and zoning commission and city council approval of the preliminary plat, the developer shall provide to the city five copies of the plat, with revisions needed to comply with any conditions to which the approval was subject.

(6) One copy of the signed plat shall be returned to the developer.

(7) An approved preliminary plat shall be valid approval to proceed with the application for final plat consideration provided that application for final plat consideration for the first section or phase is made within 12 months of the last in time of approval by the city planning and zoning commission and city council approval and further provided that the final plat for each section or phase substantially conforms to the approved preliminary plat. Any substantial deviation in street layout or alignment, lot size or configuration, utility or drainage layout, or easement shall require submittal for consideration of a new preliminary plat.

(8) No construction shall begin on the proposed improvements in the proposed subdivision prior to approval of the final plat by the city planning and zoning commission and the city council.
(Code 1996, § 10.01.008; Ord. No. O-10-19, 12/3/19)

Sec. 10.01.009. Final plat requirements.

After the preliminary plat has been approved by the city council and any or all conditions are complied with, the developer's engineer or surveyor shall prepare and file with the city a final plat which shall comply with the requirements of this code and shall include the following:

(1) Five copies printed of the final plat. The final plat copies shall be clearly legible. The final plat shall be drawn to a scale of one-inch equals one hundred feet (1" = 100') or larger in ink on mylar or other acceptable permanent material, with all figures and letters legible. One copy of the original shall be on mylar or other acceptable permanent material.

(2) The final plat shall be proper for filing for record in the office of the county clerk with the following information given:

(A) The name or names of the owner and developer.

(B) The name of the licensed Land Surveyor who prepared the plat.

(C) The name of the proposed subdivision and any adjacent subdivisions.

(D) The names of streets (to conform whenever possible to existing street names).

(E) The numbers of lots and blocks, in accordance with a systematic arrangement.

(F) The north point, date, acreage being subdivided, and scale. All plats shall be on a scale on one inch equals 100 feet or larger.

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(G) An accurate boundary survey of the property, with bearings and distances referenced to the corner of an existing survey or established subdivisions, with complete and accurate field notes of said boundaries. The lines with dimensions of all adjacent lands and alleys, and easements in adjacent subdivisions shall be shown in dashed lines

(H) The location of proposed lots, streets, alleys, easements, building setback lines (both front and side streets), and other features.

(I) All necessary dimensions, including linear, angular and curvilinear, and other surveying information necessary to reproduce the plat on the ground with the linear and curvilinear dimensions shown in feet and decimals of a foot.

(J) The angular dimensions shall be shown by true bearings. The length of all straight lines, deflection angles, radii, tangents, central angle of curves shall be shown. All curve information shall be shown for the center line of the street. Dimensions shall be shown from all angle points and points of curve of lot lines. All lots on curves shall be shown with curve length dimensions based on arc definitions.

(K) All survey monuments shall be shown on the plat.

(L) All deed restrictions that are to be filed with the plat.

(M) Certification by a registered public surveyor, licensed by the state, in the form approved from time to time by the city council, placed on the plat.[178]

~~KNOW ALL MEN BY THESE PRESENTS:~~
~~THAT I, , do hereby certify that I prepared this Plat from an actual and accurate survey of the land and that the corner monuments shown thereon shall be properly placed, under my personal supervision, in accordance with the Development Code regulations of the City of Glenn Heights, Texas.~~
~~(SEAL)~~

(N) Certificate of approval by the city council in the form approved from time to time by the city council placed on plat in manner that will allow filling in of the certificate.

~~I hereby certify that the above and foregoing plat of addition to the City of Glenn Heights was approved this day of , 20 , by the city council of the City of Glenn Heights, Texas.~~
~~Mayor~~
~~City Secretary~~
~~Said addition shall be subject to all the requirements of the development code of the City of Glenn Heights.~~
~~Witness my hand this day of , 20 .~~
~~City Secretary~~

(O) An instrument of dedication, signed and acknowledged by the owner or owners and by all other parties who have a mortgage or lien interest in the property, showing all restrictions, reservations, or

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[178] **Sec. 10.01.009. Final plat requirements.** Forms are stricken and replaced with a general reference.

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easements, if any, to be imposed and reserved in connection with the addition. ~~Such restrictions shall include the following provisions:~~

~~"No house, dwelling unit, or other structure shall be constructed on any lot in this addition by the owner or any other person until:~~ [179]

(P) Receipt showing that all taxes are paid.

(Q) The final plat submitted to the city planning and zoning commission and city council to be filed for record with the county clerk shall not show construction or physical features unless so unusual as to be of significance; except that the shoreline of water areas shall be shown with the date surveyed.

(R) Two copies of each of the following:

(i) Construction plans and specifications for subdivision improvements.

(ii) Report of soil tests and pavement designs.

(iii) Drainage study report as required by this Code.

(iv) Executed copies of paving and utility contracts before commencing construction.

(Code 1996, § 10.01.009; Ord. No. O-10-19, 12/3/19)

Sec. 10.01.010. Final plat review.

On receipt of the final plat, the city shall check the final plat for completeness and conformity to the approved preliminary plat and prepare and submit a written recommendation to the city planning and zoning commission.

(Code 1996, § 10.01.010; Ord. No. O-10-19, 12/3/19)

Sec. 10.01.011. Final plat approval.

(a) Upon filing of said final plat with the city by the developer, the city planning and zoning commission shall take action thereon within 30 days. Said action may consist of approval, approval with conditions, or disapproval. Reasons for disapproval or conditional approval shall be stated by the city planning and zoning commission in writing following city planning and zoning commission action in compliance with state law.

(#) Following city planning and zoning commission action approving or approving with conditions, the final plat will be scheduled for action by the city council within 30 days of such city planning and zoning commission action. City council action thereon may consist of approval, approval with conditions, or disapproval. Reasons for disapproval or conditional approval shall be stated by the city council in writing following city council action in compliance with state law. When a final plat is approved with conditions, ten revised prints shall be submitted showing compliance with the conditions.

(b) After the final plat has been approved and has been fully and properly endorsed, the city secretary shall file the plat with the county clerk.

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[179] **Sec. 10.01.009. Final plat requirements—Contd.** The last sentence in subsection O is incomplete. Please provide the missing text.

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(c) If the public improvements for a subdivision have not been constructed and accepted by the city, and a corresponding final plat for that subdivision filed in the map and plat records of the appropriate county within 18 months from the date of final plat approval by the city, the final plat shall be null and void and shall conclusively be deemed to be withdrawn, without further action by the city; provided, however, this provision shall not apply to final plats approved by the city prior to January 6, 1997. An approved, unexpired final plat may be extended once for a period not to exceed 12 months pursuant to the following provisions:

(1) The city council may extend the approval of the final plat for good cause shown by the applicant, if there has been no significant change in development conditions affecting the subdivision plan and the plat continues to comply with all applicable standards and ordinances.

(2) A request for an extension of time to complete final public improvements for a subdivision pursuant to these provisions shall be submitted to the city no later than the date the final plat expires. The request shall be in writing and the application shall state the reason and justification for the requested extension.
(Code 1996, § 10.01.011; Ord. No. O-10-19, 12/3/19)

Sec. 10.01.012. Replat or vacation of recorded plat.

Procedures as set forth in this article shall be followed in replatting of platted property or the abandonment of a recorded subdivision.
(Code 1996, § 10.01.012; Ord. No. O-10-19, 12/3/19)

Sec. 10.01.013. Subdivision improvements.

(a) Concurrent with the final plat, the developer shall submit construction plans for the development of all public improvements proposed in the subdivision or section thereof. Said construction plans are to be submitted to the city.

(b) Upon approval of the submitted construction plans and any required agreements between the city and subdivider, appropriate construction documents for all facilities will be filed with the city.

(c) Upon completion of all public subdivision improvements, the following shall be submitted to the city: Two sets of “as built” construction plans, a maintenance bond covering all improvements in the amount of one hundred percent (100%) of the total construction costs to be in effect for a period of one year from date of acceptance of improvements, any pro rata contracts, and a listing of final quantities for any city costs for participation in oversized facilities.

(d) Following the completion of the subdivision improvements and final inspections, the subdivision improvements shall be submitted for approval and acceptance by the city who shall notify developer in writing of said final acceptance.
(Code 1996, § 10.01.013; Ord. No. O-10-19, 12/3/19)

Sec. 10.01.014. Construction plans.

Construction plan and profile sheets for all public improvements shall be reviewed prior to construction and approval of the final plat. Construction plans and profiles shall be drawn on sheets measuring 24 by 36 inches. Each sheet shall include north point, scale, and date. Benchmark description to sea level datum

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shall be included with the plans.

(1) Each sheet shall show the seal and signature of the registered professional engineer licensed by the state who prepared the plans and shall include the following, unless specifically approved otherwise by the city.

(A) A plan and profile of each street with top of curb grades shown. Scale shall be 1" = 20' horizontally, and appropriate vertical scale.

(B) The cross-section of proposed streets, alleys, and sidewalks showing the width and type of pavement, base and subgrade, and location within the right-of-way.

(C) A plan and profile of proposed sanitary sewers, with grades and pipe sized indicated and showing locations of manholes, cleanouts, and other appurtenances, and a cross section of embedment

(D) A plan of the proposed water distribution system showing pipe sizes and location of valves, fire hydrants, fittings and other appurtenances, with a section showing embedment.

(E) A plan to scale of all areas contributing stormwater runoff or drainage within and surrounding the proposed subdivision. Such plan shall indicate size of areas, storm frequency and duration data, amounts of runoff, points of concentration, and other data necessary to adequately design drainage facilities for the area.

(F) A plan and profile of proposed storm sewers, showing hydraulic data, pipe grades and sizes, manholes, inlets, pipe connections, culverts, outlet structures, bridges, and other structures.

(G) Profile views of individual improvements shall have no more than two improvements on one sheet unless specifically approved by the city. The project engineer is responsible for the accuracy, completeness, and conformance to city standards.

(2) The purpose of the city review is to assure conformance to city policies and standards. However, the city review is limited to facts as presented on submitted plans. The city takes no project engineering responsibility. The engineer certifying the plans is the engineer responsible for the accuracy and completeness of the documents submitted for review and actual construction.

(3) The city reserves the right to require plan corrections when actual conditions in the field are found to be contrary to or omitted from the previously submitted plan.
(Code 1996, § 10.01.014; Ord. No. O-10-19, 12/3/19)

Sec. 10.01.015. through Sec. 10.01.040. (Reserved)

ARTICLE III. DEVELOPMENT EXPIRATION DATES

Sec. 10.01.041. Definitions.[180]

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

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[180] **Sec. 10.01.041. Definitions.** Definitions duplicative of chapter 1 is stricken as shown.

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Development. The subdivision of land or the construction, reconstruction, conversion, or the structural alteration, relocation or enlargement of any buildings or structures; and any use or extension of the use of land.

Dormant. With regard to an individual permit for a project, shall mean that no progress has been made towards completion of the project for a period of two years. With regard to a project in general, shall mean that no progress has been made towards completion of the project for a period of five years.

Permit or series of permits. A license, certificate, approval, registration, consent, permit, contract or other agreement for construction or other form of authorization required by law, rule, regulation, order, or ordinance that a person must obtain from the city to perform an action or initiate, continue, or complete a project for which the permit is sought. All permits required for a project are considered to be a single series of permits. Preliminary plans and related subdivision plats, site plans, and all other development permits for land covered by the preliminary plans or subdivision plats are considered collectively to be one series of permits for a project.

~~Person. An individual, corporation, business trust, estate, trust, partnership or association, two or more persons having a joint interest, or any other legal or community entity.~~

Progress. Towards completion of a project shall include any one of the following:

(1) An application for a final plat or plan is submitted to the city;

(2) A good-faith attempt is made to file with the city an application for a permit necessary to begin or continue towards completion of the project;

(3) Costs have been incurred for developing the project including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve, in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of five percent of the most recent appraised market value of the real property on which the project is located;

(4) Fiscal security is posted with the city to ensure performance of an obligation required by the city; or

(5) Utility connection fees or impact fees for the project have been paid to a regulatory agency.

Project. An endeavor over which the city exerts its jurisdiction and for which one or more permits are required to initiate, continue, or complete the endeavor.
(Code 1996, § 10.01.041; Ord. No. O-06-15, 7/21/15)

Sec. 10.01.042. Development permit expiration.

An individual permit for a development project shall become dormant and expire if, for a period of two years subsequent to the original permit application being filed with the city, no progress is made towards completion of the project. Should any other provision of this code or applicable law provide a shorter expiration period for a particular permit, the law providing for the shorter expiration period shall apply notwithstanding this section.
(Code 1996, § 10.01.042; Ord. No. O-06-15, 7/21/15)

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Sec. 10.01.043. Development project expiration.

A development project shall become dormant and expire if, for a period of five years subsequent to the first application for a permit being filed with the city, no progress has been made towards completion of the project.
(Code 1996, § 10.01.043; Ord. No. O-06-15, 7/21/15)

Sec. 10.01.044. New permit application required.

Upon a permit expiring pursuant to this article, any person seeking to initiate, continue, or complete a project for which an expired permit is required, shall be required to file a new permit application with the city and shall be subject to all policies, rules, ordinances and laws in effect at the time the new permit application is filed.
(Code 1996, § 10.01.044; Ord. No. O-06-15, 7/21/15)

ARTICLE IV. EFFECT OF DEDICATION ON PLATS

Sec. 10.04.001. Effect of approval of plat.

Approval of a plat or replat is not considered the acceptance of any proposed dedication of property therein and does not impose on the city any duty regarding the maintenance or improvement of dedicated parts unless and until:

(1) The city council votes affirmatively to accept the dedication, such vote is reflected in the official minutes of the city, and it is stated in writing on the plat that the dedication is accepted by the city;

(2) The city makes an actual appropriation of the dedicated parts by entry;

(3) The city makes an actual appropriation of the dedicated parts by use; or

(4) The city makes an actual appropriation of the dedicated parts by improvement.
(Code 1996, § 10.04.001; Ordinance O-15-12 adopted 7/3/12)

Sec. 10.04.002. Appropriation by entry.

Appropriation of the dedicated parts by entry shall mean that the city occupies and continues to occupy the property in a manner consistent with the purpose for which it was dedicated. Mere ingress into the property on one or more occasions by city officials, employees, or representatives shall not constitute appropriation by entry that accomplishes acceptance of dedication.
(Code 1996, § 10.04.002; Ord. No. O-15-12, 7/3/12)

Sec. 10.04.003. Appropriation by use.

Appropriation of the dedicated parts by use shall mean that the city utilizes and continues to utilize the property in a manner consistent with the purpose for which it was dedicated. One or more isolated occurrences involving utilization of the property by a city official, employee, or representative shall not constitute appropriation by use that accomplishes acceptance of dedication.
(Code 1996, § 10.04.003; Ord. No. O-15-12, 7/3/12)

Sec. 10.04.004. Appropriation by improvement.

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Appropriation of the dedicated parts by improvement shall mean that the city expends public money and resources for the purpose of improving the property in a manner consistent with the purpose for which it was dedicated. One or more isolated occurrences involving city expenditures or action that benefits the property, particularly if the primary purpose of such expenditure or action was in connection with other property or a project unrelated to the purpose of the dedication shall not constitute appropriation by improvement that accomplishes acceptance of dedication.
(Code 1996, § 10.04.004; Ord. No. O-15-12, 7/3/12)

Sec. 10.04.005. Interpretation of the article.

(a) Any question about the extent to which any action or expenditure of the city constitutes or constituted appropriation of the property that accomplished acceptance of dedication shall be resolved in favor of nonacceptance.

(b) The mere budgeting or setting aside of funds for any purpose that may be construed as an intended appropriation of a dedicated part by entry, use, or improvement of any dedicated property on any plat or replat, without actual expenditure of such funds and actual entry, use, or improvement shall not be construed as acceptance of the dedicated part.

(c) Adoption of a motion, resolution, or ordinance for a purpose that may be construed as appropriation of a dedicated part by entry, use, or improvement of any dedicated property on any plat or replat which is subsequently repealed or rescinded prior to actual entry, use or improvement shall not amount to acceptance of the dedicated part.
(Code 1996, § 10.04.005; Ord. No. O-15-12, 7/3/12)

Sec. 10.04.006. City responsibility following acceptance of dedication.

After acceptance of the dedication of part or all of property dedicated on a plat or replat is accomplished in a manner described in this section, the city shall be responsible for maintaining and improving the part or property in a manner consistent with similar property in the city that was acquired for or dedicated to the public for a similar use, but the city shall not be obligated to do so to any particular level, degree, or amount, it being solely the province of the city council and city manager of the city to determine the extent to which such part or property shall be maintained and improved.

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Chapter 74[181]

ZONING

ARTICLE I. IN GENERAL

~~**Sec. 1. TITLE.**[182]~~
~~This Ordinance shall be known and cited as the Glenn Heights this chapter.~~
~~(Code 1996, ch. 14, exh. 14A, art. I, § 1)~~
~~**Sec. 2. ENACTING CLAUSE.**[183]~~
~~This chapter, as set forth herein, establishes criteria for Zoning Standards and Zoning District Mapping of lands [and] is adopted and approved.~~
~~(Code 1996, ch. 14, exh. 14A, art. I, § 2)~~

Sec. 3. Purpose, authority, and jurisdiction.

(a) The zoning regulations established in this chapter have been made in accordance with an adopted comprehensive plan for the purpose of promoting the health, safety, morals and general welfare of the city. They have been designed to lessen the congestion in the streets; to secure safety from fire, panic and other dangers; to insure adequate light and air; to prevent the overcrowding of land, to avoid undue concentration of population; to facilitate the adequate provision of transportation, circulation, water, sewage, schools, parks, and other public requirements. They have 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.

(b) This chapter is adopted pursuant to V.T.C.A., Local Government Code, ch. 211, and the appropriate chapters of the city Charter which governs the zoning of land.

(c) This chapter shall be effective for all areas within the territorial city limit and corporate boundaries of the city.
(Code 1996, ch. 14, exh. 14A, art. I, §§ 3—5)

Sec. 1. DEFINITIONS.[184]

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

~~XIX.1.1 For the purpose of these regulations, certain terms and words are to be used and interpreted as defined hereinafter. Words used in the present tense shall include the future tense; words in the singular number include the plural and words in the plural number include the singular, except where the natural~~

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[181] **Chapter 74, Zoning.** Throughout this chapter citations to state law or rules have been reformatted as necessary for consistency. Also, references to a or the zoning ordinance, have been changed to “this chapter” etc.

[182] **Sec. 1. Title.** Short titles are unnecessary after codification. Section is stricken as shown.

[183] **Sec. 2. Enacting clause.** Unnecessary text is stricken as shown.

[184] **Sec. 1. Definitions.** A standardized introduction is substituted for consistency.

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~~construction of the writing indicates otherwise. Words and phrases that are not defined below shall be given their common, ordinary meaning unless the context clearly requires otherwise. The word "shall" is mandatory and not directory; while the word "may" is merely directory.~~

ACCESSORY BUILDING. A subordinate building or a portion of the main building located on the same lot as the main building, the use of which is incidental to that of the dominant use of the building or premises and not exceeding the maximum lot coverage. Accessory buildings must meet all requirements of the zoning district in which they are located. Accessory buildings generally include parking garages, adjacent farm structures, home workshops and tool houses, storage sheds, home greenhouses, etc. Farms with working barns may be exempt if the land is subject to an agricultural use exemption; proof of receipt of such an exemption from the applicable appraisal district must be available for inspection. Accessory buildings may only exist in conjunction with a primary structure and may not be constructed in the absence of a primary structure, unless provided by ordinance. In the event a primary structure is destroyed, the accessory building may continue to exist in the absence of the primary structure for six months provided a primary structure is being reconstructed. Failure to timely construct a primary structure requires the removal of the accessory structure. Accessory structures shall not include structures commonly known as sea boxes, PODs, trailer containers, railroad boxes and the like.

ACCESSORY RESIDENCE/GUEST HOUSE. Living quarters within a detached accessory building located on the same premises with the main building, for use by temporary guests of the occupants of the premises, such quarters having no kitchen facilities and not rented or otherwise used as a separate dwelling and shall not exceed six hundred fifty (650) square feet in size (a/k/a Guest House)

ACCESSORY USE. A use that is customarily incidental, appropriate and subordinate to the principal use of land or buildings and located upon the same lot therewith. The land and building area used for the accessory use must be significantly less than that used for the primary use and gross receipts, if any, must be significantly less than those derived from the primary use. Accessory uses must comply with the requirements of the zoning district in which they are located.

ACCOUNTANT OR BOOKKEEPING OFFICE. See business office, general.

ADMINISTRATIVE OR CORPORATE HEADQUARTERS. The center of operations or administration for a legal entity, that may conduct its primary operations in another location, and designate the location as its principal place of business for legal transactions.

AIRPORT. A place where an aircraft can land and take off, usually equipped with hangars, facilities for refueling and repair and various accommodations for passengers and regulated by state and federal entities with jurisdiction over airspace.

ALLEY. A minor right-of-way, dedicated to public use, which affords 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.

AMERICANS WITH DISABILITIES ACT ("ADA"). The applicable federal statute and regulations relative to new construction and rehabilitation as may be required in 42 USC 1281 et seq. and implementing regulations at 28 CFR parts 35 and 36, and similar regulations as they exist and as they may be amended.

AMORTIZATION. The required removal of a nonconformity after a stated period of time without compensation.

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AMUSEMENT OR VIDEO ARCADE, COMMERCIAL. Any building, room, place or establishment of any nature or kind and by whatever name called, that contains at least three amusement devices, such as pinball and video machines [that] are operated for a profit, whether the same be operated in conjunction with any other business or not, including but not limited to such amusement devices as coin-operated pinball machines, video games, electronic games, shuffle boards, pool tables or other similar amusement devices; provided, however, the term “amusement device,” as used herein, shall not include musical devices, billiard tables which are not coin- operated, and devices designed to train persons in athletic skills or golf, tennis, baseball, archery or other similar sports. May be Indoor or Outdoor; See also, Amusement Park, Permanent

AMUSEMENT PARK, PERMANENT. An outdoor area or structure, open to the public, which provides entertainment or amusement for a fee or admission charge, including, but not limited to, batting cages, miniature golf, go-kart tracks and thrill rides.

ANIMAL POUND. An enclosure, owned by the municipality, under or subject to its control, to house stray or unlicensed animals captured within the municipality. The pound may also be used as a holding pen for animals under observation consistent with state law regulations.

ANTENNA, SATELLITE DISH. An apparatus capable of receiving communications from a transmitter relay located in planetary orbit.

ANTIQUE SHOP, SALES IN BUILDING. A retail establishment engaged in the selling of works of art, furniture or other artifacts of an earlier period, with all sales and storage occurring inside a building. Antiques are objects which show some degree of craftsmanship, value and is considered a collectible.

APARTMENT HOUSE. See multiple-family dwelling.

ARCHITECT’S OFFICE. See business office, general.

ASPHALT PAVING. A composite material commonly used for construction of pavement, highways and parking lots, comprised primarily of petroleum-based products as a tar-like substance used as a binder with an aggregate base. All asphalt paving, residential driveways and parking, shall conform to the standards adopted in the city’s subdivision regulations and the adopted standard construction details.

ASSEMBLY HALL. A building, or part of a building, in which facilities are provided and used for such purposes as a meeting, gathering, or assembly of persons for civic, educational, political, religious, or social events, including weddings and receptions, and may include a banquet hall, or fraternal organization.

ASSEMBLY OF ELECTRONIC INSTRUMENTS AND DEVICES. An industrial site where technological devices are assembled for the purpose of manipulation of voltages and electric currents through the various devices for the result of performing some useful action.

ATHLETIC STADIUM OR FIELD. An athletic field or stadium owned and operated by a public agency or political subdivision for use by the general public including a baseball field, golf course, football field or stadium which may be lighted for nighttime play.

AUTOMOBILE (AUTO).

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A. A self-propelled mechanical vehicle designed for use on streets and highways for the conveying of goods and people including but not limited to the following: passenger cars, trucks, buses, motor scooters and motorcycles.

B. A motor vehicle subject to registration under state law or any other device designed to be self-propelled or transported on a public highway.

All automobile related businesses defined in this section include office area.

AUTOMOBILE ASSEMBLY AND REBUILD. Assembly is a system of workers and machinery in which a new product is assembled in a series of consecutive operations; typically the product is attached to a continuously moving belt. Rebuilding is the independent rehabilitation of a used automobile product. All automobile related businesses defined in this section include office area.

AUTOMOBILE PAINTING, BODY AND UPHOLSTERY REPAIR. The painting, upholstery and repair or replacing of damaged auto body part. Work will take place inside the store or garage. All automobile related businesses defined in this section include office area.

AUTOMOBILE CENTER. A business whose primary purpose is to stock automotive parts and accessories, and which may provide a limited amount of maintenance services. All services are inside. All automobile related businesses defined in this section include office area.

AUTOMOBILE LEASING AND RENTING. A location where vehicles (e.g. automobiles, motorcycles and light load vehicles) are stored for leasing or rental purposes. All automobile related businesses defined in this section include office area.

AUTOMOBILE PARKING LOT OR GARAGE. An area or structure designed for the short-term parking of motor vehicles.

AUTOMOBILE PARTS, SALES IN BUILDING (Inside). The use of any building or other premises for the primary inside display and sale of new or used parts for automobiles, panel trucks or vans, trailers, or recreation vehicles. All automobile related businesses defined in this section include office area.

AUTOMOBILE PARTS, SALES IN OPEN (Outside). The use of any land for the outside display and sale of new or used parts for automobiles, panel trucks or vans, trailers, or recreation vehicles. This does not include junk or salvage yards. All automobile related businesses defined in this section include office area.

AUTOMOBILE REPAIR, MAJOR. General repair or reconditioning of engines, air-conditioning systems and transmissions for motor vehicles; wrecker service; collision services, including body, frame or fender straightening or repair; customizing; painting; vehicle steam cleaning; undercoating and rust-proofing; those uses listed under “automobile repair, minor”; and other similar uses. The car service/bay area shall be screened from view from public roads (unless the garage existed before adoption of the ordinance from which this chapter is derived ~~March 31, 2005~~) or an establishment providing major or minor automobile repair services to all motor vehicles except heavy load vehicles. The car service/bay area shall be screened from view from public roads (unless the garage existed before adoption of the ordinance from which this chapter is derived ~~March 31, 2005~~). Vehicles which are inoperative or are being repaired, may not remain parked outside an automobile service station for a period greater than seven days. All

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automobile related businesses defined in this section include office area.[185]

AUTOMOBILE REPAIR, MINOR. Minor repair or replacement of parts, tires, tubes, and batteries; diagnostic services; minor motor services such as grease, changing of oil, oil filters and the chassis lubrication of motor vehicles(All new oil shall be dispensed from drums and all old oil shall be kept in sumps until removed by pumper trucks and at all times shall comply with state environmental quality laws.) , spark plug, and filter changing; tune- ups and automobile washing and polishing. The car service/bay area shall be screened from view from public roads (unless the garage existed before adoption of the ordinance from which this chapter is derived ~~March 31, 2005~~). Vehicles, which are inoperative or are being repaired, may not remain parked outside an Automobile Service Station for a period greater than seven days. All automobile related businesses defined in this section include office area.[186]

AUTOMOBILE SALES LOT (NEW). A place of business where the primary business is the sales of new automobiles. The place of business and seller of vehicles must comply with the Texas Department of Transportation regulations and licensing requirements. All automobile related businesses defined in this section include office area.

AUTOMOBILE SALES LOT (USED). A place of business where the primary business is the sales of used automobiles or light load vehicles. The place of business and seller of vehicles must comply with the Texas Department of Transportation regulations and licensing requirements. All automobile related businesses defined in this section include office area.

AUTOMOBILE STORAGE.

A. The storage on a lot or tract, which complies with the Texas Department of Licensing and Regulation licensing requirements of operable automobiles for the purpose of holding such vehicles for sale, distribution or storage.

B. A garage, parking lot, or other facility owned or operated by a person other than a governmental entity for storing or parking ten or more vehicles per year.

BAKERY AND CONFECTIONERY WORKS. A manufacturing facility for the production and distribution of baked goods and confectioneries.

BANK, (a/k/a SAVINGS AND LOAN, OR CREDIT UNION). An establishment for the custody, loan, exchange or issue of money, the extension of credit, or the facilitating of the transmission of funds.

BANK, AUTOMATIC TELLER. A stand-alone structure or kiosk associated with a bank, for either pedestrian or vehicular transactions involving the transmission of funds.

BAR.

A. Any establishment including, but not limited to, “nightclubs” licensed by the state for the sale of alcoholic beverages that derives more than seventy-five percent (75%) of the establishment’s gross

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[185] **Sec. 1. Definitions—Contd.** Corrections are made to preserve correct date for pre-existing garages.

[186] **Sec. 1. Definitions—Contd.** Correction are made to preserve correct date for pre-existing auto repair establishments.

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revenue from the on-premises sale of alcoholic beverages for on-premises consumption.

B. For purposes of this definition, "daily gross sales" shall be calculated using the normal selling price of all food, alcoholic beverages and other items sold in the establishment and shall reflect the price normally charged for such items in the establishment for which the daily gross sales figure is calculated, whether such item is actually sold at normal selling price or below normal price. Prices charged during promotions, happy hours, and other occasions when items are sold at reduced prices or served at no charge, shall not be considered "normal selling price" for calculation of daily gross sales.

BARBER SHOP OR COLLEGE. A place where barbering, as defined in V.T.C.A., Occupations Code, ch. 1603 ~~1601~~, is practiced, offered or attempted to be practiced, except when such place is duly licensed as a barber school or college.[187]

BASEMENT OR CELLAR. A story partly or wholly underground. For purposes of height measurement, a basement shall be counted as a story when more than one-half of its height is above the average level of the adjoining ground or when subdivided and used for commercial or dwelling purposes by other than a janitor employed on the premises.

BATCH PLANT. See Concrete or Asphalt Batching Plant, Permanent and Temporary.

BATH HOUSE. A structure that contains dressing rooms, showers, restrooms and toilet facilities for use with an adjacent public swimming pool, semi-public swimming pool, private swimming pool, spa-pool or public bathing place.

BATTERY MANUFACTURING. See Manufacturing Processes, General

BEAUTY SHOP. A place where cosmetology, as defined by V.T.C.A., Occupations Code, ch. 1603 ~~1602~~, is practiced.[188]

BED AND BREAKFAST, INN OR FACILITY. A dwelling or group of dwellings at which a meal, usually breakfast, is served and sleeping accommodations are offered and provided to not more than ten rooms or unattached units (e.g. cabins) for transient guests on a nightly basis for compensation. The terms do not include a hotel, motel or boarding house. See tourist home.

BERM. A small, fabricated hill or elevated land typically used in place of, or in addition to trees or shrubs to screen a business from public view or to act as a visual, light and noise buffer between uses. A rolling topography is generally created through the use of berms. Berms shall not be more than six feet (6') from the ground to its highest point.

BIG BOX. A structure over 45,000 square feet in size including, but not necessarily limited to, membership warehouses and large retail businesses.

BLOCK. A tract of land platted for urban use and generally bound by dedicated public right-of- way, streets, or a combination of streets, parks, cemeteries, or boundary lines of local government.

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[187] **Sec. 1. Definitions—Contd.** V.T.C.A., Occupations Code, ch. 1601 was repealed in 2021. See suggested correction.

[188] **Sec. 1. Definitions—Contd.** V.T.C.A., Occupations Code, ch. 1601 was repealed in 2021. See suggested correction.

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BOARDING HOUSE. A building, where, for compensation, and by pre-arrangement for definite periods of time, meals or lodging and meals are provided for three persons or more but not exceeding 20 persons on a weekly or monthly basis. This term does not include a hotel or motel.

BOAT SALES. A place of business where the primary business is the sales of new and used boats. The place of business and seller of vehicles must comply with the Texas Department of Parks and Wildlife regulations and licensing requirements.

BOOK BINDERY. A facility where books are bound. Bookbinding is the process of physically assembling a book from a number of folded or unfolded sheets of paper and usually involves attaching covers to the text block.

BOTTLING WORKS. A manufacturing facility designed to place a product into a bottle for distribution.

BUFFER ZONE. A tract of land between two differently zoned areas (e.g., a city might position a multifamily residential development between a commercial and single-family residential district).

BUFFER-YARD. A designated area, defined in dimension, on the perimeter of a property which is required to have a screening or buffering of landscaping or screening materials installed and maintained between it and the adjacent property. Normally this will be between properties with differing zoning or uses.

BUILDING. Any structure designed, built or occupied, intended for shelter, housing or roofed enclosure for persons, animals or property. When separated by dividing walls without openings, each portion of such structure so separated may be deemed a separate building.

BUILDING ELEVATION. The view of any building, or other structure from any one of four sides showing features such as construction materials, design, height, dimensions, windows, doors, architectural features and the relationship of grade to floor level.

BUILDING HEIGHT. The vertical distance from the average line of the highest and lowest points of that portion of the lot covered by the building to the highest point of coping of a flat roof, or a deck line of a mansard roof or to the average height of the highest gable of a pitch or hip roof.

BUILDING LINE. A line parallel, or approximately parallel, to the front, side or rear lot line at a specific distance therefrom, marking the minimum distance from the front, side or rear lot line that a building may be erected.

BUILDING MATERIALS, LUMBER SALES YARDS AND HARDWARE SALES (INSIDE STORAGE). The sale of new building materials, unfinished lumber and indoor related sales for hardware, carpet, plants, electrical and plumbing supplies all of which are oriented to the retail customer, rather than contractor or wholesale customer. Facilities for storage are inside the building.

BUILDING MATERIALS, LUMBER SALES YARDS AND HARDWARE SALES (OUTSIDE STORAGE). The sale of new building materials, unfinished lumber and indoor related sales for hardware, carpet, plants, electrical and plumbing supplies all of which are oriented to the retail customer, rather than contractor or wholesale customer. Facilities for storage are outside the building.

BUILDING OFFICIAL. The building inspector, administrative official or other authorized designee of

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the city charged with responsibility for issuing permits and enforcing this chapter or city building and subdivision regulations.

BUILDING, PRIMARY (MAIN). A building in which the principal use of the lot on which it is situated is conducted. In a residential district the dwelling unit shall be deemed to be a main building on the lot on which it is situated.

BUS STOP OR SHELTER. A roofed structure with at least three walls located on or adjacent to the right-of-way of a street, and which is designed and used primarily for the protection, convenience and information of bus passengers.

BUS TERMINAL. Any premises for the transient housing or parking of motor-driven buses and the loading and unloading of passengers.

BUSINESS SERVICE. Establishments primarily engaged in providing services, not elsewhere classified, to business enterprises on a fee contract basis including, but not limited to, advertising agencies, computer programming and software services, and office equipment rental or leasing.

CABINET AND UPHOLSTERING SHOP. An establishment for the production, display and sale of cabinets, furniture and soft coverings for furniture.

CAMPING SITES. Land and facilities designated and permitted as a park or site for temporary dwelling by tent, cabin or recreational vehicle, with or without electrical or plumbing infrastructure or designated pad sites.

CARWASH. Structure used to wash motorcycles, automobiles and light load vehicles.

CARWASH, AUTOMATED. Facility or structure where chairs, conveyors, blowers, steam cleaners or other mechanical devices are used for the purpose of washing motorcycles, automobiles and light load vehicles and where the operation is generally performed or operated by an attendant.

CARWASH, MANUAL OR SELF-SERVICE. Facility or structure where washing, drying and polishing of vehicles is done by the owner of the vehicle, as a self-service operation, without the use of chain conveyors, blowers, steam cleaners or other mechanical devices.

CARETAKER/GUARD QUARTERS AS PART OF PERMANENT STRUCTURE. An accessory building or portion of an accessory building located on the same lot or grounds with the main building, containing not more than one set of kitchen and bathroom facilities and used as living quarters for a person or persons employed on the premises, and not otherwise used or designed as a separate place of abode, provided the living area of such quarters shall not exceed six hundred fifty (650) square feet.

CARNIVAL, TEMPORARY. A temporary amusement park wherein a special events permit is sought for the purpose of providing entertainment from rides, sideshows and games of skill on public or private property as permitted.

CARPORT. A structure open on a minimum of three sides designed or used to shelter not more than three vehicles and not to exceed twenty-four feet (24') on its longest dimension. Carports shall be constructed as provided by this chapter.

CARTING OR EXPRESS HAULING. The work of taking something away in a cart or truck,

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transportation of goods and disposing of it.

CEMETERY OR MAUSOLEUM. Property used for the interring of the dead, where bodies or remains are interred in ground (cemetery) or above ground in staked vaults (mausoleum).

CERTIFICATE OF OCCUPANCY. An official certificate issued by the city through the building official which indicates conformance with or approved conditional waiver from the zoning regulations and authorizes legal use and occupancy of the premises for which it is issued; may also be referred to as an occupancy permit.

CHURCH, RECTORY OR RELIGIOUS INSTITUTION. A building for regular assembly for religious worship which is used primarily and designed for such purpose and those accessory activities which are customarily associated therewith, and may be a place of residence for ministers, priests, nuns or rabbis on the premises. A place of worship, including a church, synagogue, temple, mosque or other building or facility, primarily engaged in religious worship. The term "accessory activities" does not include uses such as schools, recreational facilities, day care or child care facilities, kindergartens, dormitories, or other facilities for temporary or permanent residences, which are connected or related to the church or the principal building on the site, or are located on the same site, even if the curriculum or services offered as part of such use includes religious services or training.

~~[189]CITY. The city, an incorporated home rule municipality and political subdivision of the state located in Dallas and Ellis Counties.~~
~~CITY COUNCIL. The governing body of the city.~~

CLOTHING OR APPAREL STORE. A retail facility primarily in business for the sale of personal clothing, shoes and other clothing accessories.

CLUB. This term includes assembly halls, private country clubs, fraternal clubs or lodges, private clubs and nightclubs and those terms as defined shall govern.

CLUB, FRATERNAL (FRATERNAL LODGE). An establishment providing meeting or social facilities for a private or nonprofit association, primarily for use by members and guests. Typical uses include, but are not limited to, fraternal lodges and meeting halls.

CLUB, NIGHT. An establishment where there is live entertainment, dancing, karaoke, televised, recorded or other performing entertainers.

CLUB, PRIVATE. A place or establishment in which alcoholic beverages are stored, possessed, mixed, consumed or served in broken or unsealed containers, as permitted by the state law, and thirty percent (30%) of the gross receipts are derived from the sale of food. Gross receipts shall be determined by an annual audit provided at the expense of the owner of the private club for review by the city council. All private clubs require a specific use permit (SUP). Private clubs shall conform to the requirements of state law including, but not limited to, the Alcohol Beverage Code and shall receive a private club permit from the state within six months after the issuance of a SUP.

COLLEGE OR UNIVERSITY. An academic institution of higher learning accredited or recognized by

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[189] **Sec. 1. Definitions—Contd.** Definitions duplicative of chapter 1 should be stricken as shown.

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the state and covering a program or series of programs of academic study.

COMMERCIAL AMUSEMENT (INDOOR). An amusement enterprise that is wholly enclosed within a building which is treated acoustically so that noise generated by the enterprise is not perceptible at the bounding property line, and that, for a fee or price of admission, provides activities, services or instruction for the entertainment of customers or members, but not including amusement arcades. Uses may include, but are not limited to, the following: bowling alley, ice skating rink, martial arts club, racquetball/handball club, indoor tennis courts/club, indoor swimming pool or scuba diving facility, video arcades, and other similar types of uses.

COMMERCIAL AMUSEMENT (OUTDOOR). See amusement park, permanent.

COMMERCIAL PLANT, GENERAL. Establishments other than personal service shops for the treatment or processing of products as a service on a for-profit basis including, but not limited to, newspaper printing, laundry plant, or cleaning and dyeing plants.

COMMERCIAL SCHOOL, TRADE SCHOOL OR VOCATIONAL TECHNICAL SCHOOL. Establishments, other than public or parochial schools, private primary and secondary schools or colleges, offering training or instruction on a trade, art or occupation.

COMMISSION. The planning and zoning commission of the city.

COMMON AREA. A parcel or parcels of land, or an area of water, or combination of land and water or developed facilities, complementary structures or improvements, including but not limited to vehicular and pedestrian access and recreational facilities within the site.

COMMUNITY CENTER (PUBLIC). A building or complex of buildings that house cultural, recreational, athletic, or entertainment facilities owned or operated by a governmental agency or private nonprofit agency.

COMMUNITY CENTER, PRIVATE. A building or buildings dedicated to social or recreational, athletic, cultural or entertainment activities serving residents of a subdivision or development which is operated by an association or incorporated group for their use and benefit and not as a commercial, for profit business.

COMMUNITY HOME. A community-based residential home qualified to operate by the state, a nonprofit corporation, a community center organized pursuant to State statute, or an entity which is certified by the state as a provider for a program for the mentally retarded in accordance with V.T.C.A., Human Resources Code, ch. 123. Community homes provide for persons who have mental or physical impairments that substantially limit one or more major life activities. To qualify as a community home, a home must meet the following state statutory requirements, as they may be amended:

A. Not more than six disabled persons and two supervisory personnel may reside in the community home at the same time.

B. The home must provide food and shelter, personal guidance, care, rehabilitation services and supervision.

C. All applicable licensing and other statutory requirements.

To the extent required by law, such use shall be by right in any residential district.

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COMMUNITY SERVICES DIRECTOR. An official of the city responsible for the planning and zoning functions of the city, right-of-way management, building inspections, builder/developer liaison, management of city real estate, public utility liaison and coordinates business development and retention.

COMPREHENSIVE PLAN. The comprehensive plan of the city and adjoining areas as adopted by the city council and the city planning and zoning commission, including all its revisions and parts, consistent with the city Charter and this Code. This plan provides a guide for the future development of the city with graphic and textual policies that govern the general location recommended for various land uses, transportation routes, public and private buildings, streets, parks, and other public and private developments and improvements.

CONCEPT PLAN. Conceptual drawing of a proposed project or development to provide a general understanding and depiction of the intended general use.

CONCRETE OR ASPHALT BATCHING PLANT (PERMANENT). A permanent manufacturing facility for the storing of raw materials and production of concrete or asphalt.

CONCRETE OR ASPHALT BATCHING PLANT (TEMPORARY). A temporary manufacturing facility for the storing of raw materials and production of concrete or asphalt during construction of a project. The plant shall be removed when the project is completed.

CONCRETE PAVING. All concrete paving, residential and nonresidential driveways and streets shall conform to the standards adopted in the city's subdivision regulations and the adopted standard construction details.

CONSTRUCTION YARD (TEMPORARY). A storage yard or assembly yard for building materials and equipment directly related to a specific construction project and subject to removal at completion of construction.

CONTRACTOR'S SHOP AND STORAGE YARD. A building, part of a building, or land area for the construction or storage of materials, equipment, tools, products, and vehicles.

CONVENIENCE STORE. A retail establishment providing for the sale of consumables, non- prescription drugs, small household items and gifts that are not used or consumed on the premises. Gasoline and diesel fuel may be offered for sale provided they are not the primary source of income for the store and that no more than eight (8) pumps are offered.

CONVENIENCE STORE LESS THAN 2500 S.F. A retail establishment providing for the sale of consumables, non-prescription drugs, small household items and gifts that are not used or consumed on the premises. Gasoline and diesel fuel may be offered for sale provided they are not the primary source of income for the store and that no more than eight (8) pumps are offered. Maximum size of the establishment will be no more than 2,500 square feet, not including storage areas and administrative offices.

CORNER VISIBILITY. An area to be left without obstruction such that the view of traffic is not impeded.

COUNTRY CLUB (PRIVATE). A land area and buildings which may include a golf course, clubhouse, dining room, swimming pool, tennis courts and similar recreational or service uses available to members

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and their guests.

COURT. An open, unobstructed space, bounded on more than two sides by the walls of a building. An "inner court" is entirely surrounded by the exterior walls of a building. An "outer court" has one side open to a street, alley, yard, or other permanent open space.

COVERAGE. The area physically covered by all buildings located on a lot or parcel, including the area covered by all overhanging roofs.

CREDIT ACCESS BUSINESS. Shall have the meaning given that term in V.T.C.A., Finance Code, § 393.601 and including any credit services organization that obtains for a consumer or assists a consumer in obtaining an extension of consumer credit in the form of a deferred presentment transaction or a motor vehicle title loan, as those terms are defined in V.T.C.A., Finance Code, § 393.601.

CULTURAL ESTABLISHMENTS. Establishments such as museums, art galleries, botanical and zoological gardens, and other facilities of a historic, an educational or a cultural interest that possess qualities of significance in history, architecture, archeology, or reflect the cumulative deposit of knowledge, experience, beliefs, values, attitudes, meanings, hierarchies, religion, notions of time, roles, spatial relations, concepts of the universe, and material objects and possessions acquired by a group of people in the course of generations through individual and group striving.

CUL-DE-SAC. A short residential street having but one vehicular access to another street and terminated by a vehicular turnaround.

CURBSTONING. The practice of selling cars on the street or in parking lots, usually by unlicensed dealers.

CURVILINEAR IN DESIGN. A design characteristic consisting of or bounded by curved lines; represented by a curved line.

DAIRY PROCESSING. The homogenization and pasteurization of raw milk for the production of dairy products such as milk, cheese, yogurt, ice cream, etc.

DANCE HALL. A building or part of a building with facilities for dancing.

DAY CARE. Day care uses include facilities that provide care for children or adults on a regular basis away from their primary residence for less than 24 hours per day. This category does not include public or private schools or facilities operated in connection with an employment use, shopping center, or other principal use, where children are cared for while parents or guardians are occupied on the premises or in the immediate vicinity. Specific use types include, but are not limited to, the following:

A. Child Care in Residence (accessory use) a/k/a Family Home. A child care facility that regularly provides care in the caretaker's own residence for not more than six children under 14 years of age, excluding the caretaker's own children and that provides care after school hours for not more than six additional elementary school siblings of the other children given care, but the total number of children, including the caretaker's own, does not exceed 12 at any given time. This term shall not include overnight lodging, medical treatment, counseling or rehabilitative service establishments and does not apply to any school. Licensure/ registration for such facilities shall follow the requirements set forth by the state.

B. Children's Day Care Center (Registered). A facility or place designed for the care of less than six

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unrelated children for some period of time less than 24 hours. If such facility provides overnight care, the license must prove authorization for the same.

DEAD-END STREET. A street, other than a cul-de-sac, with only one outlet for ingress or egress.

DENSITY. The total number of residential units allowed upon a given tract of land usually expressed in total number of units per gross acres of net acre.

DEPARTMENT STORE. A building or use which sells primarily general retail items. No consumption of food or beverage items occurs on-site but food and beverage sales for off-site consumption is permitted.

DETACHED PRIVATE GARAGE. A detached accessory building or portion of the main building for the primary use as parking or temporary storage of automobiles of the occupants of the premises; if occupied by vehicles of others, it is a storage space.

DEVELOPER. A person, partnership, corporation or other legal entity owning or representing a business which is proposing or applying to construct a project or create a subdivision.

DISTRIBUTION CENTER OR WAREHOUSE. A building or facility used for the storage and distribution of whole items/products.

DISTRICT, ZONING. See zoning district.

DRAPERY MANUFACTURING AND SALES. An establishment used for the production, display and sale of draperies and interior window coverings.

DRUG AND PHARMACEUTICAL MANUFACTURING. See manufacturing process, general.

DRUGSTORE, PHARMACY. A retail store whose primary purpose is to stock and sell all drug, prescription and health-related products.

DRY BOAT STORAGE. The storage of boats, usually through stacking, in land-based buildings or hardstands.

DRY CLEANING PLANT OR COMMERCIAL LAUNDRY. Dry cleaning plants primarily clean, repair, and press clothes, linens, and other fabric items that cannot be cleaned in water. Dry cleaning involves the use of a variety of chemicals to clean fabrics and must satisfy all applicable federal and state regulations associated with the use, including but not limited to environmental regulations.

DRY CLEANING, SMALL SHOP. A custom cleaning shop or pickup station not exceeding 5,000 square feet of floor area, including but not limited to dry cleaning plants having no more than 5,000 square feet of floor area. The a shop must satisfy all applicable federal and state regulations associated with the use, including but not limited to environmental regulations.

DWELLING. Any building or portion thereof, which is designed or used as a living quarter for one or more families, but not including “mobile homes.”

DWELLING, MULTIPLE-FAMILY. Attached dwelling units designed to be occupied by three (3) or more families living independently of one another, yet in the same structure with shared, main lobby, entrance and sidewalks. This term does not include hotels or motels.

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DWELLING, SINGLE-FAMILY. A detached dwelling designed to be occupied by not more than one family.

DWELLING, SINGLE-FAMILY ATTACHED (TOWNHOUSE). A dwelling that is part of a structure containing three or more units, each designed for occupancy by one family, and which is located on a separate lot delineated by front, side and rear lot lines.

DWELLING, TWO-FAMILY (DUPLEX). A detached dwelling designed to be occupied by two (2) families living independently of each other.

EASEMENT. A grant of one or more of the property rights by the property owner to or for the use by the public, a corporation or another person or entity.

EASEMENT, TRANSPORTATION OR RIGHT-OF-WAY. An easement established on a lot for the purpose of prohibiting or permitting ingress or egress to vehicular traffic.

EASEMENT, UTILITY. An easement granted for installing and maintaining utilities across, over, or under land, together with the right to enter the land with machinery and other vehicles necessary to maintain the utilities. See also Public Easement.

ECONOMIC DEVELOPMENT INCENTIVE POLICY. A policy adopted by the city council for the attraction of long-term investment and establishment of new jobs in the city and for the enhancement of the economic base of area taxing entities.

ELDERLY HOUSING, RETIREMENT. A residential complex containing single or multifamily dwellings designed for and principally occupied by senior citizens. Facilities may include a congregate meals program in a common dining area, but exclude institutional care such as medical or nursing care and are distinguished from life care retirement centers. These offer minimal convenience services but focus on attracting elderly residents so as to provide a social support system among the residents. The term includes any age restricted development which may be in any housing form, including detached and attached dwelling units, apartments, and residences, offering private and semiprivate rooms. The term includes retirement homes and independent living facilities for senior citizens.

ELDERLY HOUSING, ASSISTED LIVING. Residential facilities for senior citizens. Services in these establishments include assistance with daily activities, such as dressing, grooming, bathing, etc., and may involve a special combination of housing supportive services, personalized assistance, and health care designed to respond to the individual needs of those who need help with activities of daily living and includes a continuing care facility and an adult day care.

ELECTRIC PRODUCTS MANUFACTURING. See manufacturing processes, general.

ELECTRIC TRANSMISSION LINE (HIGH VOLTAGE). See transmission line.

ELECTRICAL SUBSTATION. A subsidiary station in which electrical current is transformed.

ELECTRONIC AND HOME APPLIANCE STORE. A retail business with household electronics (e.g., televisions, stereos, computers, etc.) and appliances (e.g., refrigerators, ovens, ranges, etc.) for sale to the public.

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ELECTRONIC MANUFACTURING. See manufacturing, general.

ENGINEER, CITY. Any provider of engineering services to the city, designated by resolution or ordinance of the city council, who is duly authorized under the provisions of ~~the Texas Engineering Registration Act~~ V.T.C.A., Occupations Code, §§ 1001.401 et seq.,[190] to practice the profession of engineering, and is a registered professional engineer.

ENGINEERING OFFICE. See business office, general.

EQUIPMENT RENTAL. A location where a variety of equipment (e.g. tractors, ditching machine, scaffolding, tillers) are stored for leasing or rental purposes.

EXCAVATION, SAND/GRAVEL. A tract of land used primarily for the extraction of soil, sand, gravel, clay and other similar materials, other than oil and gas, which are processed and sold or used for commercial purposes, but do not include the excavation or grading necessary for the development of a lot or tract.

EXTRATERRITORIAL JURISDICTION (ETJ). The unincorporated area that is contiguous to the corporate boundaries of the city within the specified distance from the corporate boundaries as specified in V.T.C.A., Code, Local Government Code, ch. 42.

FACADE. All exterior walls of a building exposed to public view or that may be viewed by persons not within the building.

FAMILY. One or more persons related by blood, marriage, or adoption, or a group not to exceed four persons not all related by blood or marriage, adoption or guardianship, occupying a dwelling unit and living as a single housekeeping unit. This definition does not necessarily apply during times of declared state emergencies.

FARM, RANCH, GARDEN OR ORCHARD. An area of five acres or more which is used for growing usual farm products, vegetables, fruits, trees, and grain and for the raising thereon of the usual farm poultry and farm animals such as horses, cattle, and sheep and including the necessary accessory uses for raising, treating, and storing products raised on the premises, but not including the commercial feeding of offal or garbage to swine or other animals and not including any type of agriculture or husbandry specifically prohibited by this Code or state law.

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA). The Federal Emergency Management Agency that regulates flood emergencies and natural disasters, along with other local and federal agencies, and which is under the federal Homeland Security Department.

FEED AND GRAIN STORE. An establishment for the selling of corn, grain and other foodstuffs for animals and livestock, and including implements and goods related to agricultural processes, but not including farm machinery.

FEED LOT. An area or building where livestock are kept while being fattened for slaughter.

FENCE. A structure serving as an enclosure, a barrier, or a boundary and constructed according to the

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[190] **Sec. 1. Definitions—Contd.** Citation is corrected as shown.

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city regulations. Usually made of metal posts joined together by boards, wire, or rails. Fence is a structure for purposes of substandard structure minimum requirements.

FIELD CONSTRUCTION OFFICE. A building or structure, of either permanent or temporary construction, used in connection with a development or construction project for housing temporary supervisory or administrative functions related to development, construction or the sale of real estate properties within active development or construction project.

FINAL PLAT. Any plat of any lot, tract, or parcel of land requested to be approved by the planning and zoning commission and city council and recorded for record in the deed records of Dallas or Ellis County, Texas as required by state law.

FIREPLACE, APPLIANCE STYLE. A fixture that is designed to burn only gaseous products, natural or propane. Gases shall be vented with Type B double wall pipe or comply with applicable building codes.

FIREPLACE, WOOD BURNING. A fireplace that is intended to burn wood, wood logs, paper log rolls, lignite, or other approved solid fuel products. Products shall be vented through approved triple wall pipe. This is sometimes referred to as a “brick fireplace.”

FLEA MARKET. An outdoor, or partially indoor premises with a properly issued permit by the city where the main use is the sale of new and used household goods, personal effects, tools, artwork, small household appliances, and similar merchandise, objects, or equipment, in small quantities, in broken stalls, lots or parcels, not in bulk, for the use or consumption by the immediate purchaser in a building, open air, or partly enclosed booths or stalls not within a wholly enclosed building. The term “flea market” shall not be deemed to include wholesale sales establishments or rental services establishments, but shall be deemed to include personal service establishments, food services establishments, retail services establishments, and auction establishments. This definition does not pertain to retail sidewalk sales or garage sales.

FLOOD INSURANCE RATE MAP (FIRM). A map indicating property that lies in a floodplain, floodway or property that is otherwise susceptible to flooding due to changes in development patterns.

FLOODPLAIN. An area of land subject to inundation by a 100-year frequency flood as determined using standard engineering practices and generally as shown on the FIRM (Flood Insurance Rate Map) of the city.

FLOODWAY. Where a creek, river, stream or body of water flows and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation more than a designated height.

FLOOR AREA. The total gross square feet of floor space within the outside dimensions of a building including each floor level, but excluding carports, residential garages and breezeways.

FLOOR AREA RATIO (FAR). The floor area of a main building or buildings on a lot, divided by the lot area.

FLORIST SHOP. An establishment for the display and retail sale of flowers, small plants and accessories.

FOOD OR CONVENIENCE STORE. A use which occupies less than 25,000 square feet but greater than 2500 square feet and sells food and beverages primarily for off-site consumption but also sells other

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products such as gasoline and retail items. No vehicle repair or other automotive services are provided.

FOOD PRODUCTS MANUFACTURING. See manufacturing process, general.

FOUNDRY CASTING, NONFERROUS. A factory that produces castings from nonferrous alloys. Metals are turned into parts by melting the metal into a liquid, pouring the metal into a mold and then removing the mold material or casting. The alloys contain no iron.

FROZEN FOOD LOCKER. A business primarily for storing food products in a frozen state for customers.

FUNERAL HOME OR MORTUARY. A place for the storage of human bodies prior to their burial or cremation, or a building used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation.

FUR GOODS MANUFACTURING BUT NO TANNING, DYING, OR SLAUGHTERING. See manufacturing process, general.

FURNITURE MANUFACTURER. See manufacturing process, general.

FURNITURE, HOME FURNISHINGS, his group includes retail stores selling goods for furnishing the home including, but not limited to furniture, floor coverings, draperies, glass and chinaware, domestic stoves, refrigerators, and other household electrical and gas appliances.

GARAGE (PRIVATE). An enclosed (on at least three sides) accessory building, or a part of a main building, used for storage of automobiles and used solely by the occupants and their guests.

GARAGE APARTMENT. A dwelling unit for one family erected in conjunction with a garage.

GARAGE, ATTACHED. A building or indoor space that is a part of the main structure in which to park or keep a motor vehicle.

GARAGE, DETACHED. A building or indoor space that is separate and not a part of the main structure in which to park or keep a motor vehicle.

GARAGE PARKING (PRIVATE). An enclosed (on at least three sides) accessory building, or a part of a main building, used for storage of automobiles and used solely by the occupants and their guests.

GARDEN SHOP, GARDEN CENTER, GREENHOUSE AND NURSERY. A facility which is engaged in the display and selling of flowers, large and ornamental plants, shrubs, trees, seeds, garden and lawn supplies, and other materials used in planting and landscaping, but not including cultivation and propagation activities outside a building. Depending on the zoning district a limited amount of display may be outside.

GASOLINE OR PETROLEUM DRILLING OR STORAGE. Gasoline or petroleum drilling and storage shall have the meaning assigned and be subject to the regulations in the city's drilling regulations as it exists and as it may be amended.

GASOLINE SERVICE OR FILLING STATION. See automobile service station.

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GENERAL RETAIL. Any use engaged in retail trade, including any use identified as permitted in the retail zoning district.

GLASS PRODUCTS MANUFACTURED FROM PREVIOUSLY MANUFACTURED GLASS. The production of glass products using previously manufactured glass tubing. This is typical in the production of glass light bulbs.

GO GREEN INCENTIVES. Financial and procedural incentives offered by the city for development that meets or exceeds city-adopted criteria that improve the environment and quality of life while boosting the local economy. This program is adopted through this chapter.

GOLF COURSE (MUNICIPAL). A golf course owned by a municipality. A city may contract out the day-to-day operations of the course to a golf course management company but as long as it is owned by the city it is called a municipal golf course.

GOLF COURSE (PRIVATE). An area of 20 acres or more improved with trees, greens, fairways, hazards, used for recreational or competitive golfing activities and which may include clubhouses.

GROCERY STORE. A use which occupies at least 25,000 square feet and sells primarily food for primarily off-site consumption. Other items such as retail products, beverages and gasoline are sold but are not the primary source of revenue for the main use.

GROSS FLOOR AREA.

A. The sum of the gross horizontal areas of all floors of a structure, measured from the exterior faces of exterior walls or from the centerline of walls separating two attached buildings. Gross floor area includes the following: Basements that provide structural headroom of seven feet or more. Elevator shafts or stair wells at each floor. Floor space used for mechanical equipment. Attics, whether or not a floor has been laid, providing structural headroom of seven feet or more. Floor space in interior balconies or interior mezzanines. Floor space in accessory structures. Floor space in enclosed porches. Any floor space used for residential use, no matter where such floor space is located within the structure. For commercial uses, balconies, galleries, covered or uncovered patios, decks, and commercial leased space. For commercial uses, any outdoor space, whether covered or uncovered, used for seating, performance, or similar activities. Floor space within an enclosed structure.

B. Gross floor area does not include the following: Accessory water tanks or cooling towers. Exterior balconies on residential uses. Uncovered steps. Basements and attics, whether or not an attic floor has been laid, providing structural headroom of less than seven feet. Floor space used for required accessory off-street parking spaces. Galleries located in residential uses, through arcades and breezeways.

GROUP HOME. Refers to all types of residential dwellings, whether statutorily permitted or allowed as a use in this chapter and shall include but not be limited to continuing care facility, assisted living facility, community home, household care facility, rehabilitation treatment facility, and rehabilitation treatment institution. Unless otherwise required by law, the following shall apply to group homes permitted as a specific use and must be included in the ordinance granting the specific use as a condition of use:

A. A group home may not be located within one-half mile of an existing group home.

B. No structural or decorative alterations that will change the single-family character of existing residential use or be incompatible with surrounding residences is permitted, other than as may be required

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by the Americans with Disabilities Act.

C. The residents of a group home may not keep for the use of the residents of the home, either on the premises of the home or on a public right-of-way adjacent to the home, motor vehicles in numbers that exceed the number of bedrooms in the home.

D. A group home located in a single-family residential district may not be used so as to change the residential character of the single-family residential use or be maintained or operated so as to constitute a public nuisance as defined by this Code.

E. Must have at all times a valid residential rental license issued pursuant to this Code.

GYMNASTICS OR DANCE STUDIO. A building or portion of a building used as a place of work for a gymnast or dancer or for instructional classes in gymnastics or dance.

HAULING OR STORAGE COMPANY. See motor freight company.

HEAVY LOAD VEHICLE. A self-propelled vehicle having a manufacturer's recommended gross vehicle weight (GVW) of greater than 11,000 pounds, such as large recreational vehicles, tractor- trailers, buses, vans, and other similar vehicles. The term "truck" shall mean "heavy load vehicle" unless specifically stated otherwise.

HEAVY MACHINERY SALES AND STORAGE. A building or open area, other than a right-of- way or public parking area, used for the display, sale, rental, or storage of heavy machinery, either machines in general or a group of machines which function together as a unit.

HEIGHT. A measurement taken from the base of the object on the ground to its apex or highest point. If the object being measured is attached to a building, the base of the building to the top of the object is the height.

HELIPORT. An area of land or a structural surface which is used, or intended for use, for the landing and taking off of helicopters, and any appurtenant areas which are used, or intended for use for heliport buildings and other heliport facilities.

HELISTOP. The same as a heliport, except that no refueling, maintenance, repairs or storage of helicopters is permitted.

HOME IMPROVEMENT CENTER. A facility for the retail sale of home, lawn and garden supplies, brick, lumber and other similar lumber materials.

HOME OCCUPATION. Any occupation or activity carried on solely by the inhabitants of a residential dwelling which is clearly incidental and secondary to the use of the dwelling for residential dwelling purposes, which does not change the character thereof, and which is conducted entirely within the main or accessory buildings; provided that no trading in merchandise is carried on and in connection with which there is no display of merchandise or advertising sign other than one non-illuminated nameplate not more than two square feet in area attached to the main or accessory building, and no mechanical equipment is used, except such as is customary for purely domestic or household purposes and does not create obnoxious noise or other conditions such as odor, increased traffic, smoke or electrical interference. A beauty or barber shop, tearoom or restaurant, rest home or clinic, doctor's office or dentist's office, adult day care, tourist home, or cabinet, metal or auto repair shop, farm, ranch or similar agricultural use shall

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not be deemed a home occupation and must follow the restrictions and designations for any such use.

A. An occupation, profession, domestic craft or economic enterprise which is customarily conducted in a "residential dwelling" as hereinafter defined, subject to compliance with each of the following conditions:

(1) "Residential dwelling" shall mean a detached building or structure designed, used and occupied exclusively by members of one family as a residence.

(2) No person other than members of a family who reside in the residential dwelling shall be engaged in such occupation, profession, domestic craft or economic enterprise; provided, however, the resident may engage the services of one employee.

(3) The use shall be and remain incidental and subordinate to the principal use of the residential dwelling as a family residence and the area utilized for such occupation, profession, domestic craft or economic enterprise shall not exceed twenty percent (20%) of the total of the floor area of the residential dwelling.

(4) The residential dwelling shall maintain its residential character and shall not be altered or remodeled in order to create any type of exterior commercial appeal.

(5) No exterior storage of material, equipment or supplies used in conjunction with such occupation, profession, domestic craft or economic enterprise shall be placed, permitted or allowed on the premises occupied by the residential dwelling.

(6) No offensive noise, vibration, smoke, dust, odors, heat or glare generated by or associated with the home occupation shall extend beyond the property line of the lot or tract on which the home occupation is being conducted.

(7) The occupation, profession, domestic craft or economic enterprise shall be conducted wholly within the residential dwelling and no accessory building shall be used in conjunction therewith.

(8) Inventory for the home occupation may be stored on the premises provided it does not exceed 20 percent of total floor area.

(9) The only equipment to be used in such occupation, profession, domestic craft or economic enterprise shall be that which is ordinarily used in a private home in a like amount and kind.

(10) A home occupation shall not generate such additional traffic as to create a traffic hazard or disturbance to nearby residents; provided, however, an additional two cars at one time shall not constitute a traffic hazard in and of itself.

(11) A home occupation may include but not be limited to the following type activities:

i. Hand-crafted art studios;

ii. House cleaning services;

iii. Instructional arts studio;

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iv. Professional office, such as real estate, law office, insurance agent, tax consultant, with the exception of banking and other financial services, employment agencies, medical or dental offices;

v. Office services who render their services off-site;

vi. Photography studio;

vii. Private music, tutoring or similar lessons;

viii. Sale of homemade goods, crafts and similar products assembled on the premises excluding food;

ix. Telephone sales business online training ; and

x. Seamstress/alterations.

(12) Day care services as defined herein shall meet all applicable requirements for such activity as stated herein.

(13) Nothing shall be done to the residential dwelling to make the dwelling appear in any way as anything but a dwelling.

HOSPITAL. See medical facilities.

HOSPITAL, ACUTE CARE. An institution where sick or injured patients are given medical or surgical treatment intended to restore them to health and an active life, and which is licensed by the state.

HOSPITAL, CHRONIC CARE. An institution where those persons suffering from illness, injury, deformity or deficiencies pertaining to age are given care and treatment on a prolonged or permanent basis and which is licensed by the state.

HOSPITAL, REHABILITATION. An institution that provides long-term acute care, inpatient and outpatient rehabilitative services for those who have experienced a stroke, brain injury, neurological disorder or other debilitating conditions on a for-profit or not-for-profit basis, and may include physical, occupational or speech therapy.

HOTEL OR MOTEL. A facility offering a minimum of 75 rooms for temporary lodging accommodations or guest rooms on a daily rate to the general public and providing additional services, such as restaurants, meeting rooms, housekeeping service and recreational facilities. A guest room shall be defined as a room designed for the overnight lodging of hotel guests for an established rate or fee.

HOTEL OR MOTEL RESIDENCE. Same as hotel or motel, except such rooms are usually rented for longer periods of time (e.g. weekly or monthly). The facilities often include meeting rooms, clubhouses and recreational facilities intended for the use of the residents and their guests.

HOUSEHOLD APPLIANCE SERVICE AND REPAIR. The maintenance and rehabilitation of appliances customarily used in the home including but not limited to washing and drying machines, refrigerators, dishwashers, trash compactors, ovens and ranges, countertop kitchen appliances, vacuum cleaners and hair dryers. See Appliance Service, Repair.

HOUSING PREFABRICATION OR INDUSTRIALIZED HOUSING. A residential structure that is: (1)

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designed for the occupancy of one or more families; (2) constructed in one or more modules or constructed using one or more modular components built at a location other than the permanent site; and (3) designed to be used as a permanent residential structure when the module or the modular component is transported to the permanent site and erected or installed on a permanent foundation system. Industrialized housing includes the structure's plumbing, heating, air- conditioning, and electrical systems. Industrialized housing does not include: (1) a residential structure that exceeds three stories or 49 feet in height as measured from the finished grade elevation at the building entrance to the peak of the roof; (2) housing constructed of a sectional or panelized system that does not use a modular component; or (3) a ready-built home constructed in a manner in which the entire living area is contained in a single unit or section at a temporary location for the purpose of selling and moving the home to another location. For purposes of permitted residential uses, industrialized housing shall be permitted and treated as a single-family or duplex dwelling constructed on-site, provided that such industrialized housing: (1) has a value equal to or greater than the median taxable value for each single-family dwelling located within 500 feet of the lot on which the industrialized housing is proposed to be located, as determined by the most recent certified tax appraisal roll for each county in which the properties are located;

(2) has exterior siding, roofing, roof pitch, foundation fascia, and fenestration compatible with the single-family dwellings located within 500 feet of the lot on which the industrialized housing is proposed to be located; (3) complies with municipal aesthetic standards, building setbacks, side and rear yard offsets, subdivision control, architectural landscaping, square footage, and other site requirements applicable to single-family dwellings; (4) is securely fixed to a permanent foundation; and (5) has all local permits and licenses applicable to other single-family or duplex dwellings.

HUD-CODE MANUFACTURED HOUSING. See manufactured housing.

HUD-CODE MANUFACTURED HOME SALES. The use of any building or other premises for the display and retail sale of new or used HUD-Code Manufactured homes.

HUD-CODE MANUFACTURED HOME SUBDIVISION. Any lot, tract, or parcel of land divided into two or more lots or sites for the purpose of establishing a HUD-Code manufactured housing development.

IMPERVIOUS. Surfaces that allow little water to soak into the ground or that is constructed so as to allow water runoff (e.g., buildings, cement driveways or streets).

INDUSTRIAL PARK. A large tract of land that has been planned, developed and operated as an integrated facility for a number of individual industrial uses, with special attention to circulation, parking, utility needs, aesthetics, and compatibility.

INDUSTRIAL, GENERAL. Establishments engaged in the manufacturing or transformation of materials into new products. These establishments are usually described as plants and factories and characteristically use power-driven machines and materials-handling equipment. Manufacturing production is usually carried on for the wholesale market, rather than for direct sale to the domestic customers.

INFRASTRUCTURE. The large-scale public systems, services, and facilities of a city or region that are necessary for development and economic activity, including power and water supplies, public transportation, telecommunications, roads, and schools.

INSTRUMENT AND METER MANUFACTURING. See manufacturing process, general.

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INSURANCE OR INSURANCE ESTIMATOR'S OFFICE. See business office, general.

INTEGRATED STORMWATER MANAGEMENT (ISWM). A way of managing stormwater to mitigate the negative impacts of development by integrating the management of the quality of stormwater with quantity management, as well as integrating stormwater considerations into the earliest stages of the development and site planning process.

INTERIOR DECORATOR'S OFFICE. See business office, general.

JAIL, PRISON OR HOLDING FACILITY. A place for the short-term confinement of persons in lawful detention, either persons accused of, or awaiting trial under local jurisdiction or persons convicted of crimes. The facilities shall be owned and operated by governmental entities with proper jurisdiction and meet all applicable federal and state regulations governing the use.

JEWELRY AND WATCH MANUFACTURING. See manufacturing process, general.

KENNELS. An establishment with pens in which more than four dogs or domesticated animals are housed, groomed, bred, boarded, trained or sold for commercial purposes. The pens may be indoor or outdoor dependent upon the zoning district in which they are located. The a use must meet all applicable state and local regulations for the humane care and treatment of animals and may not constitute or create a nuisance.

KEY SHOP OR LOCKSMITH. A business whose primary purpose is to make or repair locks and/ or make keys.

KINDERGARTEN OR NURSERY SCHOOL (PRIVATE). A child care facility offering a program of four hours or less per day for children who have passed their second birthday but who are under seven years old.

KIOSK. A small, freestanding, one-story structure having a maximum floor area of 350 square feet and used for commercial purposes or the posting of temporary information or posters, notices and announcements. If a kiosk is to be occupied, it shall have a minimum floor area of twenty-five (25) square feet.

LABORATORY, MEDICAL. An area where medical testing and analysis are performed under sterile conditions to assist in diagnosis and treatment of illnesses.

LABORATORY, SCIENTIFIC OR RESEARCH. An establishment that engages in research, testing or evaluation of materials or products, but not necessarily medical-related.

LANDSCAPING. Material such as, but not limited to, grass, ground covers, shrubs, vines, or trees, and non-living durable material commonly used in the aesthetic and appealing presentation of living garden materials, such as, but not limited to, rocks, pebbles, sand, walls or fences, but excluding paving.

LAUNDROMAT (OR SELF-SERVE WASHATERIA). A facility where patrons wash, dry or dry clean clothing and other fabrics in machines operated by the patron.

LAW OFFICE. See business office, general.

LAWN/YARD. An open space at grade between a building and the adjoining lot lines, unoccupied and

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unobstructed by any portion of a structure from the ground upward. In measuring a lawn/yard for the purpose of determining the width of the side yard, the depth of a front yard or the depth of a rear yard, the shortest horizontal distance between the lot lines and the main building shall be used.

LAWN/YARD, FRONT. A lawn/yard located in front of the elevation of a building and extending across a lot between the side yard lines and being the minimum horizontal distance between the front property line and the outside wall of the main structure.

LAWN/YARD, SIDE. A lawn/yard between the building and sideline of the lot and extending from the front lot line to the rear lot line and being in the minimum horizontal distance between a side lot line and the outside wall of the side of the main structure.

LEATHER GOODS FABRICATION. All establishments engaged in tanning, currying [curing] and finishing hides and skins, leather converters and establishments manufacturing finished leather and artificial leather products and some similar products made of other materials.

LEATHER GOODS SHOP. An establishment whose primary retail product for sale is that of leather goods. Leather goods may also be sold in combination with other merchandise in a department store or other general retail store.

LIBRARY (PUBLIC). Any institution for the loan or display of books, tapes, objects of art or science which is sponsored by a public or responsible quasi-public agency and which institution is open and available to the general public.

LIGHT FABRICATION AND ASSEMBLY. Construction by combining or assembling diverse, typically standardized parts to create or make a finished product, including packaging of such products, and incidental storage, sales and distribution of such products, but excluding basic industrial processing.

LIGHT INDUSTRIAL. Manufacturing and fabricating establishments with limited external impact, small in size, with no heavy manufacturing or specialized industrial processes, generally related to the assembly, disassembly, fabricating, finishing, manufacturing, packaging, repairing or processing of materials, such as printing, commercial laundry, photographic processing, building maintenance shops, metal work, millwork and cabinetry work.

LIGHT LOAD VEHICLES. A self-propelled vehicle having a manufacturer’s recommended gross vehicle weight (GVW) not greater than eleven thousand (11,000) pounds and having no more than two axles, such as pickup trucks, vans, recreational vehicles, campers and other similar vehicles but not including automobiles and motorcycles.

LIGHT MANUFACTURING. Manufacturing of finished products or parts, predominately from previously prepared materials, including fabrication, assembly, and packaging of such products, and incidental storage, sales and distribution of such products, but excluding basic industrial processing.

LIGHT SHEET METAL PRODUCTS (ENCLOSED BUILDING). The process of sheet metal fabrication can include shearing, cutting, duplicating, contouring, forming, rolling, welding, bending, stamping, drawing, machine assembling and finishing. Finished products can range from small components (with a value of $1.00 each) to machines that are 30 feet high (valued at $400,000.00) as well as weld-fabricate subassemblies and assemblies. See manufacturing process, general or light industrial.

LIMOUSINE. Any chauffeured motor vehicle for general passenger use with a rated passenger capacity

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of not more than 15 passengers and which operates on a prearranged appointment basis only whereby such prearrangement is made not less than 1 hour in advance of the time transportation is to begin. At no time shall such a vehicle operate on a call-and-demand basis as a taxicab.

LOADING SPACE. An off-street space or berth used for the delivery and loading or unloading of vehicles.

LOT FRONTAGE. That dimension, line or side of a lot or portion of a lot abutting on a street, excluding the side dimension, line or side of a corner lot.

LOT LINE, FRONT. The narrower side of the lot abutting a street. Where two lot lines abutting streets are of equal length, the owner shall have a choice in designating which shall be the lot frontage. For a lot which has a boundary line which does not abut the front street line, is not a rear lot line and lies along the same general directional orientation as the front and rear lot lines, the line shall be considered a front lot line in establishing minimum setback lines.

LOT LINE, REAR. The lot line farthest from and most parallel to the front lot line. For triangular lots, the point opposite the front lot line shall be considered the rear lot line and have a value of zero.

LOT LINE, SIDE. Any lot line not the front or rear lot line.

LOT LINES. The lines bounding a lot as defined herein.

LOT WIDTH. The horizontal distance measured between side lot lines parallel to the front lot line and measured from the point on the building line which is closest to the front lot line.

LOT, AREA. The total area, measured on a horizontal plane, included within lot lines, and exclusive of any private or public right-of-way or alley. The “area lot” is that portion of a platted tract that may be developed.

LOT, CORNER. A lot that has at least two adjacent sides abutting for their full lengths on a street, if the interior angle at the intersection of such two sides is less than one hundred thirty-five degrees (135°).

LOT, DEPTH. The mean horizontal distance between the front and rear lot lines.

LOT, DOUBLE FRONTAGE. A lot having a frontage on two non-intersecting streets, as distinguished from a lot.

LOT, FLAG OR PANHANDLE. A lot having access to a street by means of a parcel of land having a depth greater than its frontage and having a width less than the minimum required lot width, but not less than thirty-five feet (35'). Flag or panhandle lots are generally prohibited in new subdivisions, where lots shall front directly off a public or private street. Any nonconforming lot shall go before the zoning board of adjustment prior to any plat approval.

LOT, INTERIOR. A lot other than a corner lot.

LOT, KEY. A corner lot that is so designed that the lots located directly behind it face the side street of the corner lot and are not separated by an alley shall be considered a key lot.

LOT, OR LOT OF RECORD. Any tract or parcel or a part of a recorded subdivision which is occupied or

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intended to be occupied by one main building, or a group of main buildings, and accessory building and uses, including such open spaces as are required by this chapter, the remaining chapters of this Code, or state law, and having its principal frontage on a public street or officially approved place. A lot shall be part of a subdivision, the plat of which has been recorded in the office of the county clerk of Dallas County or Ellis County.

LOT, PLATTED OR LEGAL LOT. In order to obtain a building permit or utility service, the city requires that the parcel of land be mapped, charted, surveyed, planned or replatted, containing a description of the subdivided land with ties to permanent landmarks or monuments and filed of record with the county clerk of Dallas County or Ellis County.

LOT, THROUGH. A lot, other than a corner lot, having frontage on two parallel or approximately parallel streets.

MAIN BUILDING. The buildings on a lot which are occupied by the main or primary use.

MANUFACTURED HOME A/K/A HUD-CODE MANUFACTURED HOME. A structure, constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on-site, is three hundred twenty (320) or more square feet, and which is built on a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems. All references in this chapter to manufactured housing or manufactured homes shall be references to HUD-Code Manufactured Housing, unless otherwise specified. The term does not include a recreational vehicle as that term is defined by 24 C.F.R. section 3282.8(g). Any structure with less than the length or width specified in this paragraph, or pre-dating June 15, 1976, generally known as a mobile home, shall not be allowed in a HUD- Code Manufactured Home Park or within the corporate city limits as provided herein and allowed by law. HUD-Code Manufactured Homes shall be governed by separate provisions of this Code. Also referred to as HUD-Code Home.

MANUFACTURED HOUSING UNIT. See manufactured home a/k/a HUD-Code manufactured home.

MANUFACTURING PROCESS, GENERAL. An establishment engaged in basic processing and manufacturing of materials or products predominantly from extracted or raw materials excluding those generally classified as hazardous or objectionable such as chemical warehousing and manufacturing, fat rendering plants, meat packing plants, petroleum refineries, slaughterhouses and tanneries. Uses restricted from other zoning districts but permitted in the I and C, districts, as specifically indicated by the use chart, under this definition are manufacturing and industrial uses which do not emit dust, smoke, odor, gas, fumes, or present a possible hazard beyond the bounding property lines of the lot or tract upon which the use or uses are located, and which do not generate noise or vibration at the boundary of the lot or tract which is generally perceptible in frequency or pressure above the ambivalent level of noise or vibration in the adjacent area. The uses include toys, jewelry, watches, electronics, plastics and candy.

MANUFACTURING, GENERAL. See Light industrial. masonry.

A. APPROVED - Hard fired (kiln fired) clay brick, natural stone, granite, marble, hammered or split-face finished concrete, load-bearing units, pre-cast concrete panels or tilt walls (painted, fluted or exposed aggregate), hard fired clay tile, cement-based stucco.

B. ALTERNATE MATERIAL - Glass walls or glass blocks, cementitious fiber board, acrylic matrix

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(three-component finish system consisting of 100% acrylic matrix ceramically colored aggregate and sealer or 100% synthetic plaster having two types of application, spraying or troweling).

MASONRY CONSTRUCTION. That form of construction comprised of brick, stone, granite, marble, concrete, hollow clay tile, concrete block or tile, brick, veneer, exterior plasters (including stucco), or other similar building units or materials or combination of these materials laid up unit by unit and set in mortar.

MASSAGE ESTABLISHMENT. Any place of business in which massage therapy is practiced by a massage therapist, as defined by State law. “Massage therapy,” as a health care service, means the manipulation of soft tissue for therapeutic purposes. The term includes, but is not limited. to, effleurage (stroking), petrissage (kneading), tapotement (percussion), compression, vibration, friction, nerve strokes, and Swedish gymnastics, either by hand or with mechanical or electrical apparatus for the purpose of body massage. Massage therapy may include the use of oil, salt glows, heat lamps, hot and cold packs, tub, shower or cabinet baths. Equivalent terms for massage therapy are massage or therapeutic massage. Massage therapy does not include diagnosis, the treatment of illness or disease, or any service or procedure for which a license to practice medicine, chiropractic, physical therapy, or podiatry is required by law.

MASTER PLAN. Graphic and textual form policies which govern the future development of the city and which consist of various components governing specific geographic areas and functions and services of the city. These are generally presented by the city’s land use, thoroughfare and park plans.

MEDICAL FACILITIES. Include the following:

A. Dental clinic or medical clinic. A facility or group of offices for one or more physicians for the examination and treatment of ill and afflicted human outpatients provided that patients are not kept overnight except under emergency circumstances.

B. Health center. A facility primarily utilized by a health unit for providing public health services including related facilities such as laboratories, clinics and administrative offices operated in connection therewith.

C. Hospital. An institution that provides medical, surgical or psychiatric care and treatment for the sick or injured and including related facilities such as laboratories, outpatient departments, training facilities, central services facilities, and staff offices which are an integral part of the facilities.

D. Sanitarium. An institution providing health facilities for inpatient medical treatment or treatment and recuperation making use of natural therapeutic agents.

E. Animal clinic. An establishment in which animals are admitted for examination and medical treatment. The establishment may or may not have outside kennels for housing such animals depending upon the district in which it is located. This definition does not include pet shops.

MEDICAL SUPPLIES STORE. An establishment that provides access to various medical supplies, in particular for the purchase and use by individuals and not hospitals. The supplies would include wheelchairs, walkers, bandages, etc.

MINIATURE GOLF, DRIVING RANGE, & PUTTING COURSE. Miniature golf is a novelty golf game played with a putter on a miniature course usually having tunnels, bridges, sharp corners, and obstacles.

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Driving ranges and putting courses are golf practice facilities that are included at most golf courses; however, driving ranges can also commonly operate as a stand-alone business away from golf courses. Typically, a driving range will consist of a large, open field with teeing ground at one end. Golfers line upside-by-side pounding golf balls out into the field. The landing area may be, literally, an empty field; or it may include target greens and yardage markers. Most ranges sell buckets of balls of varying sizes and prices. Many driving ranges also have practice putting greens and may have areas for chipping, pitching and bunker practice.

MINI-WAREHOUSE. Small individual storage units for rent or lease, restricted solely to the storage of items. The conduct of sales, business or any other activity within the individual storage units, other than storage, shall be prohibited.

MOBILE HOME. A dwelling constructed before June 15, 1976, designed to be transported on its own chassis on the highway in one or more sections by a prime mover and which is constructed with a base section so as to be independently self-supporting and not requiring a permanent foundation for year-round living and which includes the plumbing, heating, air-conditioning and electrical systems. Mobile homes are prohibited in any zoning district in the city. When the term is used in this chapter as a header or descriptor but not referring to the prohibited dwelling, shall mean to refer to HUD-Code home.

MOBILE HOME DISPLAY AND SALE. The offering for sale, storage, or display of trailers or HUD-Code homes on a parcel of land but excluding the use of such facilities as dwellings either on a temporary or permanent basis.

MOBILE HOME PARK, TRAILER PARK OR RV PARK. A parcel of land which is designed, improved or intended to be used for short- or long-term occupancy by HUD-Code homes trailers or RVs in designated spaces. The facility may include a residence for the owner or manager, utility hook-ups, accessory structures, playgrounds and open space areas, small, fenced areas and similar amenities. Manufactured home parks are governed by separate provisions of this Code.

MOBILE HOME SPACE. A plot of ground within a HUD-Code home park, trailer, park, RV park or HUD-Code home subdivision which is designated for the accommodation of one HUD- Code home, trailer or RV unit.

MOBILE HOME SUBDIVISION. A parcel of land which is designed, platted, improved and intended for the long-term placement of individually owned HUD-Code manufactured homes on platted lots which can be purchased outright by the owners of the HUD-Code homes. Facility may include a residence for the owner/manager of the premises, utility hook-ups, accessory structures, playgrounds and open space areas, fenced yard areas for pets and other similar amenities.

MODEL HOME. A dwelling in a developing subdivision, located on a legal lot of record, that is limited to temporary use as a sales office for the subdivision and to provide an example of the dwellings which have been built or which are proposed to be built within the same subdivision.

MODULAR HOME (OR INDUSTRIALIZED HOUSING). A structure or building module as defined by statute and under the jurisdiction and control of the Texas Department of Labor and Standards, installed and used as a residence by a consumer, transportable in one or more sections on a temporary chassis or other conveyance device, and designed to be used on a permanent foundation system. The term includes the plumbing, heating, air- conditioning, and electrical systems contained in the structure. The term does not include a mobile home or HUD-Code manufactured housing as defined by statute; nor does it include building modules incorporating concrete or masonry as the primary structural component. The defining

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characteristic is that a modular home is assembled at the site as a permanent structure that is not designed to be moved once it is in place.

MONOPOLE. A style of freestanding antenna-supporting structure that is composed of a single shaft usually composed of two or more hollow sections that are in turn attached to a foundation. This type of antenna-supporting structure is designed to support itself without the use of guy wires or other stabilization devices. These structures are mounted to a foundation that rests on or in the ground or on a building's roof.

MORTUARY OR FUNERAL PARLOR. See funeral home or mortuary.

MOTOR FREIGHT COMPANY. An establishment or enterprise that uses trucks (as contrasted with railroad trains) to ship freight.

MOTOR RACEWAY OR RACETRACK. A track for racing automobiles or motorcycles.

MOTOR VEHICLE. See automobile (auto).

MOTORCYCLE. A usually two-wheeled self-propelled vehicle having one or two saddles or seats, and which may have a sidecar attached. For purposes of this chapter, motorbikes, motor scooters, mopeds, and similar vehicles are classified as motorcycles.

MOTORCYCLE SALES AND SERVICE. The display, sale and servicing, including repair work, of motorcycles.

MULTIPLE-FAMILY BUILDING. Same as dwelling, multiple-family.

MULTIPLE-FAMILY RESIDENCE. Same as dwelling, multiple-family.

MULTI-USE ENTERTAINMENT COMPLEX. Any building or group of buildings and facilities for indoor sports activities, instructional, competitions, tournaments and league activities, expositions, trade and antique shows, concessions for food service, retail sales, youth and senior programs.

MUNICIPAL BUILDING. Any public service building of the municipal government including city hall, police and fire, but excluding storage yards, utility shops and equipment centers.

MUNICIPAL FACILITY OR USE. Any area, land, building, structure or facility which is owned, used, leased or operated by the city.

MUNICIPAL SERVICES DIRECTOR. An official of the city responsible for the city's engineering department, water delivery, wastewater collection, road maintenance, parks and solid waste collection. In the absence of a public works director, the city manager or his appointed representative shall have responsibility over the engineering department.

MUNICIPAL UTILITIES. Utility services provided to the citizens of the city by the municipality or provided under contract with the municipality as designated by this Code. Specifically those municipal utilities include but may not be limited to water distribution, wastewater and solid waste collection.

MUSEUM OR ART GALLERY (PRIVATE). An institution for the collection, display, sale and distribution of objects of art or science, which is operated by a private individual or entity and provides

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admittance to the facility with or without fee.

MUSIC OR ART STUDIO. An establishment where music or art is taught, including dance and photography.

MUSICAL INSTRUMENTS, TOYS, NOVELTIES, RUBBER AND METAL STAMPS MANUFACTURING. See Manufacturing Process, General.

NEIGHBORHOOD SERVICE USES, NOT GREATER THAN 5,000 SQ. FT. An establishment whose purpose is to provide neighborhood services but the size of which is less than 5,000 square feet. The an establishment may be a dry cleaning drop-off/pickup station, photo-mart, prescription drugstore, etc.

NEWSPAPER PRINTING. An establishment other than a personal service shop for the treatment or processing of print media products as a service on a for-profit basis.

NONCONFORMING. A building, structure, or use of land lawfully occupied at the time of the effective date of this chapter or amendments thereto, but which does not conform to the use regulations of the district in which it is situated and shall be governed by the regulations contained in this chapter.

NOVELTY MANUFACTURING. See Manufacturing, General.

NOVELTY SHOP A/K/A GIFT SHOP. A shop that sells miscellaneous articles appropriate as gifts.

NURSING HOME. Licensed by the state for the aged or chronically or incurably ill person under the following limitations.

- 5 or more such persons not of the immediate family are provided with food and shelter or care for compensation but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

- A use providing bed care and inpatient services for persons requiring regular medical attention but excluding a facility providing surgical or emergency medical services and excluding a facility providing care for alcoholism, drug addiction, mental disease, or communicable disease.

- A facility established for profit or nonprofit, which provides nursing care and related medical services on a 24-hour per day basis to two or more individuals because of illness, disease, or physical or mental infirmity.

- Provides care for those persons not in need of hospital care.

- Convalescent Care

- Nursing Facility or skilled

OBSOLETE ZONING DISTRICT. Zoning districts that have existed in prior zoning ordinances and have been removed from this chapter and shall not be applied to any property in the city from and after the date of this chapter, consistent with state law.

OCCUPANCY. The use or intended use of the land or buildings by proprietors or tenants.

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OFFICE CENTER. A building or complex of buildings used primarily for conducting the affairs of a business, profession, service, industry or government, or like activity, that may include ancillary services for office workers such as a restaurant, coffee shop, newspaper or candy stand.

OFFICE SHOWROOM. An establishment with no more than twenty-five percent (25%) of its total floor area devoted to storage and warehousing, but not accessible to the general public. The remaining area may include retail and wholesale sales areas, sales offices and display areas for products sold and distributed from the storage and warehousing areas.

OFFICE WAREHOUSE. An establishment with more than twenty-five percent (25%) of the total floor area devoted to storage and warehousing, but not generally accessible to the public.

OFFICE, PROFESSIONAL AND GENERAL ADMINISTRATIVE. A room or group of rooms used for the provision of executive, management, or administrative services. Typical uses include administrative offices, and services including real estate, accountant, bookkeeping, insurance, property management, investment, personnel, travel, secretarial services, telephone answering, and business offices of public utilities, organizations and associations; but excluding medical facilities.

OFF-STREET PARKING INCIDENTAL TO MAIN USE. Off-street parking spaces provided in accordance with the requirements of this chapter, located on the lot or tract occupied by the main use or within one hundred fifty feet (150') of such lot or tract, and located within the same zoning district as the main use or in an adjacent parking district.

OFFICIALLY APPROVED PLACE OF ACCESS. Access, other than a dedicated street, to a property which is approved by the city.

OILFIELD EQUIPMENT STORAGE YARD. A facility for the purpose of storing oilfield equipment such as pumps, pump jack stands, pipes, tanks, valves and fittings. No exploration or pumping is allowed at this site.

OPEN SPACE. An area that is intended to provide light and air, for environmental, scenic, or recreational purposes, may include but is not limited to lawns, decorative, plantings, bikeways, walkways, outdoor recreation areas, wooded areas, greenways, and watercourses. The term also includes any land, water, or submerged land that is provided for, preserved for, or used for park or recreational purposes, conservation of land or other natural resources, cultural, historic or scenic purposes; assisting in the shaping of the character, direction and timing of community development or wetlands.

OPEN STORAGE, OUTSIDE STORAGE OR OUTDOOR STORAGE. The keeping or storing, outside a building, in an unroofed area of any goods, material, merchandise, or equipment on a lot or tract for more than 24 hours.

OPTICAL GOODS MANUFACTURING. See manufacturing process, general.

OPTICIAN OR OPTOMETRIST. See business office, general.

OSTEOPATHIC CLINIC OR OFFICE. See business office, general.

OUTSIDE DISPLAY. Outside temporary display of finished goods that are specifically intended for retail sale but not displayed outside overnight.

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OUTSIDE DISPLAY/STORAGE FOR MOTORCYCLES SALES. The use of any land area for the display and sale of new or used motorcycles, related products and parts for motorcycles.

OUTSIDE DISPLAY/STORAGE FOR NEW BOAT SALES AND SERVICE. The use of any land area for the display and sale of new or used boats, related products, services and parts for boats.

OUTSIDE DISPLAY/STORAGE FOR TRAILERS FOR HAULING, RENTAL AND SALES. The use of any land area for the display and sale of new or used trailers for hauling, both for rent and sales, related projects, services and parts for trailers.

OUTSIDE DISPLAY/STORAGE OF FARM EQUIPMENT AND MACHINERY. The use of any land area for the display and sale of new or used farm equipment, machinery and parts for farm equipment and machinery.

OVERLAY ZONING DISTRICT. A district that is superimposed over one or more zoning districts or parts of districts and that imposes specified requirements in addition to those applicable in the underlying base zoning district.

PAD SITE. A platted lot, ranging from approximately 20,000 sq ft. to 75,000 sq. ft. in an area that is created from a larger platted lot of a larger shopping center or strip mall. A freestanding building, such as a bank or restaurant, associated with the larger retail center located there and is desirable because of visibility and accessibility.

PAINT SHOP. A commercial establishment where painting services are performed. This does not include automotive-related painting services, which would be included under “automobile repair, major.”

PAPER PRODUCTS MANUFACTURING. The manufacture of paper products involves matting the pulp fibers into sheets. Pulp fibers involve the separating of cellulose fibers from other impurities in wood but have been separated out in another process.

PARK AND RIDE. A transportation plan, designed to reduce car use in metropolitan areas, in which motorists drive to out-of-town parking lots from which buses or trains run regularly into the city.

PARK OR PLAYGROUND. Any outdoor facility that is not on the premises of a school and that is intended for recreation, is open to the public, and contains three or more separate apparatus intended for the recreation of children such as slides, swing sets and teeterboards.

PARKING GARAGE. Any building, or portion thereof, used for the storage of four or more automobiles in which any servicing provided is incidental to the primary storage use, and where repair facilities are not provided and may or may not be for a fee. See garage, parking.

PARKING LOT. An off-street, ground level area, usually surfaced and improved, for the temporary storage of motor vehicles. A parking lot may be designated as off-street parking, truck parking or permitted use.

PARKING LOT, COMMERCIAL. An off-street, ground-level area, with an improved surface, for the temporary storage of motor vehicles for a fee.

PARKING SPACE. A permanently surfaced asphalt or concrete area, enclosed or unenclosed, with minimum space of 9' x 18' per vehicle, and a permanently surfaced driveway connecting the parking

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space with a street or alley, permitting ingress or egress of an automobile.

PARKING, SHARED. Off-street parking spaces or areas required under the zoning district or by use, that are provided cooperatively for two or more uses in a development or for two or more individual uses, subject to the requirements of the applicable granting instrument.

PATIO HOME. See zero lot line dwelling.

PAWNSHOP. An establishment where money is loaned on the security of personal property pledged in the keeping of the owner (pawnbroker). The a use must comply with all applicable state and federal regulations governing the use.

PERIMETER STREET. A street located along the boundary of an existing or proposed subdivision.

PERSONAL FITNESS FACILITIES. See studios for health, reducing, fitness; fitness facility.

PERVIOUS. Surfaces that are porous or otherwise allow water to soak or percolate through or into the ground rather than running off (e.g., parks, soccer fields, and grass).

PET AND ANIMAL GROOMING SHOP. An establishment offering services for the bathing, cutting of hair and nails and general grooming of dogs, cats and similar animals.

PET SHOP. A retail establishment offering small animals, fish or birds for sale as pets and where all such creatures are housed within the building.

PETROLEUM DISTRIBUTION/STORAGE/WHOLESALE FACILITY. A facility for the long-term storage and distribution of petroleum that may also involve wholesale sales, but not retail sales, of petroleum and petroleum-based products. No manufacturing or refining of petroleum or petroleum-based products occurs on the premises, only storage or distribution function.

PETROLEUM EXTRACTION. A tract of land used primarily for the extraction of oil and gas, which are processed and sold or used for commercial purposes and shall comply with all applicable state, federal and local ordinances and regulations.

PHILANTHROPIC INSTITUTIONS. An organized initiative to provide humanitarian or charitable assistance through donation of money, goods, time, or effort to support a charitable cause, usually over an extended period of time and in regard to a defined objective.

PLANNING AND ZONING COMMISSION. A commission, appointed by the city council, authorized to recommend changes in this chapter, subdivision regulations and other planning functions as delegated by the city council, and as set forth in city Charter, this Code, and state law.

PLANT, COMMERCIAL GENERAL. See, commercial plant, general.

PLASTIC PRODUCTS, MANUFACTURING, BUT NO RAW MATERIALS PROCESSING. See manufacturing process, general.

PLAT. A plan or map of a subdivision of land creating building lots or tracts and showing all essential dimensions and other information essential to comply with the preliminary or final plat subdivision standards of this chapter and subject to approval by the planning and zoning commission and city council

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and filed in the plat records of Ellis County or Dallas County.

PLOT. A single unit or parcel of land or a parcel of land that can be identified and referenced to a recorded plat or map.

PORTABLE BUILDING SALES (OUTSIDE DISPLAY). An establishment which displays and sells structures capable of being carried and transported to another location, but not including "mobile homes."

PRELIMINARY PLAT. Any plat of any lot, tract or parcel of land that is not to be recorded of record, but is only a proposed division of land for review and study by the city.

PREMISES. Land together with any buildings or structures situated thereon.

PRIMARY STRUCTURE. See main building.

PRIMARY USE. The principal or predominant use of any lot or building.

PRINCIPAL BUILDING. See main building.

PRINT SHOP. An establishment, which reproduces, in printed form, individual orders from a business, profession, service, industry or government organization.

PRIVATE BOARDING SCHOOL. A primary school that is privately controlled and supported by endowment and tuition and where pupils are provided living accommodations with meals and lodging.

PRIVATE SCHOOL. A school under the sponsorship of a private agency or corporation which offers a course of instruction for students in one or more grades from kindergarten through grade 12 that is generally equivalent to a public school, but not including business or trade schools, and that has more than 100 students enrolled and attending courses at a single location.

PRO RATA AGREEMENT. A contract for reimbursement of costs based upon a distribution of use or service.

PRODUCE STAND. A seasonal use for which the primary purpose and design is to sell fruit, nuts, vegetables and similar foods. No cooking or on-premises consumption of produce occurs on the site.

PROFESSIONAL SERVICE. Work performed which is commonly identified as a profession, and which may be licensed by the state.

PROFESSIONAL TRAFFIC OPERATIONS ENGINEER (PTOE). An engineer licensed by the state with certification from the Transportation Professional Certification Board Inc. (TPCB), an autonomous certification body affiliated with the ITE.

PROPANE SALES. Retail sales of gaseous substances commonly used for household purposes such as propane or butane; does not include the storage, sale or distribution of other types of combustible substances or alternative fuels such as containerized natural gas, liquid propane, etc.

PROVISIONAL ZONING DISTRICT. Those districts identified in this chapter that may only be used in conjunction with other zoning districts in a planned development district. This district does not affect zoning classifications currently in existence.

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PSYCHOLOGIST OR PSYCHIATRIST OFFICE. See business office, general.

PUBLIC AGENCY BUILDING, SHOP, YARD OR FACILITY. Any building (except a building used primarily for general office purposes) which is owned, leased, primarily used or primarily occupied by the state, the United States, the city, or any subdivision or agency of the state, the United States or the city, or by any public or quasi-public utility.

PUBLIC EASEMENT. An area for restricted use located on private property upon which any public utility shall have the right to remove and, depending upon the terms of the easement agreement, keep removed all or part of any building, fence, tree, shrub, or other improvements or growths which in any way endanger or interfere with the construction, maintenance, or efficiency of its respective system in any of these easements.

PUBLIC GARAGE, NO ABOVE-GROUND GASOLINE STORAGE. A detached accessory building or portion of the main building for the primary use as parking or temporary storage of automobiles, with or without fee, to members of the general public.

PUBLIC UTILITY SERVICE YARD. An area for the servicing and storage of vehicles or other property of a public utility or governmental agency.

PUBLIC VIEW. Areas that can be seen from any public street or right-of-way, where the observing person has a legal right to be, and is not legally or permissible screened from view as provided by this Code.

QUARRY, ROCK. An open excavation or pit from which stone is obtained by digging, cutting, or blasting.

RADIO BROADCASTING WITH TOWER. A place of business for the transmission, via radio-frequency electromagnetic waves, of audible program material for direct reception by the general public utilizing a tower to facilitate transmission.

RADIO BROADCASTING WITHOUT TOWER. A place of business for the transmission, via radio-frequency electromagnetic waves, of audible program material for direct reception by the general public. No tower is allowed at this location.

RAILROAD, TRAIN OR BUS PASSENGER STATION. Any premises for the transient housing or parking of motor-driven buses and trains and the loading and unloading of passengers.

REAL ESTATE SALES OFFICE. See business office, general.

RECREATION CENTER OR RECREATION FACILITY. A place designed, equipped and provides for the conduct of athletic, civic or cultural activities, leisure time activities and other customary and usual recreational activities. The facility may be private or public and if intended primarily for use by persons who are 17 years of age or younger, may constitute a youth center.

RECREATIONAL VEHICLE (RV). A vehicle used for recreational purposes such as a self- propelled (i.e., motorized), mobile living unit, all-terrain vehicle, boat, or other such unit and as specifically defined in state law. Often an RV is used for temporary human occupancy away from the users' permanent place of residence. Under appropriate circumstances and in appropriate areas an RV may also be utilized as a

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permanent place of residence within districts that allow them to be used as such.

RECREATIONAL VEHICLE (RV) PARK. An area or commercial campground for users of creational vehicles, travel trailers and similar vehicles to reside, park, rent or lease on a temporary basis.

RECREATIONAL VEHICLE/CAMPER SALES AND LEASING. An establishment that sells, leases, or rents new or used recreational vehicles, travel trailers, campers, boats/watercraft and similar types of vehicles.

RECYCLING KIOSK. A small uninhabited structure (120 square feet maximum) or temporary container (e.g., "igloo" or dumpster-type container) which provides a self-service location for the depositing of recyclable materials such as aluminum cans (e.g., "can banks"), glass bottles, magazines/newspapers, metal or plastic containers, etc. Recyclables are picked up periodically from the site. This definition does not include large trailers or manned collection centers.

REHABILITATION CARE FACILITY, HALFWAY HOUSE. A dwelling unit which provides residence and care to not more than nine persons, regardless of legal relationship, who have demonstrated a tendency towards alcoholism, drug abuse, mental illness or antisocial or criminal conduct living together with not more than two supervisory personnel as a single housekeeping unit. The term shall include a public or private hospital, a detoxification facility, a primary care facility, an intensive care facility, a long-term care facility, an outpatient care facility, a community mental health center, a health maintenance organization, a recovery center, a halfway house, an ambulatory care facility, another facility that is required to be licensed and approved by the Texas Drug and Alcohol Commission, or a facility licensed or operated by the Texas Department of Mental Health and Mental Retardation. The term does not include an educational program for intoxicated drivers or the individual office of a private, licensed health care practitioner who personally renders private individual or group services within the scope of the practitioner's license and in the practitioner's office.

REQUIRED PARKING. The number of parking spaces required for a particular use in a zoning district as specified in this chapter.

REQUIRED PARKING, OFF-STREET. The number of parking spaces required for a particular use in a zoning district as specified in Article XVI on an improved or approved surface or in an enclosed structure.

RESIDENCE. Same as "dwelling." When this term is used in relation to a zoning district, it refers to an area of residential regulations.

RESIDENTIAL DISTRICT. District where the primary purpose is residential use.

RESIDENTIAL STREET. A street which is intended primarily to serve traffic within a neighborhood or limited residential district and which is used primarily for access to abutting properties.

RESORT. A city or other destination (e.g., hotel) known for its leisure attractions, broad range of amenities, and sports facilities, designed to provide a total vacation experience.

RESTAURANT. A restaurant or cafeteria that prepares food for general on-site consumption. No provision is made to serve food or beverage to patrons inside vehicles. Also known as dine in.

RESTAURANT OR CAFETERIA, WITH DRIVE-THRU SERVICE. An eating establishment where customers are primarily served at tables or self-served and food is consumed on the premises, which may

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include a drive-thru window. The an establishment derives its gross revenue from the sale of food and not alcohol.

RESTAURANT OR CAFETERIA, WITH NO DRIVE-THRU SERVICE. An eating establishment where customers are primarily served at tables or are self-served, where food is consumed on the premises, and which do not have a drive-thru window.

RESTAURANT OR EATING ESTABLISHMENT, WITH DRIVE-IN SERVICE. An eating establishment where primarily food or drink is served to customers in motor vehicles or where facilities are provided on the premises which encourage the serving and consumption of food in automobiles on or near the restaurant premises. If more than seventy-five percent (75%) of the daily gross sales are attributed to the sale of alcohol, the establishment shall be defined as "bar."

RESTAURANTS INCIDENTAL TO MAIN USE. A place of business whose primary purpose is not that of a restaurant but has a restaurant included within the main building as an added service to the customer, including but not limited to a hospital, bookstore, big box classification.

RETAIL SERVICE, INCIDENTAL OR ACCESSORY. The rendering of retail or services incidental to, but which complements or supplements the primary use. In the office district, such uses include a barber or beauty shop, smoke shop, candy counter, restaurant, pharmacy or other incidental activity secondary to the primary office occupancy, or a sundries shop that serves tenants or patrons of a hospital. The uses shall have no separate outside entrance and no outside signage and shall occupy less than fifteen percent (15%) of the main use. Incidental uses may include the sale of point-of-purchase consumables.

RETAIL STORES AND SHOPS. An establishment engaged in the selling of goods and merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods. The goods in this category are limited to durable (furniture, appliances) or semi- durable consumer goods (shoes, clothing, household linens) and shall not include consumable goods (food, beverages and gasoline).

RETAIL STORES, GENERAL. This term includes retail stores which sell several lines of merchandise including, but not limited to, dry goods, apparel and accessories, furniture and home furnishings, small wares, small appliances, hardware and food. The stores included in this group are commonly known as department stores, variety stores, general merchandise stores, general stores, grocery stores, etc.

RIGHT-OF-WAY. This term generally refers to land areas provided by dedication for public use for streets, utilities, sidewalks, and other uses to serve adjoining properties. Whether the right-of- way is public or private is determined by the accessibility of the land area.

RIGHT-OF-WAY WIDTH. The width of the right-of-way depends on the city's requirements for each street classification. This width is measured at the shortest distance between the lines which delineate the rights-of-way of a street.

ROOM. A building or portion of a building which is arranged, occupied, or intended to be occupied as living or sleeping quarters but not including toilet or cooking facilities.

ROOMING HOUSE. See Boarding House.

RUNOFF. Rainwater that does not soak into the ground, or percolate, but flows over the land surface into a body of water or into a storm drain which leads to a body of water.

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SALVAGE YARD OR JUNKYARD. Any premises where junk, articles or materials including junked, wrecked or inoperable vehicles, that are ready for destruction or that have been collected or stored for the purpose of obtaining parts for recycling or resale.

SALVAGE, RECLAMATION OF PRODUCTS OR WRECKING YARD. The reclamation and storage of used products or materials.

SAND, GRAVEL, STONE EXTRACTION. The process of extracting sand, gravel or stone from the earth.

SANITARY LANDFILL. A method of solid waste disposal in which refuse is buried between layers of dirt so as to fill in or reclaim low-lying ground.

SATELLITE DISHES. A dish antenna used to receive and transmit signals relayed by satellite.

SCHOOL, BUSINESS. A for-profit business that offers instruction and training in a profession, service or art such as a secretarial or court reporting school, barber/beauty college or commercial art school, but not including commercial trade schools.

SCHOOL, COMMERCIAL TRADE. See trade and commercial schools.

SCHOOL, PRIVATE, PRIMARY OR SECONDARY. See private school.

SCHOOL, PUBLIC OR PAROCHIAL. A school under the sponsorship of a public or religious agency providing elementary or secondary curriculum but not including private trade or commercial schools.

SCIENTIFIC AND INDUSTRIAL RESEARCH LABORATORIES. Facilities for research, including laboratories, experimental equipment, and operations involving compounding or testing of materials or equipment.

SCREENED, SCREENING. Shielded, concealed and effectively hidden from the view of a person standing at ground level on an abutting site, or outside the area or feature so screened, by a fence, wall, hedge, berm or similar architectural or landscape feature as may be required by the city.

SEASONAL USES. Seasonal uses include the sales of items such as Christmas trees, pumpkins, snow cones, fresh produce and other items that are typically only available at certain times of the year.

SECONDARY FRONTAGE. The part of a corner or end tenant property that is platted to extend and be adjacent to an arterial or collector street and does not have a legal address.

SETBACK. The distance from the right-of-way (public or private) to a building whereby one may erect a structure or sign and establishes the minimum required yard and governs the placement of uses and structures on the lot. This required setback varies depending upon the district in which it is located and the height of the object to be erected.

SETBACK LINE. The distance from which a building or structure is separated from a designated reference point, such as the property line, as dictated by the specific zoning district regulations and requirements.

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SEXUALLY ORIENTED BUSINESSES OR USE. Establishments and businesses showing X- rated movies or live acts, displaying and selling pornographic material, and other uses dealing primarily with indecent or obscene materials, acts or paraphernalia, as further defined and identified in the city's sexually oriented business regulations.

SHEET FLOW. Water flowing over land.

SHOE MANUFACTURING. See manufacturing process, general.

SHOPPING CENTER. A group of primarily retail, restaurant and service commercial establishments planned, constructed and managed as a total entity with customer and employee parking provided on-site, provision for goods delivery separated from customer access, provision of aesthetically appropriate design and protection from the elements.

SINGLE-FAMILY DWELLING, DETACHED. A dwelling designed and constructed as a freestanding structure for occupancy by one family and located on a lot or separate building tract having no physical connection to a building located on any other lot or tract.

SITE PLAN. A document in graphic form that describes how a parcel of land is to be improved. It includes the property boundaries with outlines of all structures and site improvements, such as driveways, parking lots, landscaping, and utility connections. Other features may be required by the city.

SKATING RINK, ROLLER OR ICE. A business located within a building that contains a surface for ice skating or roller skating and may be part of an indoor or outdoor commercial amusement.

SMALL ENGINE REPAIR SHOP. Shop for repair of lawnmowers, chain saws, lawn equipment, and other machines with one-cylinder engines. See engine motor repair.

SPORTING GOODS MANUFACTURING. See manufacturing process, general.

SPORTING GOODS, RETAIL. A retail establishment whose primary commodity for sale is equipment needed to participate in a particular sport (e.g., hunting, fishing).

STABLE, COMMERCIAL. A stable used for the rental of stall space or for the sale or rental of horses or mules.

STABLE, PRIVATE. An area used solely for the owner's private purposes for the sale or keeping of horses, mules or ponies, and not kept for remuneration, hire or sale.

STADIUM OR PLAYFIELD (PRIVATE). A facility, either enclosed or open, used for athletic games or other large public gatherings that is privately owned.

STORAGE OR WHOLESALE WAREHOUSE. A building used primarily for the storage of goods and materials. Buildings are larger than 50,000 square foot.

STORAGE YARD, (OUTSIDE STORAGE). Area of the yard that can be enclosed by fence or stay open for the purpose of storing items. This is different that display item for the purpose of sale.

STORY. That portion of a building, other than a basement, 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

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the ceiling next above it. The average height for a story shall be defined as twelve feet (12').

STORY, HALF. A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three feet (3') above the top floor level, and in which space not more than two-thirds (2/3) of the floor area is finished off for use. A half story containing independent apartment or living quarters shall be counted as a full story.

STREET. A way for vehicular traffic whether designated a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land, place, or however otherwise designated.

STREET GUTTER FLOW LINE. The street gutter flow line of the curb adjacent to and bordering upon each such restricted area; in the event there is no such curb, the height restriction set forth in this chapter shall be based upon the actual level of the paved or used portion of the public street adjacent to and bordering upon each such restricted area.

STREETSCAPE. Amenities such as benches, refuse containers, lights and pedestrian ways lined with trees and shrubs.

STREET WIDTH. Road or street pavement is measured from the edge of pavement to edge of pavement or curb back to curb back. The width of the road depends on the city's requirements for each street classification.

STREET, INTERSECTION. Any street which joins another street at an angle, whether or not it crosses the other.

STRUCTURAL ALTERATIONS. Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any substantial change in the roof or in the exterior walls.

STRUCTURE. Anything constructed or erected, the use of which requires location on the ground or which is attached to something having a location on the ground.

STUDIOS FOR HEALTH, REDUCING, FITNESS. Includes, but is not limited to, an establishment which provides facilities and equipment (e.g., gymnasiums, weight rooms, swimming pools/spas, exercise apparatus, instruction/classes, etc.) which are intended to promote health, fitness, weight reduction or similar health-related activities. The facilities may include such accessory uses as food service, sales of sundries and apparel and child care services, provided that such accessory uses are clearly incidental to the primary use and are for the use of studio patrons only (i.e., not the general public). No outside signage may be used to advertise accessory uses, unless otherwise provided by the sign or granting instrument.

STUDIOS FOR PHOTOGRAPHER, MUSICIAN AND ARTIST. A building or portion of a building used as a place of work by a photographer, musician or artist.

STUDIOS FOR RADIO AND TELEVISION. A building or portion of a building used as a place for radio or television broadcasting.

SUBDIVISION. The word "subdivision" or "addition" shall be any lot, tract, or parcel of land divided into two or more lots or sites for the purpose, whether immediate or future, of sale or of building development. It also includes resubdivision or replatting of land, lots, or tracts. Division of land for agricultural purposes, in parcels of five acres or more shall not be included within this definition, unless

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any such division of five acres or more includes the planning or development of a new street or access easement to be dedicated to public use.

SURVEYOR. A licensed state land surveyor or a registered public surveyor as authorized by the state statutes to practice the profession of surveying.

SWIMMING INSTRUCTION AS A HOME OCCUPATION. The teaching of swimming in a private swimming pool. Within a residential district, this use is subject to the approval and issuance of a specific use permit that may specify operating conditions and standards and which may limit the number of students and operating times consistent with provisions for home occupation.

SWIMMING POOL, COMMERCIAL. A swimming pool with accessory facilities which is not part of the municipal or public recreational system and which is not a private swim club, but where the facilities are available for use by the general public for a fee.

SWIMMING POOL, PRIVATE. A swimming pool constructed for the exclusive use of the residents of a one-family, two-family or multiple-family dwelling and located, fenced and built in accordance with this and other applicable provisions of this Code. A private swimming pool shall not be operated as a business nor maintained in a manner to be hazardous or obnoxious to adjacent property owners.

TELEMARKETING CENTER. An establishment that solicits business or the purchase of goods or services by telephone only. No sale of goods or services to the public occurs at or on the premises. No products are stored at or on the premises.

TELEPHONE LINE AND EXCHANGE, SWITCHING, RELAY OR TRANSMITTING STATION. A line for the transmission of telephone signals and a central office in which telephone lines are connected to permit communication but not including a business office, storage or repair yards.

TEMPORARY. Lasting for only a limited period of time; not permanent.

TEMPORARY BUILDING. Any nonresidential prefabricated structure that is not originally manufactured or constructed at its use site, required [requiring] on-site installation of utilities or foundation.

TEMPORARY FIELD OFFICE, CONSTRUCTION YARD OR OFFICE. A structure or shelter used in connection with a development or building project for housing on the site of temporary administrative and supervisory functions and for sheltering employees and equipment. Temporary permits are issued for a specific time and locations as determined by the building official and shall be subject to review and renewal for reasonable cause.

TEMPORARY PRODUCE STAND. A temporary, normally seasonal, location providing fresh products such as fruit, nuts, vegetables and similar foods. No cooking or on-premises consumption of produce occurs on the site.

TENNIS COURT, PRIVATE. A surface designed and constructed for playing the game of tennis along with all fencing, nets and related appurtenances but excluding lighting for nighttime play in residential areas.

TEXAS SMARTSCAPE. Planting native plants and those adapted to the climate in order to control the micro-climate, reduce soil erosion and alleviate the need for excessive water and fertilization.

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THEATER (DRIVE-IN). An open lot with its appurtenant facilities devoted primarily to the showing of motion pictures or theatrical productions on a paid admission basis to patrons seated in automobiles.

THEATER (INDOOR). A building or part of a building devoted to the showing of motion pictures, or for dramatic, musical or live performance.

THROUGH LOTS. A lot, other than a corner lot, having frontage on two parallel or approximately parallel streets.

THROUGHWAY/THOROUGHFARE. The network of roadways and connecting intersections through the city, as well as bordering cities' roadways and state highway frontage and arterials.

TIRE DEALER, NO OPEN STORAGE (INSIDE). A retail establishment engaged in the sale and/ or installation of tires for vehicles, but without open storage.

TIRE DEALER, WITH OPEN STORAGE (OUTSIDE). A retail establishment engaged in the sale or installation of tires for vehicles, with open storage.

TIRE RETREADING AND CAPPING. The process by which tires are treated with a new tread.

TOOL AND MACHINERY RENTAL SHOP. A building or a portion of a building used for the display and rental of tools, machinery and instruments.

TOOL RENTAL SHOP. A building or a portion of a building used for the display and rental of tools and instruments.

TOURIST HOME (BED AND BREAKFAST INN). A dwelling occupied as a permanent residence by an owner or renter in which sleeping accommodations in not more than four rooms are provided or offered for transient guests for compensation.

TRACT. A single individual parcel or lot.

TRADE AND COMMERCIAL SCHOOLS. For-profit business establishments, offering training or instruction in a trade, art or occupation such as welding, brick laying, machinery operation/repair and similar trades but not including public or parochial schools, private primary or secondary schools, or colleges.

TRAFFIC IMPACT ANALYSIS (TIA). A study performed by professional engineers with expertise in traffic engineering principles and practice, and certified as a professional traffic operations engineer, which reviews development of a specific property and analyzes how it integrates into existing and proposed thoroughfare network and any existing and ongoing traffic study. The report shall utilize existing data and conclusions from previous studies and identify improvements necessary to mitigate the impact of traffic generated by the development. Traffic impact analysis shall include the following elements:

A. General site description. A detailed description of the roadway network within one mile of the site, a description of the proposed land uses, the anticipated states of construction, and the anticipated completion date of the proposed land development shall be provided. This description, may be in the form of a map, shall include the following items: (1) all major intersections; (2) all proposed and existing

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ingress and egress locations; (3) all existing roadway widths and rights-of-way; (4) all existing traffic signals and traffic- control devices; and (5) all existing and proposed public transportation services and facilities within a one mile radius of the site.

B. Proposed Capital Improvements. The traffic impact analysis shall identify any changes to the roadway network within one mile of the site that are proposed by any government agency or other developer. This description shall include the above items as well as any proposed construction project that would alter the width or alignment of roadways affected by the proposed development.

C. Roadway Impact Analysis.

(1) Transportation Impacts:

(a) Trip Generation. The average weekday trip generation rates (trip ends), the average weekend trip generation rates, the highest average a.m. and p.m. hourly weekday trip generation rates, and the highest hourly weekend generation rates, for the proposed use shall be determined based upon the trip generation rates contained in the most recent edition of the Institute of Transportation Engineers, Trip Generation Manual; or shall be based upon data generated by actual field surveys of area uses compatible to the proposed use and approved by the city manager (or designee) or the city Engineer.

(b) Trip Distribution. The distribution of trips to arterial and collector roadways within the study area identified in the general site description above shall be in conformity with accepted traffic engineering principles, taking into consideration the land use categories of the proposed development; the area from which the proposed development will attract traffic; competing developments (if applicable); the size of the proposed development; development phasing; surrounding existing and anticipated land uses, population and employment; existing and projected daily traffic volumes; and existing traffic conditions.

(2) Adequacy Determination. The roadway network included within the traffic impact analysis shall be considered adequate to serve the proposed development if existing roadways identified as arterials and collectors can accommodate the existing service volume, and the service volume of the proposed development, and the service volume of approved but unbuilt developments holding valid, unexpired building permits at a level of service “C” or above.

D. Intersection Analysis.

(1) Level of Service Analysis. For intersections within the roadway traffic impact analysis area described in the general site description, a level of service analysis shall be performed for all arterial/arterial, arterial/collector, and collector/collector intersections, and for any other pertinent intersections identified by city staff. Also, level of service analyses will be required on all proposed site driveway locations for all nonresidential developments. The level of service analysis shall be based upon the highest hourly average a.m. or p.m. peak weekday volume or highest average hourly peak weekend volume as determined from a two-day survey of weekday volumes and, where necessary, a one-day survey of weekend volumes. The level of service analysis shall take into consideration the lane geometry, traffic volume, percentage of right- hand turns, percentage of left-hand turns, percentage (and typical size) of trucks, intersection width, number of lanes, signal timing and progression, roadway grades, pedestrian and bicycle flows, school routes, number of accidents, and peak hour factor.

(2) Adequacy Analysis. The intersections included within the traffic impact analysis shall be considered adequate to serve the proposed development if existing intersections can accommodate the existing service volume, the service volume of the proposed development, and the service volume of

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approved but unbuilt developments holding valid, unexpired building permits at level of service "C" or above.

TRAILER PARK OR COURT. See mobile home park.

TRAILER RENTAL AND SALES. The display and offering for rent or sale of trailers designed to be towed by automobiles and light load vehicles.

TRAILER, TRAVEL OR CAMPING. A portable or mobile living unit which is used for temporary human occupancy away from the users' permanent place of residence, which does not constitute the users' principal place of residence, and which is designed to be towed behind another vehicle.

TRANSFER STORAGE AND BAGGAGE TERMINAL. A facility for the storage of baggage and other items in transit.

TRANSIT STATION OR TURNAROUND. Passenger terminal or loading facilities for a privately or publicly owned transit system.

TRANSPORTATION AND UTILITY STRUCTURES. Permanent facilities and structures operated by companies engaged in providing transportation and utility services including but not limited to railroad track rights-of-way, sewage pumping stations, telephone exchanges, transit station turnarounds, water reservoirs and water pumping stations.

TRUCK. A light or heavy load vehicle (see definition for light and heavy load vehicle).

TRUCK AND BUS LEASING OR RENTAL. The rental of new or used panel trucks, vans, trailers, recreational vehicles or motor-driven buses in operable condition and where no repair work is done.

TRUCK AND BUS REPAIR. An establishment providing major and minor automobile repair services to heavy load vehicles.

TRUCK PARKING LOT. Area designated for parking heavy load vehicles.

TRUCK SALES (HEAVY TRUCKS). The display, sale or rental of new or used heavy load vehicles in operable condition.

TRUCK TERMINAL/FREIGHT TERMINAL. An area and building where cargo is stored and where trucks and freight, including tractors and trailer units, load and unload cargo on a regular basis. This term may include facilities for the temporary storage of loads prior to shipment.

USE. The purpose for which land or buildings are, or may be, occupied in a zoning district.

UTILITY DISTRIBUTION, TRANSMISSION LINES. Facilities which serve to distribute and transmit electrical power, gas and water, including but not limited to electrical transmission lines, gas transmission lines and metering stations.

UTILITY INSTALLATION, OTHER THAN LISTED. The installation or construction for any utility other than those specifically listed in these definitions or this chapter or subdivision regulations. The utilities shall get approval from the city prior to their installation.

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UTILITY, PRIVATE, OTHER THAN LISTED. A non-public utility requiring special facilities in residential areas or on public property such as heating, cooling, or communications not customarily provided by the municipality or public utilities.

VAPOR SHOPS. A business establishment for which more than 50% of the gross floor area is dedicated to storage, mixing display or retail of electronic cigarette devices, nicotine-enriched solutions or liquid products that are manufactured for use with e-cigarettes.

VARIANCE. An adjustment in the application of the specific regulations of the zoning standards to a particular parcel of property which, because of special conditions or circumstances of hardship peculiar to the particular parcel, is necessary to prevent the property from being deprived of rights and privileges enjoyed by other parcels in the same vicinity and zoning district. Only the board of adjustment of the city can grant a variance and the granting of a variance shall be consistent with state law and judicial interpretation.

VEHICLE SERVICE, FOR HIRE. Any motor or other vehicle operated within the city for the purpose of carrying passengers for hire from within the city, except motor buses operating on

fixed routes as specified in this chapter, specially chartered buses and driverless vehicles (rental cars). The term “vehicles for hire” includes limousine, as defined. The term specifically excludes demand services by public entities relative to providing transportation for senior citizens and disabled persons.

VETERINARIAN CLINIC. An establishment, not including outside pens, where animals and pets are admitted for examination and medical treatment.

WAREHOUSE.

A. Self-Storage, Mini-Warehouse: A facility used for storage of goods or materials with separate access to individual storage units by persons renting the individual units. The use shall exclude outdoor parking or storage of recreational vehicles, trailers or boats.

B. Warehouse, Air Conditioned: A facility used for storage of goods or materials with separate access to individual storage units by persons renting the individual units. The use shall exclude outdoor parking or storage of recreational vehicles, trailers or boats. These are generally multi-story building with air conditioned units.

C. Storage or Wholesale Warehouse, Light: A building used primarily for the storage of goods and materials, containing less than 5,000 square feet of floor space.

D. Storage or Wholesale Warehouse, Heavy: A building used primarily for the storage of goods and materials, containing more than 5,000 square feet of floor space.

WAREHOUSE, FREIGHT FORWARDING. A building used for the storing of freight between transporting to its final destination.

WASTEWATER TREATMENT PLANT. A plant where, through physical-chemical and biological processes, organic matter, bacteria, viruses and solids are removed from residential, commercial and industrial wastewaters before they are discharged in rivers, lakes and seas, as defined and regulated by state and federal agencies.

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WHOLESALE DISTRIBUTION CENTER. An establishment for the storage and ultimate distribution of wholesale merchandise, without transformation and the rendering of services incidental to the sale/resale of merchandise, including goods for resale to other wholesalers or retailers, capital or durable non-consumer goods or raw and intermediate materials and supplies used in production. Wholesalers sell merchandise to other businesses, operating from a warehouse or office. These warehouses and offices often have little or no display of available merchandise. Most often, the wholesaler's location is intended to easily accommodate walk-in traffic. Wholesalers normally do not advertising attracting the general public. Wholesaler's customer base is generally reached initially by telephone, in-person marketing at, for instance, trade shows, or by specialized advertising such as internet search or fax. Follow-up orders are either vendor-initiated or client- initiated, generally based on previous sales from the established client base.

WIND SYSTEM, SMALL. A device that produces electricity from wind.

YARD. An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except where otherwise specifically provided in this chapter that the building or structure may be located in a portion of a yard required for a main building. In measuring a yard for the purpose of determining the width of the side yard, the depth of a front yard or the depth of a rear yard, the shortest horizontal distance between the lot line and the main building shall be used.

YARD, FRONT. A yard located in front of the front elevation of a building and extending across a lot between the side yard lines and being the minimum horizontal distance between the front property line and the outside wall of the main building.

YARD, REAR. A yard extending across the rear of a lot measured between the lot lines and being the minimum horizontal distance between the rear lot line and the rear of the outside wall of the main building. On both corner lots and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard.

YARD, SIDE. A yard between the building and side line of the lot and extending from the front lot line to the rear lot line and being the minimum horizontal distance between a side lot line and the outside wall of the side of the main building.

ZERO LOT LINE DWELLING (PATIO HOME). A lot authorized by a special use permit which is designed in such a manner that the side yard and adjacent use easement make maximum use of available land area to preserve an open, yet private, use of the side yard, and permits construction of a detached single-family dwelling with one side of such dwelling placed on the side property line.

ZONING BOARD OF ADJUSTMENT. A statutorily created board which is appointed by the city council, and which is authorized to make special exceptions or grant variances to this chapter, to hear and decide any appeals that allege error in an order, requirement, decision or determination made by an administrative official in the enforcement of this chapter, and any other powers or duties granted by the city council. Also referred to as the "ZBA."

ZONING DISTRICT. Classifications applying to all section or sections of the city for which the regulations governing the use of land and the use, density, bulk, height and coverage of buildings and other structures are uniform for each class or kind of building therein.

ZONING DISTRICT MAP, ZONING MAP. The official map upon which the boundaries of the various

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zoning districts are drawn and which is an integral part of this chapter and which shall comply with the comprehensive plan.
(Code 1996, ch. 14, exh. 14A, art. XIX, § 1; Ordinance O-03-09 adopted 4/20/09; Ordinance O-13-15, sec. 2, adopted 11/16/15 ; Ordinance O-15-15, sec. 2–3, adopted 12/1/15; Ord. No. O-02-25, exh. A, 1-21-2025)

Sec. 6. Compliance required.

I.6.1 Subject to Article VI of this chapter (nonconforming conditions), no person may use, occupy, or sell any land or buildings or authorize or permit the use, occupancy, or sale of land or buildings under his control except in accordance with all the applicable provisions of this chapter. Noncompliance shall be subject to penalties as provided in section XX.4.1 of this chapter. All of the standards and regulations prescribed herein shall be considered as the minimum requirement unless explicitly stated otherwise.

I.6.2 For purposes of this section, the “use” or “occupancy” of a building or land relates to anything and everything that is done to, on, or in that building or land.

I.6.3 No uses shall be allowed which are prohibited by state or federal law or which operate in excess of state or federal environmental, pollution or performance standards as determined by the:

a. U.S. Environmental Protection Agency (EPA),
b. Texas Air Control Board (TACB),
c. Texas State Department of Health (TSDH),
d. Texas Commission on Environmental Quality (TCEQ),
e. Federal Aviation Administration (FAA),
f. Federal Communications Commission (FCC), or
g. Other applicable state or federal agency, as the case may be.

I.6.4 Lots developed under this chapter shall not later be so reduced in area that the setbacks, yards or open spaces shall be smaller than those required by this chapter.

I.6.5 No building shall hereafter be erected or altered to have more narrow or smaller front, side or rear yards, or to exceed the maximum height allowed, or to occupy a greater percentage of the lot area, or to accommodate a greater number of families than required by this chapter.
(Code 1996, ch. 14, exh. 14A, art. I, § 6)

Sec. 7. RELATIONSHIP TO THE COMPREHENSIVE PLAN.

It is the intention of the city council that this chapter implement the planning policies adopted by the city council for the city as reflected in the land use plan and other planning documents. While the Council reaffirms its commitment that this chapter and any amendment [are] in conformity with adopted planning policies, the Council expresses its intent that neither this chapter nor any amendment may be challenged on the basis of any alleged nonconformity with any planning document.
(Code 1996, ch. 14, exh. 14A, art. I, § 7)

Sec. 8. FEES ESTABLISHED.

I.8.1 Reasonable fees sufficient to cover the costs of administration, review, inspection, publication of notice and similar matters shall be charged to applicant. The fees shall cover costs associated with processing zoning and development requests, including public hearings that are set by the city. The

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amount of the fees charged shall be as set forth in an ordinance adopted by the city council and filed in the office of the city secretary. The fees shall be paid by the applicant and shall not be designed to in any way restrict the applicant's ability to seek and receive a hearing or to generate revenue for the city other than recovery of actual administrative costs incurred by the city in the review and processing of applications.

I.8.2 Fees established in accordance with subsection I.8.1 shall be paid upon submission of a signed application. Immediately upon receipt of a complete application submission, as defined in section IV.1.5 of this chapter for a zoning change or other development plan approval the city manager or his/her designee shall issue a fee receipt and shall create a case file as a permanent city record thereof.

I.8.3 Applicant shall be responsible to the city for reimbursement of all consultant expenses incurred in relation to their application and project. The expenses shall be invoiced to applicant by the city and payment is due within 30 days of the issuance of the invoice. Nonpayment of the invoice shall result in no building permit being issued or further action by the city for the applicant being taken.
(Code 1996, ch. 14, exh. 14A, art. I, § 8)

ARTICLE II. ADMINISTRATIVE AND ENFORCEMENT

DIVISION 1. GENERALLY

Sec. 3. CITY MANAGER.

Except as otherwise specifically provided, primary responsibility for administering and enforcing this chapter is that of the city manager or his/her designee. The person or persons to whom these functions are assigned shall be assigned by the city manager and may include the, "Planning Official," "Zoning Official" or other designations. Development Review Committee ("DRC"), "staff" or "planning staff" is sometimes used interchangeably with any of the above designations.
(Code 1996, ch. 14, exh. 14A, art. II, § 3)

Sec. 4. CITY COUNCIL.

II.4.1 The city council, prior to making any decision on a change of zoning, modification of Zoning Map or Articles of this chapter, shall first consider the recommendation of the commission and the Staff on such matter.

II.4.2 In the event the planning and zoning commission has not submitted a recommendation to the city council, but a public hearing has been noticed before the city council, the city council may open the public hearing for the convenience of the citizens and continue the Hearing to a date certain for the purpose of having and considering the recommendation of the planning and zoning commission.

II.4.3 In considering proposed changes in the text of this chapter pertaining to zoning criteria, standards, regulations, or in the zoning map, the Council acts in its legislative capacity and must proceed in accordance with the requirements of Article IV.
(Code 1996, ch. 14, exh. 14A, art. II, § 4)

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DIVISION 2. PLANNING AND ZONING COMMISSION[191]

Sec. 1. PLANNING AND ZONING COMMISSION.

II.1.1 Membership; Officers. In accordance with V.T.C.A., Local Government Code, ch. 211, and Article 10 of the city Charter, the planning and zoning commission ("Commission") shall consist of seven members appointed by the city council. At its discretion, the city council may make nominations for each commission place and seat an interview panel for purposes of evaluating the nominees. The panel shall make recommendations of candidates to the city council. A simple majority vote of the full city council shall confirm the appointment of the commission members. Each commission member shall be a resident citizen, taxpayer and qualified voter of the city. Each member of the commission shall hold a designated Place, from Place 1 to Place 7, and each Place shall be appointed to a three year term. Place 1, Place 4 and Place 7 shall rotate together, Place 2 and Place 5 shall rotate together and Place 3 and Place 6 shall rotate together. The city council shall appoint or reappoint Commission members each year with terms beginning on July 1. New members shall be sworn in at the first regular Commission meeting following their appointment.

II.1.2 Vacancy. Any vacancies on the commission and any reappointments upon expired terms shall be filled in the same manner as original appointments as set forth in subsection II.1.1 above.

Vacancies created by the resignation of a commission member shall be considered by the remainder of the commission and city council after receipt of a written letter from the resigning member addressed to the mayor.

II.1.3 Removal from Office. Members of the commission may be removed from office at any time by a simple majority vote of the full city council either upon its own motion or upon the formal recommendation of the commission. Failure to attend three consecutive duly-called meetings shall be deemed as neglect and cause for removal from office, unless such absences were due to unusual circumstances beyond the member's control such as sickness of the member or someone with the member's immediate family.

II.1.4 Rules and Bylaws

A. The members of the commission shall regularly attend duly-called meetings and public hearings of the commission, shall serve without compensation, and shall not hold any other office or position with the city while serving on the commission. The commission shall meet a minimum of once per month at a time established by the city council.

B. The commission shall elect from its membership a chairperson and vice-chairperson. The election shall occur at the first regular meeting after the May municipal election and each officer shall hold office for one year or until replaced by a simple majority vote of the full Commission. The city manager's designee shall serve as Secretary to the commission, and shall post agendas for all meetings, keep minutes of all meetings held by the commission, as required by V.T.C.A., Government Code, §§ 551.001 et seq. ~~Texas Open Meetings Act~~, as well as the full record of all recommendations made by the commission to the city council.

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[191] **Div. 2. Planning and Zoning Commission.** Should the portion of this division establishing the commission be moved to chapter 2 and grouped with other boards, commissions etc. (retaining procedural provisions related to zoning in this chapter)?

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C. In the absence of the chairperson and vice-chairperson, the majority of the members present may convene the meeting and select a member to preside over the meeting.

D. The commission shall have the power to make rules, regulations and bylaws for its own governance, which shall conform to those set forth by the city council, and such rules, regulations and bylaws shall be in writing and be subject to approval by the city council.

II.1.5 Parliamentary Procedure; Quorum; Voting

A. Parliamentary Procedure - The commission will follow the parliamentary procedure adopted by the city council, and procedures shall not be in conflict with the laws applicable to the commission on quorums and voting.

B. Quorum - A quorum shall consist of a majority of the membership of the commission. Any recommendation to the city council to be voted upon shall require the affirmative vote of four members.

C. Voting - All Commission members, including the presiding chairperson, shall be entitled to one vote each upon any question, a quorum being present.

D. Abstaining from Voting - A Commission member may only abstain from voting for the following reasons:

1. A legal conflict of interest as confirmed by the city Attorney; or

2. A matter before the commission that closely affects a commission member, has the appearance of impropriety and confirmation by the city attorney, but does not qualify as a legal conflict of interest.

II.1.6 Meeting Location; Public Record

A. Meeting Location - The commission shall meet in the city hall building or in some other specified location as may be designated by the presiding chairperson or the city council and properly noticed. Meetings shall be at such intervals as may be necessary to orderly and properly transact the business of the commission but not less than once each month.

B. Public Record - Meetings shall be open to the public and minutes shall be kept and shall be treated as public record.

II.1.7 Duties and Zoning Responsibilities

A. The commission shall be an advisory body to the city council and shall make recommendations regarding amendments to the comprehensive master plan, changes of zoning and permanent zoning to be given to newly annexed areas, and shall make recommendations regarding the approval of the plats of subdivisions as may be submitted to it by the city council or city staff. The commission shall serve in an advisory capacity on any planning-related items in the city.

B. Furthermore, the commission shall have all the rights, powers, privileges and authority as granted by state law authorizing and granting cities the power of zoning and subdivision regulation as found in V.T.C.A., Local Government Code, chs. 211 and 212 or this chapter.

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C. The commission shall assist, as authorized by state law ~~and empowered to cities by Statutes of the state~~, to regulate the platting and recording of subdivisions or additions within the city's corporate limits and establishing extraterritorial jurisdiction. The ~~Statutes of the state are adopted, and the~~ commission, acting through its duly authorized officials, shall have all the rights, powers, privileges and authority authorized and granted by ~~and through the Statutes~~ state law pertaining to regulation of subdivisions in the city's limits and extraterritorial jurisdiction.

II.1.8 Planning and zoning recommendations. The planning and zoning commission shall receive a report from the city staff, as designated by the city manager, on any project subject to its review for the purpose of preliminary consideration and recommendation to the city council.

II.1.9 Conflict of Interest. If any member has a conflict of interest regarding any item on the commission's agenda, he/she shall remove himself/herself from the room and shall refrain from voting or discussing only on the item for which a conflict exists. Furthermore, matters before the commission that may affect a commissioner but does not qualify as a legal conflict of interest but has the appearance of impropriety may allow for a disqualification of participation by that commissioner. The conflicts shall be determined by the city attorney.

II.1.10 Procedure on zoning hearing

A. The commission may have a workshop with the applicant and staff prior to all public hearings. This workshop may occur at the same meeting as the public hearing or may be scheduled at a time preceding the public hearing. However, any applicant of a zoning request requiring a public hearing shall have available to them the option of a waiver of the required workshop with the commission.

B. The public hearing procedure and process for zoning changes and amendments to this chapter shall be in accordance with section IV.1.7 of this chapter.

II.1.11 Joint Meetings with the city council. When the city council and the commission are required by the state law to conduct public hearings in matters pertaining to planning, zoning or subdividing property, and at other times when it is in the best interest of the city to do so, the city council and the commission are authorized, after published notice as required by law, to hold joint meetings and to conduct joint public hearings except for those involving a PD or SUP request.
(Code 1996, ch. 14, exh. 14A, art. II, § 1)

DIVISION 3. ZONING BOARD OF ADJUSTMENT[192]

Sec. 2. ZONING BOARD OF ADJUSTMENT.

II.2.1 Creation. The city has established a zoning board of adjustment ("Board" or "ZBA") for the city.

II.2.2 Purpose. The board is created for the purpose, in appropriate cases and subject to appropriate conditions and safeguards, to make special exceptions to the terms of this chapter that are consistent with the general purpose and intent of this chapter. The board shall be composed of members who are resident citizens, taxpayers and qualified voters of the city. Current members of the elected city council or

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[192] **Div. 3. Zoning Board of Adjustments.** Should the portion of this division establishing the board be moved to chapter 2 and grouped with other boards, commissions etc. (retaining procedural provisions related to zoning in this chapter)?

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appointed members of the commission may not serve on the board.

II.2.3 Members; Alternate Members; Appointments; Terms of Office

A. Members - The board of adjustment shall consist of five regular members and up to four alternate members. All members who shall be nominated and appointed by the mayor and city council and each person so nominated shall be approved by a simple majority vote of the full city council before becoming a member of the board. The board shall operate in accordance with the provisions of V.T.C.A., Local Government Code, ch. 211.

B. Alternate Members - Alternate members shall serve in the absence of one or more of the regular board members when requested to do so by the city manager. The alternate member with the longest tenure shall be able to serve first and may be appointed to fill a vacancy in the event of resignation or removal of a regular member of the board of adjustment.

C. Appointment of Members - Following the regular city council election of offices in May of each year, the city council shall appoint members to the board of adjustment to fill those offices being vacated on May 31 of that year. Each member of the board shall hold a designated Place, from Place 1 to Place 5. Alternate members shall be identified by Place numbers one-A (1A) through four-A (4A).

D. Terms of Office - Each member and alternate member is appointed to serve for two years terms and may be reappointed to successive terms on the board subject to approval by a simple majority of the full city council. Place 1, Place 3, Place 5 and Places 1A and 3A shall be appointed in odd-numbered years. Place 2, Place 4 and Places 2A and 4A shall be appointed in even-numbered years.

II.2.4 Vacancy. Vacancies on the board can be either a regular or alternate member. Any vacancy on the board and any reappointment upon expired terms shall be filled in the same manner as the original appointment (see section II.2.3(C) above). Vacancies created by the resignation of a commission member shall be considered by the remainder of the commission and city council after receipt of a written letter from the resigning member addressed to the mayor.

II.2.5 Removal from Office. Members of the board may be removed from office for cause, and after a public hearing, by a simple majority vote of the full city council. Failure to attend three consecutive duly-called meetings shall be deemed as neglect and cause for removal from office, unless such absences were due to unusual circumstances beyond the member's control such as sickness of the member or someone within the member's immediate family.

II.2.6 Rules and Bylaws

A. The members of the board, and alternate members as needed, shall regularly attend duly- called meetings and public hearings of the board, shall serve without compensation, and shall not hold any other office or position with the city while serving on the board.

B. The board shall elect a chairperson and a vice-chairperson from among its membership, and each officer shall hold office for one year or until replaced by a simple majority vote of the full Board. The city manager's designee shall serve as Secretary to the commission, and shall post agendas for all meetings, [and] keep minutes of all meetings held by the board, as required by the V.T.C.A., Government Code, §§

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551.001 et seq. ~~Texas Open Meetings Act~~.[193] The minutes maintained by the Secretary shall indicate the vote of each Board member on each question or the fact that a member is absent or fails to vote. The Secretary shall also set up and maintain a separate file for each application for hearing by the board, and shall record therein the names and addresses of all persons/entities to whom notices are mailed, including the date of mailing and the person by whom such notices were delivered to the Post Office. All records and files herein provided for shall be permanent and official records of the city. The Secretary shall also immediately notify in writing the city council, the commission and the city manager or his/her designee of each decision rendered by the board in the conduct of its official duties.

C. The board shall have the power to make rules, regulations and bylaws for its own governance, which shall conform as closely as possible to those set forth by the city council and the board's rules. Regulations and bylaws shall be in writing and be subject to approval by the city council.

II.2.7 Meetings. Meetings of the board shall be held at the call of the chairperson and at such other times as the board may determine. All meetings of the board shall be posted by agenda, open to the public and minutes be kept of all proceedings, according to the V.T.C.A., Government Code, §§ 551.001 et seq. ~~Open Meetings Act~~[194] Four regular members or alternate members of the board constitute a quorum for the conduct of business. All cases to be heard by the board shall always be heard by at least seventy-five percent (75%) of the members or alternates.

II.2.8 Duties of zoning board of adjustment

A. The board of adjustment shall have the powers and perform those duties as are provided for in the V.T.C.A., Local Government Code, ch. 211, and those established in this chapter, including but not limited to the following:

1. The board shall have the power to hear and decide any special exception which the board is authorized by ordinance or law to grant.

2. The board shall further have the power to authorize upon appeal in specific cases such variance from the zoning provisions of this chapter as will not be contrary to public interest, where, owning to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done.

3. The board shall further have the power to consider any vested rights appeal or variance pursuant to Article IV, section 3, of this chapter.

4. The board shall have the power to hear an appeal that alleges error in an order, requirement, decision or determination made by an administrative official in the enforcement of this chapter.

5. Additionally, the board may make interpretations on zoning district boundaries shown on the adopted zoning map where uncertainty exists because physical features on the ground differ from those on the zoning map or where the rules of Article X section 3 of this chapter do not apply or are ambiguous.

6. Finally, the board may subpoena witnesses, administer oaths and punish for contempt.

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[193] **Sec. 2. Zoning board of adjustment.** Citation is corrected as shown.

[194] **Sec. 2. Zoning board of adjustment—Contd.** Citation is corrected as shown.

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B. In exercising its authority under section II.2.8(A)(1) [II.2.8(A)(4)] above, the board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision or determination from which an appeal is taken and make the correct order, requirement, decision or determination, and for that purpose the board has the same authority as the administrative official.

C. A vote of at least seventy-five percent (75%), or four members or alternates, of the full board is necessary to:

1. Reverse an order, requirement, decision or determination of an administrative official;

2. Decide in favor of an applicant on a matter on which the board is required to review under this chapter;

3. Authorize a variance from a provision of this chapter; or

4. Hear and decide special exceptions to a provision of this chapter.

II.2.9 Limitations on authority of the zoning board of adjustments

A. The board may not grant a variance authorizing a use other than those permitted in the district for which the variance is sought.

B. The board shall have no power to grant or modify specific use permits (SUP) or planned development (PD) authorized under Article XI of this chapter. Any amendments, variances or waivers must be as an amendment to the SUP or PD.

C. The board shall have no power to grant a zoning amendment. In the event a request for a zoning amendment is pending before the commission or the city council, the board shall neither hear nor grant any variances with respect to the subject property until final disposition of the zoning amendment by the commission and the city council.

D. The board shall not grant a variance for any parcel of property or portion thereof upon which a site plan, preliminary plat or final plat, when required, is pending on the agenda of the commission and, where applicable, by the city council. All administrative and procedural remedies available to the applicant shall have been exhausted prior to hearing by the board.
(Code 1996, ch. 14, exh. 14A, art. II, § 2)

ARTICLE III. COMPREHENSIVE MASTER PLAN AMENDMENT

Sec. 1. COMPREHENSIVE MASTER PLAN AMENDMENT.

III.1.1 Comprehensive master plan.

A. The comprehensive master plan is for the purpose of promoting sound development, providing necessary guidance in future development, and to promote the public health, safety and welfare through the adoption of a long-range plan intended to direct the growth and physical development of the city for an extended period of time.

B. The comprehensive master plan shall not constitute zoning regulations or establish zoning district boundaries. The provisions of this chapter are intended to comply with the authority granted by V.T.C.A.,

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Local Government Code, ch. 213.

C. The provisions herein do not limit the city's ability to prepare other plans, policies or strategies as required.

III.1.2 Application for comprehensive master plan and comprehensive master plan amendment. No zoning change shall be approved to any zoning district that is inconsistent with the land use designation for the property in the comprehensive master plan. Consistency with the comprehensive master plan land use designations shall be determined based on the district purpose statements, the nature of the district regulations and the description of the land use category in the comprehensive master plan. comprehensive master plan amendments shall not be required for zoning changes proposing single-family detached residential land uses that are less dense than those allowed pursuant to the existing land use category and single-family detached zoning district; however, notwithstanding the foregoing, a zoning change proposing a single-family detached use in an existing multifamily, duplex or single-family attached zoning district located in a high density land use category shall not be approved without a comprehensive master plan amendment. Any person having a proprietary interest in any property within the corporate limits of the city, requesting a change or amendment to the comprehensive master plan shall file an application applying for such change or amendment with the city manager or his or her designee. Each application shall be accompanied by the following:

A. A clear statement or description of the requested change or amendment;

B. A drawing, at a scale of not less than one inch to 200 feet, indicating the following:

1. Existing land use categories;

2. Proposed land use categories in a format that identifies boundaries between different land use categories;

3. comprehensive master plan features, whether existing or proposed, from any or all of the following elements: land use plan, urban design plan, parks and open space plan, trail network and thoroughfare plan.

C. A vicinity map indicating the general location of the subject property.

D. A filing fee in the amount established by ordinance and adopted by the city council.

E. If the city determines that the proposed amendment may have an impact on the water, wastewater or thoroughfare plan components of the comprehensive master plan, due to changes in population density or other factors, the city may require an evaluation of such impacts as it deems necessary.

III.1.3 Procedure for adoption and amendment.

A. A comprehensive master plan amendment must precede any requested zoning amendment to the subject property. The procedure shall be identical to that of a zoning amendment, including notice and public hearing requirements. A comprehensive master plan amendment may precede the zoning amendment on the same agenda, be part of the same notice issued, or be heard together with the zoning amendment, provided that separate action is taken by separate ordinance memorializing the adoption or amendments.

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B. At the hearing for the comprehensive master plan adoption or amendment, the public shall be given the opportunity to provide testimony and written evidence.
(Code 1996, ch. 14, exh. 14A, art. III, § 1)

ARTICLE IV. AMENDMENTS, APPEALS, AND VARIANCES

Sec. 1. ZONING AMENDMENTS.

IV.1.1 Policy of Zoning Amendment. The city declares the enactment of the zoning regulations set forth in various Articles of this chapter governing the use and development of land, buildings and structures as a measure necessary to the orderly development of the community. Therefore, no change shall be made in these regulations or in the boundaries of the zoning districts except:

A. To correct any error in the regulations or map by ordinance;

B. To recognize changed or changing conditions or circumstances in a particular locality;

C. To recognize changes in technology, the style of living, or manner of conducting business; or

D. To change the property to uses in accordance with the city's adopted comprehensive master plan.

IV.1.2 Authority to amend this chapter

A. The city council may from time to time, after receiving a final report thereon by the commission and after public hearings required by law, amend, supplement, or change the regulations herein provided or the boundaries of the zoning districts, as depicted on the adopted zoning map. Any zoning change or amendment may be ordered for consideration by the city council, be initiated by the commission, [or] be requested by the owner of real property or the authorized representative of an owner of real property or city staff.

B. Consideration for a change in any district boundary line or special zoning regulation may be initiated only with written consent of the property owner, or by the commission or city council on its own motion when it finds that public benefit will be derived from consideration of such matter. Proof of ownership shall be provided by the applicant.

C. Each application for zoning, for an amendment, or change to the existing provisions of the zoning requirements, regulation and mapping as set forth in this chapter shall be made in writing to the city on a form provided by the city and shall be filed with the city planner and shall be accompanied by payment of the appropriate fee to be charged by the city for administering the zoning application.

D. No person who owes delinquent taxes, delinquent paving assessments, impact fees, or any other delinquent debts or obligations to the city, and which are directly attributable to a piece of property requested for zoning shall be allowed to submit a zoning request until the taxes, assessments, debts, or obligations directly attributable to the property and owned by the owner or previous owner thereof shall have been first fully discharged by payment, or until an arrangement satisfactory to the city has been made for the payment of such debts or obligations. It shall be the applicant's responsibility to provide evidence or proof that all taxes have been paid.

IV.1.3 Application

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A. Each application for zoning, rezoning, specific use permit (SUP), or for a text amendment to a provisions of this chapter, shall be made in writing on an application form available in the city planner's office. The application shall be delivered to the city at least forty (40) days prior to the date of the public hearing before the commission, and shall be accompanied by payment of the appropriate fee as established by the city (section I.8 Fees Established). An accurate metes and bounds description of the subject property (or other suitable legal description), a survey (i.e., drawing of metes and bounds) exhibit, and other appropriate exhibits (i.e., site plan, map, architectural elevations, information about proposed uses, etc.) that are determined necessary by the city manager or his/her designee, shall also be submitted with the zoning application in order to ensure that the request is understood. A site plan, as prescribed in Article VIII of this chapter, shall also be submitted along with any zoning request involving a SUP request or the formation of a planned development (PD) district.

B. All zoning change requests involving real property (including PD and SUP requests) shall be accompanied by a notarized statement verifying land ownership and, if applicable, authorization of land owner's agent to file the zoning change request.

IV.1.4 Payment of fees, charges and expenses. Until all applicable fees, charges and expenses, as established in section I.8 (Fees Established) and adopted by ordinance in the city's fee schedule have been paid in full, no action shall be taken on any zoning or development application or on any appeal.

IV.1.5 Official submission date and completeness of applications

A. For the purposes of these regulations, the "official submission date" for an original zoning application, change in zoning application, or any other application required for a project under this chapter, shall be the date upon which a complete application (that contains all elements and information required by this chapter) is submitted to the city planner or his/her designee. No application shall be deemed officially submitted until the city planner or his/her designee determines that the application is complete and a fee receipt is issued by the city. Failure by the city planner or his/her designee to make a determination of incompleteness within ten calendar days following the date on which the application was first received by the city, shall result in the application being deemed complete, and the "official submission date" shall become the tenth calendar day following initial receipt of the application by the city. An application shall expire forty-five (45) days from the date the application was filed with the city based on the date stamp provided by city staff and the applicant shall submit all documentation necessary within that time period if a determination of incompleteness is provided. If the required documentation is not received within the forty-five (45) day period to achieve "official submission date" status, the application shall be deemed expired and the applicant will need to submit a new zoning application.

B. Zoning applications which do not include all required information and materials (as outlined above and per other city development review policies) will be considered incomplete, shall not be accepted for official submission by the city, and shall not be scheduled on a commission agenda until the proper information is provided to city staff.

C. Application Filed - Although zoning regulations are exempt under V.T.C.A., Local Government Code, ch. 245, in order to assist applicants in moving through the zoning application process in a timely manner, an application is considered filed on the date the applicant mails by certified mail or delivers the application to the following address: Glenn Heights Planning Department Attn: City Planner 2117 Uhl Road, Glenn Heights, TX 75154.

IV.1.6 Informational Signs. Upon the filing of an application to amend the comprehensive master plan land use category or the zoning on a lot or tract of land or property, or for the issuance of a specific use

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permit relative thereto, or to the creation of a planned development, the owner/ developer/applicant shall be required to place an informational sign on such lot or tract of land or property within five calendar days after the official submission date as follows:

A. The size of the sign shall be three feet by four feet (3' x 4') and be made out of aluminum or corrugated plastic material or similar durable construction.

B. The sign shall be mounted on stakes/poles so that the sign remains firm and steady, even during winds and inclement weather.

C. The sign shall be visible from the street.

D. There shall be one sign for each street frontage.

E. The sign shall have a white background with the letters and borders being blue in color. The sign shall state one of the following, as applicable (for example):

City of Glenn Heights, Texas
A request for a "zoning change", "change in the comprehensive master plan", a "planned development" or a "specific use permit" is being made on this property. For information call: 972.274.5100. A copy of the application is available for inspection in the city planning department consistent with the public information provisions of V.T.C.A., Government Code, §§ 552.001 et seq. ~~Public Information Act~~[195]

F. The owner/developer/applicant shall be required to remove the informational signs from the lot or tract of land or property within ten calendar days after the date of the final action of the requested change or amendment.

G. All signs must be maintained in good condition. All signs that deteriorate or are damaged during the process shall be removed and immediately replaced.

IV.1.7 public hearing and Notice. Prior to making its report to the city council, the commission shall hold at least one public hearing on each application, pursuant to V.T.C.A., Local Government Code, ch. 211. Written notice of all public hearings on proposed changes in district boundaries shall be sent to all owners of property, or to the person rendering the same for city taxes, located within the area of application and within two hundred feet (200') of any property affected thereby, within not less than 15 days before such Hearing is held. The notice may be served by using the last known address as listed on the latest approved city tax roll and depositing the notice, postage paid, in the United States mail. Notice of Hearings on proposed changes in the text of an Article shall be accomplished by one publication not less than 15 days prior thereto in the official newspaper of the city. All notices for the public hearing, except for a PD or SUP request, before the city council will also be published at the same time notice of the commission meeting is published. Notices for public hearings before the commission and city council for a PD or SUP shall be made separately and the public hearing for the commission and city council shall be separated by a minimum of 14 days.

Notices for the public hearing before the city council may be published at the same time notice of the commission hearing is published in all straight zoning cases. In cases where a planned development district is being proposed or amended, or a specific use permit is being proposed or amended, notice for

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[195] **Sec. 1. Zoning amendments.** Citation is corrected as shown.

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the public hearing before the city council shall only be published upon completion of all public hearings before and a recommendation from the commission.

Notwithstanding the foregoing, notices of public hearing before the city council may be published at the same time notice of the commission meeting is published, should the applicant so request, and the staff concur based upon prior receipt of DRC reports and workshops on the projects to ensure proper consideration by the commission.

IV.1.8 Failure to appear. Failure of the applicant or his/her authorized representative to appear before the commission or the city council for more than one hearing without a delay approved by the city manager shall constitute sufficient grounds for the commission or city council to table or terminate the application. The request to the city manager for a delay shall be in writing and shall be provided from the applicant to the city manager at least 72 hours prior to the Hearing.

IV.1.9 Commission consideration and report. The planning and zoning commission, after the public hearing is closed, shall prepare the report and recommendations on the proposed change stating its findings, its evaluation of the request and of the relationship of the request to the comprehensive master plan which shall not be required to be of a particular form but may be included in a proposed ordinance or appropriate enacting document. The commission may defer its report for not more than 90 days until it has had opportunity to consider other proposed changes which may have a direct bearing thereon. In making its determination, the commission shall function in accordance with section II.1 of this chapter and with other applicable provisions of this chapter and consider the following factors:

A. Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned and their relationship to the general area and the city as a whole.

B. Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other utilities to the area, and shall note the findings.

C. The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the city, and any special circumstances which may make a substantial part of such vacant land unavailable for development.

D. The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed change.

E. How other areas designated for similar development will be, or are unlikely to be, affected if the proposed amendment is approved, and whether such designation for other areas shall be modified also.

F. Any other factors which will substantially affect the health, safety, morals, or general welfare of the city.

(Code 1996, ch. 14, exh. 14A, art. IV, § 1; Ordinance O-03-09, adopted 4/20/09 ; Ordinance O-18-11, sec. 2, adopted 11/21/11)

Sec. 2. COUNCIL CONSIDERATION.

IV.2.1 Council hearing and notice. All notices for the public hearing, except for a PD or SUP request, before the city council may be given by publication and may be at the same time notice is given for the planning and zoning commission public hearing in the official newspaper of the city, stating the time and

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place of such hearing, which shall be at least fifteen (15) days after the date of publication, in accordance with section III.1.6 [IV.1.7] herein. Notices for the public hearing for a PD or SUP may be made separately and the public hearing with the planning and zoning commission and city council to be separated by a minimum of 14 days.

IV.2.2 Three-fourths vote

A. A favorable vote of three-fourths (3/4) of the full city council (6 of 7 members) shall be required to overrule a proposed recommendation for denial from the commission.

B. If a protest against such proposed amendment, supplement or change has been filed with the city secretary, prior to the close of the public hearing before the city council, duly signed and acknowledged by the owners of twenty percent (20%) or more, either of the area of the lots or land included in such a proposed change or those are of the lots or land immediately adjacent to the area thereof extending two hundred feet (200') therefrom or of those directly opposite thereto extending two hundred feet (200') from the street frontage of such opposite lots, such proposed amendments receiving a protest shall not become effective except by a three-fourths (3/4) vote of the full city council (6 of 7 members). In calculating the percentage of land area under this section, the area of streets and alleys shall be included.

C. Written protest procedures:

1. Form of Protest:

a. A protest must be in writing and, at a minimum, contain the following information:

i. A description of the zoning case at issue by case number, property legal description, property physical address or any manner in which it is clear what zoning case is subject to the protest. The zoning case description must appear at the head of each page and the verification must appear at the foot of each page;

ii. The names of all persons protesting the proposed change in zoning district classification or boundary;

iii. A description of the area of lots or land owned by the protesting parties that is either covered by the proposed change or adjoining the area covered by the proposed change and extending 200 feet from that area, including streets and alleys. The description may be either the physical address of the property eligible to protest or the tax identification number as it appears on the most recently approved city tax roll;

iv. The mailing addresses of all persons signing the protest; and

v. The date and time of its execution by each signatory.

b. The protest must bear the original signatures of all persons required to sign under subparagraph b. [2.] below and acknowledged under subparagraph c. [3.] below.

2. Required Signatures:

a. A protest must be signed by the owner of the property in question, or by a person authorized by power of attorney to sign the protest on behalf of the owner. In the case of non-community property

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owned by two or more persons, the signature by any one owner of the property, or by a person authorized by power of attorney to sign the protest on behalf of any one owner, binds the entire property to the protest. In the case of community property, the written protest of one spouse will bind the property in its entirety, provided however, that the land area shall be equally divided if the applicant provides documentation, acknowledged as provided in subparagraph c. [3.], that the other spouse disagrees with the protest.

b. In the case of property owned by a corporation, the protest must be signed by the president, a vice-president, or by an attorney-in-fact authorized to sign the protest on behalf of the corporation. In the case of property owned by a general or limited partnership, the protest must be signed by a general partner or by an attorney-in-fact authorized to sign the protest on behalf of the partnership.

c. Lots or land subject to a condominium regime are presumed to be commonly owned in undivided interests by the owners of all condominium units and under the control of the governing body of the condominium. For such lots or land to be included in calculating the lots or land area protesting a proposed rezoning, the written protest must state that the governing body of the condominium has authorized a protest in accordance with procedures required by its bylaws, and that the person signing the protest is authorized to act on behalf of the governing body of the condominium. A written protest signed by the owner of an individual condominium unit shall not be accepted unless the filing party produces legal documents governing the condominium which clearly establish the right of an individual owner to act with respect to his or her respective undivided interest in the common elements of the condominium.

d. In case of property owned by a federal agency, state agency or other political subdivision, it is up to the governing body of the particular agency to delegate the ministerial act of signing the protest petition to any person it chooses.

3. When signatures must be acknowledged by a notary public:

a. Except as otherwise provided in subparagraphs b and c, all signatures on a written protest, whether by petition or letter, must be acknowledged before a notary public as provided herein. For purposes of this section, the person who obtains the signatures must sign a jurat affirming the witnessing of the signature and the acknowledgment that the signatory represented his/her authority to sign the petition. The notary requirement is fulfilled if the person who obtains the signature signs the jurat swearing to the witnessing of those signatures.

b. The city shall be required to forward to the owners entitled to notice hereunder, in addition to the required notice, a reply form for the lodging of protests. A signature on an original reply form sent by the city to the mailing address of the property owner need not be acknowledged.

c. A signature on a protest delivered in person by the person signing need not be acknowledged if its reliability is otherwise established to the satisfaction of the city secretary. In such a case, a summary of the evidence of reliability considered by the city secretary must be endorsed on the protest by the city secretary.

4. Filing Deadline:

a. A written protest must be filed with the city secretary before 5:00 p.m. Friday immediately preceding the meeting day advertised for the city council public hearing in the statutory notice published in the official newspaper of the city. For example, a written protest must be received by 5:00 p.m., on the Friday prior to a regularly scheduled Monday council meeting. A protest sent through the mail must be

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received by the city secretary before the deadline.

b. Before the public hearing on the case, the filing deadline is automatically extended whenever the public hearing is advertised in the official newspaper of the city pursuant to statutory notice requirements.

c. After the public hearing has begun, the filing deadline may only be extended by calling a subsequent public hearing and advertising that public hearing in the official newspaper of the city pursuant to statutory notice requirements or if the item is tabled or continued. In such a case, the new filing deadline is noon of the second working day immediately preceding the newly advertised public hearing date or the date to which the item is tabled or continued.

5. Withdrawal of Protests Once Filed: A protest, once filed, remains in effect unless withdrawn in accordance herewith, irrespective of any amendments made to the zoning proposal. Withdrawals of protests filed must be in writing and filed with the city secretary before the filing deadline. The provisions of this subsection governing the form and filing of protests apply equally to withdrawals.

6. Presumptions of Validity:

a. In all cases where a protest has been properly signed pursuant to this subsection, the city shall presume that the signatures appearing on the protest are authentic and that the persons or officers whose signatures appear on the protest are either owners of the property or authorized to sign on behalf of one or more owners as represented.

b. The presumption in subparagraph 1 [a.] above is rebuttable, and the city attorney may advise the city council that a presumption should not be followed in a specific case based on extrinsic evidence presented.

7. Conflicting Instruments: In the event that multiple protests and withdrawals are filed on behalf of the same owner, the instrument with the latest date and time of execution controls.

IV.2.3 Proposal Recommended for Approval. Every proposal which is recommended favorably by the commission, whether as requested or with conditions, shall be forwarded to the city council for setting and holding of public hearing thereon. The public hearing shall only be held after all appropriate and required notifications are met. The city council may then approve the request, approve it with conditions or disapprove it (i.e., against the commission's recommendation) by a simple majority vote of the city council. No change, however, shall become effective until after the adoption of an ordinance for same and its publication as required by law.

IV.2.4 Proposal Recommended for Denial. When the commission determines that a proposal should be denied, or the proposal does not receive the required four affirmative votes, it shall so report and recommend to the Council and notify the applicant. The commission shall offer reasons to the applicant for its recommendation for denial. When a proposed zoning request is heard by the city council that has not been favorably recommended by the commission, a three-fourths (3/4) majority vote (6 of 7 members) by the full city council shall be required for approval. A request which has been denied by the commission or city council may be resubmitted by the applicant for reconsideration by the city after a period of one year from date of denial unless waived by the city council. A new application, filing fee and required exhibits must be submitted.
(Code 1996, ch. 14, exh. 14A, art. IV, § 2; Ordinance O-03-09, adopted 4/20/09 ; Ordinance O-18-11, sec. 3, adopted 11/21/11)

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Sec. 3. PROCEDURE.

IV.3.1 Written Application. The aggrieved applicant shall make written grievance for consideration by the zoning board of adjustment using application forms as provided by the city. All grievances shall be accompanied by additional information (i.e., site plan, building plans, photographs, topographic contour maps, etc.) as may be requested in order to properly review the matter. All drawings must be to scale.

IV.3.2 Fee. The city council shall adopt a designated fee to be paid by the applicant to cover administrative processing costs, as established in section I.8 of this chapter.

IV.3.3 Jurisdiction. When, in the board's judgment and if in harmony and spirit of this chapter, the public convenience and welfare will be substantially served and the appropriate use of the neighboring property will not be substantially or permanently injured, the board may, in specific cases, after written notice to all property owners within two hundred feet (200') of the request and public hearings, and subject to appropriate conditions and safeguards, authorize or order the following:

A. Hear and decide appeals where it is alleged there is error on any order, requirement, decision or determination made by the building official in the enforcement of this chapter, or in any appeal from a vested rights determination by the city manager pursuant to this chapter.

B. Permit the reconstruction, extension, or enlargement of a building occupied by nonconforming uses, on the lot or tract occupied by such building, provided such reconstruction does not prevent the return of such property to a conforming use.

C. Permit such variances of specific items, including but not limited to height, yard area, exterior structure, lot coverage, off-street parking and loading regulations that will not be contrary to the public interest and where, because of special conditions, the enforcement of this chapter or its amendments would result in an undue hardship to the property owner. A variance shall not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss, nor shall it permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land in the particular zoning district. No variance may be granted if it results in an undue hardship, as herein defined, on another parcel of land.

D. In order to make a finding of undue hardship and to grant a variance, the board must determine that:

1. The requested variance does not violate the intent of this chapter or its amendments.

2. Special conditions of restricted area, shape, topography, or physical features exist that are peculiar to the subject parcel of land and are not applicable to other parcels of land in the same zoning district.

3. The hardship is in no way the result of the applicant's own actions (not self-imposed) and does not generally affect all or most properties in the same zoning district.

4. The interpretation of the provisions in this chapter and all amending ordinances would deprive the applicant of rights commonly enjoyed by other properties, in the same zoning district, that comply with the same provisions.

E. No variance may authorize a use other than those permitted in the district for which the variance

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is sought. Also, an application or request for variance shall not be heard or granted with regard to any parcel of property or portion thereof upon which a site plan, preliminary plat or final plat, when required by this chapter for any parcel of property or portion thereof, has not been finally acted upon by both the planning and zoning commission and, where required, by the city council. The administrative procedures and requirements of this chapter, with regard to both planning and zoning commission and city council consideration and action on zoning requests, site plans, preliminary plats, and final plats must be exhausted prior to requesting a variance from the terms of this chapter. The city council shall not approve a final plat until any outstanding appeals have been resolved by the board of adjustment.

F. It shall be the responsibility of the applicant to establish the necessary facts and burden of proof that an undue hardship exists which justifies a variance.

G. No variance may be granted for property subject to a specific use permit (SUP) or a planned development (PD). Any amendments, variances or waivers must be as an amendment to the PD or SUP.

IV.3.4 Appeals to the zoning board of adjustment. Appeals to the board of adjustment can be taken by any person aggrieved by any office, official, board or department of the city in the enforcement of this chapter. A notice of appeal, specifying the grounds thereof, shall be taken within 15 days after the decision has been rendered by filing with the city secretary with notice provided to the officer from whom the appeal is taken and to the board. The officer against whom the appeal is taken shall forthwith transmit to the board all papers constituting the record upon which the action the appeal was taken. The city manager or his/her designee shall visit the site where the proposed variance, grievance or special exception will apply and the surrounding area, and shall report his/her findings to the board. An appeal stays all proceedings, both for the city and for the appellant, in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies in writing to the board after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed, otherwise than by a restraining order which may be granted by the board or by a court of competent jurisdiction or [on] application on notice to the officer from whom the appeal is taken and on due cause shown. The appellant party may appear at the appeal hearing in person or by agent or attorney. The board shall decide the appeal within 30 calendar days after the written request (i.e., notice of appeal) was received. The board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision or determination from which an appeal is taken, and may make the correct order, requirement, decision or determination.

IV.3.5 Action by the zoning board of adjustment. The board shall not grant a variance or special exception unless it finds, based upon compelling evidence provided by the applicant, that each of the conditions required for granting a variance or special exception has been satisfied. The board may impose such conditions, limitations and safeguards as it deems appropriate upon the granting of any variance or special exception as are necessary to protect the public health, safety, convenience and welfare. Violation of any such condition, limitation or safeguard shall constitute a violation of this chapter.

IV.3.6 Required vote to reverse administrative official. The concurring vote of seventy-five percent (75%) or four members of the board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance, or to effect any variation in such ordinance.

IV.3.7 Order Issued. On any matter properly submitted and considered by the board, and upon the final vote, the board shall issue a written order setting forth the board's decision.

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IV.3.8 Waiting Period. No appeal to the board for the same or a related variance or special exception on the same piece of property shall be allowed for a waiting period of six months (i.e., 180 calendar days) following an unfavorable ruling by the board unless other property in the immediate vicinity has, within the six-month waiting period, being changed or acted upon by the board or by the city council so as to alter the facts and conditions upon which the previous unfavorable board action was based. The changes of circumstances shall permit the re-hearing of a variance of [or] special exception request by the board, but such circumstances shall in no way have any force in law to compel the board, after a hearing on the matter, to grant a subsequent variance or special exception request. Any subsequent variance or special exception request shall be considered entirely on its own merits and on the special circumstances related to the submit property.

IV.3.9 Timeliness of application for building permit or certificate of occupancy. Upon a favorable board action on a variance of special exception request, the applicant shall apply for a building permit or a certificate of occupancy, as applicable to his/her particular situation, within three months (i.e., 90 calendar days) following the date of board action, unless the board specified a longer time period in the minutes of its action. If the applicant fails to apply for a building permit or certificate of occupancy, as applicable, with the three-month time frame, then the variance or special exception shall be deemed to have been waived, and all rights thereunder shall be terminated. The termination and waiver shall be without prejudice to the subsequent appeal, and such subsequent appeal shall be subject to the same regulations and requirements for hearing as herein specified for the original variance or special exception request.

IV.3.10 Finality of decisions; judicial review. All decisions of the board are final and binding. However, any person or persons, jointly or severally, aggrieved by any decision of the board or any taxpayer or any officer, department, or board of this city may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. The petition shall be presented to the court of record within ten days after the filing of the decision in the office of the board and not thereafter. Subject to V.T.C.A., Local Government Code, § 211.011, only a court of record may reverse, affirm or modify a decision of the board.
(Code 1996, ch. 14, exh. 14A, art. IV, § 3)

Sec. 4. FINAL APPROVAL AND ENFORCEMENT.

IV.4.1 Final approval and ordinance adoption. Upon approval of the zoning request (and concept plan in the case of a PD or SUP request) by the city council, the applicant shall submit all related material with revisions, if necessary, to the city manager or his/her designee for the preparation of the amending ordinance. The zoning request shall be deemed approved at the time the city council makes a decision to approve the request as submitted or with certain conditions. However, the amending ordinance will not be prepared for adoption until a correct legal description and all required exhibits have been submitted to the city manager or his/her designee, and the amending ordinance shall not be formally adopted (i.e., effective) until it is adopted by the city council, signed by the mayor, and attested by the city secretary. If all necessary materials and information are not received in a timely manner, and if the amending ordinance has not been adopted within six months (i.e., 180 calendar days) following city council action on the zoning request, then the city council may, at its option, recall the request for a new public hearing and reconsideration.

IV.4.2 Administration and enforcement. The city manager shall designate a qualified member of the staff, such as the city's building official, to administer and enforce the provisions of this chapter. If such designated official finds upon his/her own personal observation, or upon receipt of a complaint, that the provisions of this chapter are being violated, he/she shall immediately investigate and, when necessary, give written notice to the persons responsible to cease or correct such violations immediately. Notice may

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be delivered in person or by certified mail to the violators or to any person owning or leasing a property where the violation is occurring. The designated city official or his/her authorized representative, shall have the right to enter upon any premises at any reasonable time for the purpose of making inspections of buildings or premises that may be necessary to carry out the duties in the enforcement of this chapter.

IV.4.3 Stop Work Orders. When any building or construction work is being done contrary to the provisions of this chapter, the city official, designated by the city manager, shall have the authority to order the work stopped by notice in writing served on the property owner or the contractor doing the work or causing such work to be done, and any such person shall forthwith stop such work until authorized in writing by the city to proceed with such work. Failure to immediately stop work as provided herein shall constitute a violation of this chapter, in accordance with Article XX, section 4 of this chapter and may incur penalties for such violation.
(Code 1996, ch. 14, exh. 14A, art. IV, § 4)

ARTICLE V. PRIMARY ZONING REGULATIONS

Sec. 1. PRIMARY ZONING REGULATIONS

V.1.1 Temporary Zoning - Annexed Territory - All territory hereinafter annexed to the city shall be temporarily classified as “A”, Agricultural District, until permanent zoning is established by the city council of the city. As soon as practical following annexation, but in no event more than one hundred and eighty (180) calendar days thereafter, the city council shall, on its own motion or by property owners of the annexed area, initiate proceedings to formally and legislatively establish Agricultural (“A”) zoning on the newly annexed territory, thereupon the city manager or his/her designee shall commence public notification and other standard procedures for establishing permanent zoning on annexed territory which shall conform to section IX.2.1 of this chapter. The proceedings to establish zoning may be undertaken concurrently with annexation procedures (i.e., notified at the same time, public hearings scheduled at the same time as annexation, etc.), however zoning approval and formal adoption of the ordinance establishing zoning must occur after annexation approval and adoption have occurred, and as a separate and distinct action by the city council.

A. The initial zoning of a land parcel, whether it is interim in nature, by initiation of the landowner or by initiation of the city, must meet the requirements for notification and public hearings as set forth in section IV.1.7 of this chapter and all other applicable State laws.

B. The owner of land to be annexed may submit an application for zoning the property simultaneously with submission of the petition for annexation, but no such annexation application may be made conditioned upon the approval of any particular zoning classification.

C. In an area temporarily classified as “A”, Agricultural District:

1. No person shall erect, construct, proceed or continue with the erection or construction of any building or structure or cause the same to be done in any newly annexed territory to the city without first applying for and obtaining a building permit or certificate of occupancy from the building official or the city council, as may be required.

2. No permit for the construction of a building or use of land shall be issued by the building official or his/her designee other than a permit which will allow the construction of a building or use permitted in the “A”, Agricultural District, unless and until such territory has been classified in a zoning district other than the “A”, Agricultural District, by the city council in the manner prescribed by law except as provided

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in subsection C. [3.] below.

3. If plans and preparations for developing a property for a use other than those specified in the "A" district were already in progress prior to annexation of the property into the city, then the city council may, at its discretion, authorize construction of the project by a majority vote. Application of this subsection is contingent upon the following:

a. An application for a building permit for the proposed building or use must be made to the building official of the city or his/her designee within three months (i.e., within 90 calendar days) after annexation of the property into the city; and

b. The applicant must be able to demonstrate that plans and other preparations for developing the property commenced prior to (i.e., were already in progress at the time of) annexation into the city; and

c. In its deliberations concerning authorization to proceed with construction of a project which meets the above criteria, the city council shall take into consideration the appropriate land use for the area as shown on the city's Future land use plan. Upon approval by the city council, the city manager or his/her designee shall notify the building official or his/her designee of such approval.

V.1.2 Creation of Building Site - No permit for the construction of a building or buildings upon any tract or plot shall be issued until a building site, building tract, or building lot has been created by compliance with one of the following conditions:

A. The lot or tract is part of a plat of record, properly approved by the planning and zoning commission and city council, and filed in the plat record of the county in which the property is located.

B. The plot, tract, or lot faces upon a dedicated street and was separately owned prior to the effective date of this chapter or prior to annexation into the city whichever is applicable, in which event a building permit for only one main building conforming to all the requirements of this chapter may be issued on each such original separately owned parcel without first complying with subsection A, preceding.

C. The plot or tract is all or part of a site plan, if required, officially approved by the city council, and compliance has been made with provisions and improvements approved on such site plan for all utility and drainage easements, dedication of streets, alleys and other public improvements required to meet the standards established for the platting of land.

D. No building hereafter erected, converted or structurally altered shall be used or occupied until a certificate of occupancy has been issued by the building official which signifies compliance to the appropriate zoning district.

V.1.3 Platting property not permanently zoned. The planning and zoning commission of the city shall not consider any Plat of any subdivision within the city limits of the city until the area covered by the proposed plat shall have been zoned by the city council of the city.
(Code 1996, ch. 14, exh. 14A, art. V, § 1)

Sec. 1.12.001. Annexation fees.

All annexations shall be accomplished in accordance with state annexation laws. Fees for requests for annexation of land into the city limits are as provided for in the fee schedule found in appendix A to this code. Annexation fees shall be refundable upon final annexation approval.

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(Code 1996, § 1.12.001)

ARTICLE VI. NONCONFORMING CONDITIONS

Sec. 1. INTENT OF PROVISIONS.

VI.1.1 Within the districts established by this chapter or amendments thereto, there may exist lots, structures, uses of land and structures, and characteristics of use which were lawfully in existence and operating before this chapter was enacted, amended or otherwise made applicable to such lots, structures or uses, but which do not now conform to the regulations of the district in which they are located. It is the intent of this chapter to permit such nonconforming uses to continue, as long as the conditions with this section and other applicable sections of this chapter are met.

VI.1.2 It is further the intent of this chapter that nonconforming uses and structures shall not be enlarged upon, expanded or extended, and shall not be used as a basis for adding other structures or uses prohibited elsewhere in the same district, except as may otherwise be provided in this chapter.

VI.1.3 Nonconforming uses are declared to be incompatible with the permitted uses in the districts involved.
(Code 1996, ch. 14, exh. 14A, art. VI, § 1)

Sec. 2. NONCONFORMING STATUS.

VI.2.1 A nonconforming status shall exist under the following provisions of this chapter:

A. When a use, platted lot or structure which does not conform to the regulations prescribed in the district in which such use, platted lot or structure is located was in existence and lawfully operating prior to the adoption of this chapter and has been operating since, without discontinuance, providing that:

1. The use, platted lot or structure was in existence and lawfully constructed, located and operating in accordance with previous zoning regulations or which was a nonconforming use thereunder, and which use or structure does not now conform to the regulations herein prescribed for the district in which the use or structure is located; or

2. The use, platted lot or structure was in existence at the time of annexation into the city, was a legal use of the land at such time, and has been in regular and continuous use since such time.

B. Any other use, platted lot or structure which does not conform with the regulations of the zoning district in which it is located on the effective date of this chapter or any amendment hereto, and except as provided in subsection C. below, shall be deemed to be in violation of this chapter, and the city shall be entitled to enforce fully the terms of this chapter with respect to such use, platted lot or structure.

C. The following types of platted lots shall be deemed in conformance with the provisions of this chapter, notwithstanding the fact that such lot does not meet the standards of this chapter in the district in which it is located:

1. Any vacant lot that conformed to the city’s zoning district regulations at the time that it was platted; or

2. Any lot occupied by a single-family dwelling authorized under the zoning district regulations in

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which the lot is located.

D. A lot of record that is nonconforming may be occupied by a single-family dwelling provided that all appropriate zoning district regulations (i.e., height, setbacks, lot coverage, etc.) are met.

VI.2.2 Continuing Lawful Use of Land and Structures

A. A nonconforming use or structure may continue to be used, operated or occupied in accordance with the terms of the zoning regulations by which it was established, or in the case of annexed property, in accordance with the regulations under which it was created.

B. A nonconforming structure occupied by a nonconforming use may be re-occupied by a conforming use, following abandonment of the nonconforming use.
(Code 1996, ch. 14, exh. 14A, art. VI, § 2)

Sec. 3. EXPANSION OR RECONSTRUCTION OF NONCONFORMING USES AND STRUCTURES.

VI.3.1 A nonconforming use or structure may not be enlarged, expanded or increased to occupy a greater area of land than was occupied at the time the use or structure became nonconforming, except to provide off-street parking or loading areas as required by this chapter upon the recommendation of the planning and zoning commission and approval of the city council.

VI.3.2 A nonconforming use occupying a structure shall not be extended to occupy land outside the structure.

VI.3.3 A nonconforming use may be extended throughout the structure in which it is located, provided that:

A. The structure or its premises shall not be enlarged or increased in height, in floor area or in land area to accommodate extension of the nonconforming use; and

B. No alteration shall be made to the structure occupied by the nonconforming use, except those alterations that are required by law to preserve the integrity of the structure and alterations that would upgrade the quality, safety or aesthetic appeal of the structure; and

C. The number of dwelling units or families occupying the structure shall not exceed the number of dwelling units or families existing at the time the use became nonconforming.

VI.3.4 Repairs and normal maintenance may be made to a nonconforming building provided that no structural alterations, expansions, or extensions shall be made except those required by law or ordinance, unless the building is changed to a conforming use.

VI.3.5 Any nonconforming use may be changed to a conforming use, and once such change is made, the use shall not thereafter be changed back to a nonconforming use.

VI.3.6 Where a conforming use is located in a nonconforming structure, the use may be changed to another conforming use by securing a certificate of occupancy from the building official but shall not be changed to a nonconforming use.

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VI.3.7 A nonconforming use located in a conforming or nonconforming structure shall not be changed to another nonconforming use.

VI.3.8 Any nonconforming use located in a conforming structure may be changed to a conforming use provided a new certificate of occupancy is secured from the city, and once such change is made, the use shall not thereafter be changed back to a nonconforming use.

VI.3.9 When a nonconforming use is abandoned, all nonconforming rights shall cease and the use of the premises shall thenceforth be in conformity with this chapter. The intent of the user or owner to discontinue a nonconforming use for a period of six months, coupled with a non-use of the nonconforming use for such period, shall be construed as conclusive proof of intent to abandon the nonconforming use. Any nonconforming use which, not involving a permanent type of structure, is moved from the premises shall be considered to have been abandoned.

VI.3.10 If a structure occupied by a nonconforming use is destroyed by fire, acts of God, neglect, or other cause, it may not be rebuilt except to conform to the provisions of this chapter. In the case of partial destruction of a nonconforming use not exceeding forty percent (40%) of its appraised value as determined by the appropriate county appraisal district, reconstruction will be permitted, but the size or function of the nonconforming use cannot be expanded.

VI.3.11 If more than forty percent (40%) of the total appraised value, as determined by the appropriate county appraisal district, of a nonconforming structure is destroyed by fire, the elements or some other cause, then the structure may be rebuilt only in conformity with the standards of this chapter.

VI.3.12 Provisions Applicable to Willow Run Addition.

Notwithstanding any of the foregoing, with regard to any parcel located within Willow Run Addition, a development of approximately 104 acres as shown more fully on the zoning map of the city, which was, prior to the passage and adoption of Ordinance 843-07, zoned “SF-1” (single-family 20,000 square foot lot size minimum) and had at that time a structure existing thereon, the owners of such qualifying parcels may renovate, expand and rebuild a structure existing thereon at the time of passage of Ordinance 843-07, subject to the following provisions:

A. The owner or owners of record of a qualifying parcel at the time of the passage of Ordinance 843-07 may expand a structure in existence thereon at the time of the passage of Ordinance 843-07 provided, however, that if the owner converts to retail uses, owner shall not be allowed to revert to residential use thereafter.

B. Upon the death of the owners of a qualifying parcel or upon the sale or other transfer of the property by title, deed, or otherwise, the parcel may thereafter be used solely for retail/ commercial uses.

C. The owner or owners of record of a qualifying parcel at the time of the passage of Ordinance 843-07 shall have a period of one year within which to rebuild if a structure on a qualifying parcel is destroyed. If no attempt to rebuild occurs or if rebuilding is not completed within that one year period, the owners may petition for an extension of that time period by submitting evidence to the city council or the zoning board of adjustment of a hardship encountered in the rebuild process.

D. The rebuilding of any structure in existence at the time of passage of Ordinance 843-07 shall be nonconforming with the previous vested rights. The retail/commercial criteria will not be considered if this is done within 12 months; however rebuilding beyond a year shall be only with city council or zoning

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board of adjustment approval.

E. All rules regarding nonconforming uses that are not in conflict with these provisions remain in effect.
(Code 1996, ch. 14, exh. 14A, art. VI, § 3; Ordinance O-03-09 adopted 4/20/09 ; Ordinance O-11-18 adopted 9/18/18)

Sec. 4. MOVING OF NONCONFORMING STRUCTURE.

No nonconforming structure or building shall be moved in whole or in part to any other location on the lot, or to any other location or lot, unless every portion of such structure is in compliance with all the regulations of the zoning district wherein the structure is to be relocated. The building relocation shall also require a structure relocation permit from the city, and may also require platting of the intended building site pursuant to the city's subdivision regulations as well as site plan approval per Article VIII, section 13 of this chapter.
(Code 1996, ch. 14, exh. 14A, art. VI, § 4)

Sec. 5. NONCONFORMING LOTS.

Nothing in this chapter shall be construed to prohibit the use of a lot that does not meet the minimum lot standards of the zoning district in which it is located, provided that the lot is zoned for the land uses intended and the lot was platted as a lot of record prior to the effective date of this chapter.
(Code 1996, ch. 14, exh. 14A, art. VI, § 5)

Sec. 6. REGISTRATION, TERMINATION AND AMORTIZATION OF NONCONFORMING USES.

VI.6.1 Registration of nonconforming uses and properties

A. Nonconforming uses and properties must be registered with the city within six months of the official action making such a use or property nonconforming. City staff shall make all reasonable and good faith efforts to notify property owners when the use or property becomes nonconforming through official city action. Property owners are responsible for knowing the legal status of the property over which such owner has care, custody or control. Property owners are responsible for such registration and failure of city staff to notify the owners of the nonconforming status of the property does not negate the registration requirement or the burden to so register upon the property owner.

1. Failure to file the registration within the designated six-month time period, the nonconforming use lapses and the nonconforming use of the property must terminate. City staff shall maintain as a public record the nonconforming use registry.

2. Any nonconforming structure including a fence over legal height, obstruction, sign, junkyard and automobile salvage or storage yard, billboard, landfill, or fenced outdoor commercial or industrial storage area shall be removed after a period of five years after the effective date of registration.

3. The board of adjustment shall, after the five year period has elapsed, provide notice and a hearing to the affected property owner and to all properties within 200 feet of the affected property. The purpose of the hearing is to determine whether an order of termination shall be issued.

4. The board of adjustment may extend the amortization period at any time upon application of the

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affected property owner upon establishment that the amortization period deprives the owner of all or substantial economic use of the property as set forth in the procedures herein, including appeals of determinations of automatic termination due to the failure to register.

5. The burden is on the party seeking to continue to maintain the nonconforming use, such proof to include, but not be limited to the following:

a. Prior existence of the use before the effective date of the change in regulations that render the use nonconforming;

b. The use was lawful when established;

c. The use has been lawfully continued from its inception.

Contradictory, insufficient or incomplete evidence may be the basis to sustain a denial of the right to maintain a nonconforming use.

B. Termination/amortization of certain nonconforming uses.

1. Determination of need for expedited compliance. The city council, upon its own motion or upon the written request of any affected person, may discontinue a nonconforming use or structure. The city council shall determine whether there is a public necessity for expedited compliance with the applicable zoning district regulations. The following factors shall be considered by the city council in determining the public necessity for expedited compliance:

a. the character of the surrounding neighborhood;

b. the degree of incompatibility of the use or structure to the zoning district in which it is located; and

c. the effect of the nonconforming use or structure on the surrounding area and the effect of its cessation on that area.

If the city council finds that there is not a public necessity for expedited compliance with the zoning district regulations, it may choose to reevaluate the current zoning to determine if it is appropriate for the property on which the use or structure is located.

2. Determination of amortization period.

a. If the city council passes a resolution under A(1) [B(1)] above for expedited compliance with the zoning district regulations, the board of adjustment shall, in accordance with these provisions and any order of the city council, determine an amortization period for the nonconforming use whereby the owner's actual investment in the use before the time that the use became nonconforming can be amortized within a definite time period.

b. Notice of the hearing before the board of adjustment shall be given to the owner of the property as listed in the most recent property or deed records of the county in which the property is located and to all property owners within 200 feet of the affected property. The notice shall be by certified mail, return receipt requested, by U.S. Postal Service signature delivery or personal service. If the certified mail is returned refused or unclaimed, notice shall be deemed delivered. The hearing shall be not less than thirty

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days after the date of notice of such hearing. A copy of Appendix A shall accompany the notice letter, or a listing of the factors to be considered by the board of adjustment. The notice shall also contain notice that the burden is on the property owner to bring forth sufficient evidence to establish the right to continue the nonconforming use or the factors to determine the amortization period.

c. The following factors must be considered by the board of adjustment in determining the amortization period:

i. The owner's capital investment in structures, fixed equipment and other assets (excluding inventory and other assets feasibly transferred to another site) on the property before the time the use became nonconforming. The owner's capital investment in property shall be calculated based upon the recoupment of the owner's actual cost in such property, as opposed to the "full value," "market value" or "replacement value."

ii. Any costs that are directly attributable to the establishment of a compliance date, including demolition expenses, relocation expenses, termination of leases and discharge of mortgages existing prior to the nonconforming status.

iii. Any return on investment since inception of the use, including net income and depreciation.

iv. The anticipated annual recovery of investment, including net income and depreciation.

d. The amortization formula, a model of which is attached hereto as Appendix A, may consider past depreciation of the structures or the ability to move the structures to another location. The formula need not consider appreciation of land value, improvements or profit from an advantageous acquisition of the property.

e. The board of adjustment may use the advice or services of city staff, or outside professionals if approved by the city council, to calculate the amortization period.

f. Evidence necessary for the determination of the amortization period shall be provided by the owner. The board is authorized to compel the production of additional information and consider additional information in making its determination.

C. city council Action. Once the board of adjustment determines the amortization period for a nonconforming use, it shall submit such finding to the city council, and upon notice to the owner and hearing, the city council may:

1. establish a compliance date for full amortization of the nonconforming structure; or

2. order a compliance date which is prior to the full amortization of the investment and determine what compensation, if any, is appropriate; or

3. modify or rescind its resolution for expedited compliance and issue orders consistent therewith.

D. Compliance Requirement. If a compliance date for a nonconforming use is established by the city council, the use shall cease operations on that date and it may not operate thereafter unless it becomes a conforming use. If the city council establishes a compliance date for a nonconforming structure, the structure shall be demolished or made conforming by the compliance date. Any appeals of the decision of the city council shall be to a court of competent jurisdiction.

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APPENDIX A

CAPITAL INVESTMENT TO BE AMORTIZED(1) PROPERTY ADDRESS:

OWNER:

DATE OF NONCONFORMITY:

RECOMMENDED AMORTIZATION PERIOD:

ESTIMATED DOLLAR AMOUNT

A. ESTIMATED CAPITAL INVESTMENT AT DATE OF NONCONFORMITY

1. Investment in Structure

2. Investment in Fixed equipment

3. Other Assets(2)

TOTAL

B. LESS: RETURNS ON INVESTMENT TO DATE

1. Net income

2. Depreciation

TOTAL

C. PLUS: COSTS ASSOCIATED WITH TERMINATION OF USE

1. Demolition Expenses

2. Relocation/Moving

Expenses

3. Termination of Leases

4. Discharge of Mortgages

TOTAL

D. TOTAL AMOUNT TO BE AMORTIZED

E. AMOUNT OF INVESTMENT RECOUPED PER YEAR/ MONTH

D ÷ (divided by) E = (equals) RECOMMENDED AMORTIZATION PERIOD

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1 Adopted from Texas Zoning and Land Use Forms (1992) in part.

2 excluding inventory and other assets feasibly transferred to another site.
(Code 1996, ch. 14, exh. 14A, art. VI, § 6)

Sec. 7. RIGHT TO PROCEED.

Nothing contained in this Article VI is intended to alter any rights that may have accrued to proceed under prior regulations, pursuant to V.T.C.A., Local Government Code, §§ 43.002 and 245.001—245.006.
(Code 1996, ch. 14, exh. 14A, art. VI, § 7)

ARTICLE VII. BUILDING PERMITS, CERTIFICATES OF OCCUPANCY AND COMPLIANCE[196]

Sec. 1. BUILDING PERMITS REQUIRED.[197]

VII.1.1 No building or other structure shall be erected, moved, added to, or structurally altered without a building permit issued by the city' building official or his/her designee. A building permit shall not be issued except in conformity with the provisions of this chapter and section 3.04.003 of this Code, unless otherwise authorized by the zoning board of adjustment in the form of a variance or special exception as provided in Article IV, section 3 of this chapter. A building permit shall not be issued until the property is properly zoned for the intended use, until the property is platted in accordance with the subdivision regulations, nor until all appropriate plans have been approved by the city (including, but not limited to, a preliminary plat, a detailed plot plan, a final site plan, landscaping and facade plans, building structural plans, etc.).

VII.1.2 Plans for any permanent structure to be constructed or otherwise located within the city must be approved by the building official or his/her designee who, upon approval, shall issue a building permit. A complete Application for a building permit shall contain details of foundation and the structure that is sufficient to determine compliance with the city's adopted building codes. Upon submission of a complete Application, the building official or his/her designee shall review it for compliance and shall issue a building permit if compliance with all applicable city building codes, with this chapter, and with the subdivision regulations is verified. After issuance of a building permit and prior to issuance of a certificate of occupancy, the building official or his/her designee shall conduct inspections on, including but may not be limited to, foundation, plumbing, electrical and framing to determine compliance with city adopted building codes.
(Code 1996, ch. 14, exh. 14A, art. VII, § 1)

Sec. 2. CANCELLATION OF BUILDING PERMIT.

Failure of an applicant or any of his/her agents, representatives or contractors to erect, construct, reconstruct, alter, use or maintain any building, structure or premises in conformance with the approved plans upon which a building permit was issued, when such failure constitutes a violation of any provision of this chapter, shall render such building permit void, and the building official or his/her designee is

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[196] **Art. VII. Building Permits etc.** Should this article be moved to the building chapter?

[197] **Sec. 1. Building permits required.** A reference to section 3.04.003 (conditions for issuance of building permits) is added as shown.

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authorized and directed to revoke any such permit by giving written notice to the applicant or his/her agent or representative, and all work upon such building, structure or premises shall be immediately discontinued until such building, structure or premises shall be brought into conformance with the approved plans and with all applicable provisions of this chapter.
(Code 1996, ch. 14, exh. 14A, art. VII, § 2)

Sec. 3. CERTIFICATE OF OCCUPANCY.

VII.3.1 Certificate of occupancy required. Except as exempted in the adopted International Residential Code (IRC), the International Building Code (IBC) and the North Central Texas Council of Governments (NCTCOG) amendments, a certificate of occupancy shall be required for any of the following:

A. Occupancy and use of a building hereafter erected or structurally altered;

B. Change in use of an existing building to a different use;

C. Change in the use of land to a different use; and

D. Any change in the use of a nonconforming use.

No such use, or change of use, shall take place until a certificate of occupancy therefor shall have been issued by the building official or his/her designee.

VII.3.2 Record of certificates of occupancy. A record of all certificates of occupancy shall be kept on file in the building official's office or his/her designee, and copies shall be furnished upon request to any person in accordance with state laws governing public records.

VII.3.3 Procedure for New or Altered Buildings. Written application for a certificate of occupancy for a new building or for an existing building that is to be altered shall be made at the same time as the application for the building permit for such building. After submittal of the written application and payment of any required fee as adopted by ordinance in the city's fee schedule, the Certificate shall be issued after the building official or his/her designee orders the building or structure inspected and finds no violations of the provisions of this chapter or other regulations that are enforced by the building official or his/her designee. The Certificate shall be issued by the building official or his/her designee, after the erection or alteration of such building or part thereof has been completed in conformity with all applicable provisions of this chapter, and any applicable regulations and ordinances of the city.

VII.3.4 Procedure for vacant land or a change in building use. Written application for a certificate of occupancy for the use of vacant land, a change in the use of land or a change in the use of a building, or for a change from a nonconforming use to a conforming use, shall be made to the building official or his/her designee. If the proposed use is a conforming use, as herein provided, written application shall be made to the building official or his/her designee. If the proposed use is found to be in conformity with the provisions of this chapter and other applicable provisions of this Code, the certificate of occupancy shall be issued after the application for same has been made and all required inspections are completed and approved by the building official or his/her designee, within ten days following receipt of the application and payment of all applicable fees.

VII.3.5 Contents of certificate. Every certificate of occupancy shall contain the following and it shall be maintained by the building official:

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A. Building permit number; and

B. The address of the building; and

C. The name and address of the owner; and

D. A description of that portion of the building for which the certificate is issued; and

E. A statement that the described portion of the building has been inspected for compliance with the requirements of the this Code, including specifically the city building and fire codes, for the particular group and division of occupancy; and

F. The name of the building official or his/her designee; and

G. Uses allowed; and

H. Maximum number of persons/occupants; and

I. Issue date of certificate of occupancy; and

J. Any other information as may be required by the public information provisions of V.T.C.A., Government Code, §§ 552.001 et seq. ~~the Public Information Act~~[198]
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VII.3.6 Posting of Certificates. The property owner or occupant shall post the certificate of occupancy in a conspicuous place on the premises and the certificate of occupancy shall not be removed except by the building official or his/her designee.

VII.3.7 Revocation of Certificates. The building official or his/her designee may, in writing, suspend or revoke a certificate of occupancy issued under the provisions of this chapter whenever the certificate is issued in error, or on the basis of incorrect information supplied, or when it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions of this chapter or the building code and other codes adopted by the city, and any amendments thereto.

VII.3.8 Certificates for Nonconforming Uses. No later than one hundred eighty (180) days after the adoption of this chapter, the city manager shall cause his or her designee to survey all properties within the jurisdiction of the city and notify property owners of nonconforming uses and buildings. Thereafter, a certificate of occupancy shall be required for all lawful nonconforming uses of land or buildings created by adoption of this chapter. Application for such certificate of occupancy for a nonconforming use shall be filed with the building official or his/her designee by the owner or occupant of the structure or land that is occupied by the nonconforming use within one year (i.e., 365 calendar days) following the effective date of this chapter. It shall be the duty of the building official or his/her designee to issue a certificate of occupancy for a lawful nonconforming use upon receipt of Application for same, but failure to apply for such Certificate for a nonconforming use (i.e., by the owner or occupant of the premises) shall be evidence that the nonconforming use was either illegal or did not lawfully exist as of the effective date of this chapter.

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[198] **Sec. 3. Certificate of occupancy.** Citation is corrected as shown.

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(Code 1996, ch. 14, exh. 14A, art. VII, § 3)

Sec. 4. COMPLETION OF BUILDINGS IN PROGRESS.

Nothing contained herein shall require any change in the plans, construction or designated use of a building, the foundation for which has been completely constructed as of the effective date of this chapter, and the remaining construction of which shall have been completed within one year (i.e., 365 calendar days) following the effective date of this chapter. In addition, any nonresidential building or structure for which a building permit has been approved by the city not more than one year (i.e., 365 calendar days) prior to the effective date of this chapter may be constructed according to the terms of that building permit.
(Code 1996, ch. 14, exh. 14A, art. VII, § 4)

ARTICLE VIII. CONCEPT PLAN AND SITE PLAN REVIEW PROCESSES

Sec. 1. PURPOSE.

This section establishes a site plan review process for proposed planned development requests, specific use permit requests, nonresidential, mixed-use and other higher density residential developments. The purpose of the review is to ensure efficient and safe land development, harmonious use of land, compliance with the comprehensive plan and other appropriate design standards, safe and efficient vehicular and pedestrian circulation, adequate parking and loading, and adequate water supply, drainage and stormwater management, sanitary facilities, coverage and other utility services.
(Code 1996, ch. 14, exh. 14A, art. VIII, § 1)

Sec. 2. APPLICABILITY.

VIII.2.1 Site plan review and approval shall be required for all nonresidential, mixed-use, townhouse, single-family attached, and multifamily residential projects, and for all planned development district or specific use permit.

VIII.2.2 No building permit shall be issued for any of the above developments until a site plan and all other required engineering/construction plans are first approved by the city. No certificate of occupancy shall be issued until all construction and development conforms to the site plan and engineering/construction plans, as approved by the city. The site plan review process shall include up to four steps:

A. Pre-application conference between applicant and city staff; and

B. Concept plan review (voluntary, except for planned developments or specific use permits); and

C. Site plan and other associated plan (i.e., preliminary plat, engineering plans) review; and

D. Final plat review and approval; and

E. Construction of project (after city approval of all required plats and plans).
(Code 1996, ch. 14, exh. 14A, art. VIII, § 2)

Sec. 3. EXEMPTIONS AND EXCEPTIONS.

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Site plan review shall not be required for single-family (detached) or two-family residential developments, unless the proposed subdivision will include a private amenity or facility comprised of one or more buildings (such as a private recreation/swimming facility, clubhouse, etc.) or a golf course, unless the proposed subdivision will have private (not public) streets. In these instances, site plan submission and approval (in accordance with this section) will be required for the project, including the private amenity or facility, the golf course clubhouse/ hospitality area, and the gated (restricted access) entrances. (Code 1996, ch. 14, exh. 14A, art. VIII, § 3)

Sec. 4. SITE PLAN SUBMISSION REQUIREMENTS.

VIII.4.1An Application for concept plan (voluntary except for planned developments or specific use permits) or site plan approval shall be comprised of the following (all required items/information must be received by the city manager or his/her designee in order for a concept plan or site plan application to be considered complete (see section VIII.6 below) - incomplete submissions will not be reviewed until all deficient items and information have been received):

A. An application, provided by the city, with notarized signatures of the owner or his/her designated representative if the applicant is not the owner of the subject property.

B. Filing fee.

C. Verification that all taxes and assessments on the subject property have been paid (see section VI.5 below).

D. Copies of the concept plan or site plan (on 24" x 36" sheet, and drawn to a known engineering scale that is large enough to be clearly legible), and other required information, the quantity of which shall be determined by the city manager or his/her designee.

E. Reduced copies (11" x 17" or smaller) of the site plan as required by the city manager or his/her designee.

F. Landscaping and irrigation plans (with site plan; not required with concept plan), the quantity of which shall be determined by the city manager or his/her designee.

G. Building facade (elevation) plans (with site plan; not required with concept plan) drawn to scale, the quantity of which shall be determined by the city manager or his/her designee.

H. Any additional information/materials (such as plans, maps, exhibits, legal description of property, information about proposed uses, etc.) as deemed necessary by the city manager or his/her designee in order to ensure that the development request is understood.

I. If the application is for a single-family subdivision, a land study may qualify as a site plan, notwithstanding other information contained herein that may still be deemed as required with the application.
(Code 1996, ch. 14, exh. 14A, art. VIII, § 4)

Sec. 5. PAYMENT OF ALL INDEBTEDNESS ATTRIBUTABLE TO SUBJECT PROPERTY.

No person who owes delinquent taxes, fees, delinquent paving assessments, impact fees, or any other delinquent debts or obligations to the city, and which are directly attributable to a piece of property shall

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be allowed to submit an application for concept plan or site plan until the taxes, fees, assessments, debts, or obligations directly attributable to the property and owed by the owner or previous owner thereof shall have been first fully paid, or until an arrangement satisfactory to the city has been made for the payment of such debts or obligations. It shall be the applicant's responsibility to provide evidence or proof that all taxes, debts and obligations have been paid.
(Code 1996, ch. 14, exh. 14A, art. VIII, § 5)

Sec. 6. OFFICIAL SUBMISSION DATE AND COMPLETENESS OF APPLICATION.

For the purpose of these regulations, the "official submission date" shall be the date upon which a complete application for approval of a concept plan or site plan (that contains all elements and information required by this chapter) is submitted to the city manager or his/her designee, as provided by Article IV.1.5.
(Code 1996, ch. 14, exh. 14A, art. VIII, § 6)

Sec. 7. SUPPLEMENTAL REQUIREMENTS.

The city manager may require other information and data for specific concept plans or site plans. This data may include but is not limited to geologic information, water yields, flood data and/ or hydrological studies, environmental information, traffic impact analysis, road capacities, market information, economic data for the proposed development, hours of operation, elevations and perspective drawings, lighting, and similar information. approval of a concept plan or site plan may establish conditions for construction based upon such information.
(Code 1996, ch. 14, exh. 14A, art. VIII, § 7)

Sec. 8. PRINCIPLES AND STANDARDS FOR CONCEPT PLAN AND SITE PLAN REVIEW AND EVALUATION.

The following criteria have been set forth as a guide for evaluating the adequacy of proposed development within the city, and to ensure that all developments are, to the best extent possible, constructed according to the city's adopted codes and ordinances.

The city manager or his/her designee shall review the concept plan or site plan for compliance with all applicable provisions of this Code and with the comprehensive plan; for harmony with surrounding uses and with long-range plans for the future development of the city; for the promotion of the health, safety, order, efficiency, and economy of the city; and for the maintenance of property values and the general welfare.

Concept plan or site plan review and evaluation by the city manager or his/her designee shall be performed with respect to the following:

A. The plan's compliance with all provisions of this chapter and provisions of other applicable chapters of this Code.

B. The impact of the development relating to the preservation of existing natural resources on the site and the impact on the natural resources of the surrounding properties and neighborhood.

C. The relationship of the development to adjacent uses in terms of harmonious design, facade treatment, setbacks, building materials, maintenance of property values, and any possible negative impacts.

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D. The provision of a safe and efficient vehicular and pedestrian circulation system.

E. The design and location of off-street parking and loading facilities to ensure that all such spaces are usable and are safely and conveniently arranged.

F. The sufficient width and suitable grade and location of streets designed to accommodate prospective traffic and to provide access for firefighting and emergency equipment to buildings.

G. The coordination of streets so as to arrange a convenient system consistent with the thoroughfare plan of the city.

H. The use of landscaping and screening to provide adequate buffers to shield lights, noise, movement, or activities from adjacent properties when necessary, and to complement and integrate the design and location of buildings into the overall site design.

I. Exterior lighting to ensure safe movement and for security purposes, which shall be arranged so as to minimize glare and reflection upon adjacent properties.

J. The location, size, accessibility, and configuration of open space areas to ensure that such areas are suitable for intended recreation and conservation uses.

K. Protection and conservation of soils from erosion by wind or water or from excavation or grading.

L. Protection and conservation of watercourses and areas that are subject to flooding.

M. The adequacy of water, drainage, sewerage facilities, solid waste disposal, and other utilities necessary for essential services to residents and occupants.

N. Consistency with the comprehensive master plan of the city as adopted or amended.
(Code 1996, ch. 14, exh. 14A, art. VIII, § 8)

Sec. 9. APPROVAL PROCESS AND REVISIONS.

VIII.9.1Pre-Application Conference. The applicants should avail themselves of the advice and assistance of the city officials, and should consult early and informally with the city manager, the building official, the city planner, the city engineer, and other applicable administrative officers before preparing a concept plan (a voluntary plan, except for planned developments or specific use permits) or a site plan in order to save time, money and to avoid potential unnecessary delays.

Prior to formal application for approval of any concept plan or site plan, the applicants shall request and attend a pre-application conference with the city manager or designee, the city planner, the city engineer, the building official, and any other pertinent city officials in order to become familiar with the city's development regulations and the development process. At the pre-application conference, the developer may be represented by his/her attorney, land planner, engineer, agent or surveyor.

VIII.9.2city Staff Review. Upon official submission of a complete application for concept plan or site plan approval, the city shall commence technical review of the development proposal by forwarding a copy of the application to development review committee (DRC) (such as the city manager, community development director, municipal services director, city planner, building official, police chief, fire chief,

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etc.). The DRC shall review the application and shall ascertain its compliance with these and other applicable city regulations. Following DRC and other city staff review of the plan and supporting documents and following discussions with the applicant on any revisions deemed advisable and the kind and extent of improvements to be installed, the applicant shall resubmit additional copies of the corrected plan to the city manager or designee no later than seven calendar days prior to the commission meeting. Failure to resubmit corrected copies of the plan back to the city in time shall be cause for the city manager or designee to forward the plan application to the commission as it was originally submitted rather than the corrected version (corrected copies of the plan resubmitted to the city less than seven days prior to the meeting date shall not be accepted or forwarded to the commission). If, upon resubmission of the corrected plan to the city, the city manager or designee determines that the application is still incomplete or not correct (i.e., not ripe for consideration), the plan application shall be subject to denial.

VIII.9.3Action by the planning and zoning commission and the city council. All concept plan and site plan applications shall be reviewed by the planning and zoning commission, and if in conformance with the provisions of this chapter and all other applicable regulations and codes of the city, they shall then be considered for approval by the city council.

The city manager, or his/her designee, shall schedule consideration of the concept plan or site plan on the regular agenda of the planning and zoning commission in a timely manner after the submission is received (or, in the case of an incomplete submission, after the submission is deemed complete). The commission shall review the concept plan or site plan and shall recommend approval, approval subject to certain conditions, or disapproval of the concept plan or site plan. If the commission recommends approval (with or without conditions) of the plan, then it will be forwarded to the city council for consideration. If the commission recommends disapproval of a plan application, the commission shall state such disapproval and the reasons therefor. The applicant or property owner may appeal such decision to city council by filing a written notice of appeal in the office of the city manager or designee no later than ten calendar days after the date upon which the commission denied the application. The notice of appeal shall set forth in clear and concise fashion the basis for the appeal. The city council shall consider the appeal at a public meeting no later than 30 calendar days after the date upon which the notice of appeal was filed. The city council may change the decision of the commission by vote of three-fourths (3/4) majority of the full city council. The city council may also, where appropriate, remand the concept plan or site plan application back to the commission for reconsideration if it believes that there is a compelling reason to do so (such as the introduction of significant new facts or testimony, etc.). The city council shall determine final approval or disapproval of all concept plan or site plan applications.

VIII.9.4Revisions to the approved site plan

A. Minor Revisions/Amendment - It is recognized that final architectural and engineering design may necessitate minor changes in the approved site plan. In such cases, the city manager or his/her designee, after review and comments from the city planner, shall have the authority to approve minor modifications to an approved site plan (which shall be submitted as an “amended site plan” which substantially conforms to the previously approved site plan), provided that such modifications do not significantly change traffic circulation, building locations on the site, proximity of buildings to nearby residential areas, increase the size or height of buildings, or any other conditions specifically attached as part of the city council’s approval of the site plan. Submission materials and requirements for approval of an amended site plan shall be as determined by the city manager or his/her designee.

B. Major Revisions - In the event of revisions that are more extensive in nature (i.e., do not conform to the description for minor amendments above), a revised site plan must be resubmitted, reviewed by the city manager or his/her designee, and reconsidered by the commission and the city council in accordance

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with the procedures set forth in this section.
(Code 1996, ch. 14, exh. 14A, art. VIII, § 9)

Sec. 10. LAPSE OF CONCEPT PLAN OR SITE PLAN APPROVAL.

The approval of a concept plan or site plan shall be effective for a period of six months (i.e., 180 calendar days) beyond the date that the plan was approved by the city council except as provided herein. By 12:01 a.m. on the 181st day following council approval of the plan, the applicant must have completed a city-required "progress benchmark" as set forth below. If this is not accomplished, then the approved concept plan or site plan shall be deemed to have expired and shall become null and void. The series of "progress benchmarks" for a project, pursuant to the provisions of this paragraph, are as follows:

Approved Plan	*Next "Progress Benchmark"*
Concept plan	Approval of the final site plan (per this chapter), and voluntary, except approval of the preliminary plat (per subdivision regulations) and with PDs & SUPs continued active engineering review of the engineering/construction plans (which were submitted along with the preliminary plat and final site plan).
Site plan	Engineering release and commencement of construction of public improvements, and application for a building permit for at least one of the buildings on the approved site plan, within six months following approval of the site plan.

(Code 1996, ch. 14, exh. 14A, art. VIII, § 10)

Sec. 11. EXTENSION AND REINSTATEMENT PROCEDURE.

VIII.11.1 Prior to the lapse of approval for a concept plan or site plan, the applicant may petition the city, in writing, to extend the plan approval. The petition shall be considered at a public meeting before the commission and then city council and an extension may be granted by city council at such meeting. If no petition for extension of concept plan or site plan approval is submitted, then the plan shall be deemed to have expired and shall become null and void. Any new request for concept plan or site plan approval shall be deemed a "new project"; shall be submitted with a new application form, with a new filing fee, and with new plans and materials in accordance with the procedures set forth in this section; and shall be reviewed for compliance with the ordinances and regulations in effect at the time the new application is made.

VIII.11.2 In no instance shall more than one extension be considered or granted for a concept plan or site plan.

VIII.11.3 In determining whether to grant a request for extension, the city council shall take into account the reasons for the lapse, the ability of the property owner to comply with any conditions attached to the original approval, and the extent to which development regulations would apply to the concept plan or site plan at that point in time. The commission and city council shall either extend the concept plan or site plan or deny the request, in which instance the originally approved plan shall be deemed null and void. The property owner must thereafter submit a new concept plan or site plan application for approval as a "new project," and shall conform to the zoning and development regulations then in effect.
(Code 1996, ch. 14, exh. 14A, art. VIII, § 11)

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Sec. 12. CONCEPT PLAN REQUIREMENTS.

VIII.12.1 Applicability. Submission and approval of a concept plan (a voluntary plan except for planned development or specific use zoning requests) can be the first step in the approval process for a development project (either residential or nonresidential) if the applicant prefers to do so. city review and approval of a concept plan has many benefits for both the city and the applicant. The applicant benefits in that he/she gains preliminary review and scrutiny (as well as input and suggestions) on the overall conceptual layout of the proposed development from the city's DRC. Approval of a concept plan may also offer the applicant some level of confidence that subsequent plan submissions will be favorably received and approved with few major changes to the project's design and layout provided that the project complies with city regulations. For example, once the site plan and preliminary plat (and corresponding engineering plans) are submitted for a nonresidential project, unforeseen changes in site layout can prove to be expensive in terms of design and engineering costs and time lost due to major plan revisions. The city benefits in that it is allowed to become familiar with and involved in the project early in the development process (which is particularly important for large-scale developments and subdivisions). This allows the city to plan for and closely coordinate the provision of public facilities and services, thereby potentially avoiding future problems such as undersized utility lines, inadequate roadway capacities, unanticipated shortfalls in public services, and fiscal inefficiencies resulting from lack of planning and coordination.

Submission and approval of a concept plan is mandatory for a zoning request for a planned development or specific use permit. Submission and approval of a concept plan is encouraged (but not required) in the following circumstances:

A. In conjunction with a zoning or rezoning request for a property that is intended for development; or

B. Prior to submission of an application for a site plan (and preliminary plat) for a property that is intended for development (particularly large land parcels); or

C. In conjunction with any project where a road is to be established or realigned.

VIII.12.2 Purpose. The purpose of a concept plan is to allow opportunity for the planning and zoning commission and city council to preview various development-related aspects of the project, including proposed major thoroughfare and collector street patterns; land use patterns and trends; environmental issues and constraints; building orientation and massing; conformance to the comprehensive plan, this chapter (if the subject property is within the city's corporate limits), subdivision regulations, future land use plan, thoroughfare plan and other applicable plans and guidelines; and the property's relationship to adjoining subdivisions or properties. Review of a concept plan would also assist the city in evaluating the possible impacts of the proposed development in terms of provision of essential public facilities and services, respecting and preserving important natural features and the environment, provision of open space and recreational opportunities, and protecting the general health, safety and welfare of the community.

VIII.12.3 Extent of area that should be included in a concept plan. When the overall development project is to be developed in phases, the concept plan area shall include the entire zoned property from which the phases are being developed, as well as an approximate development schedule. When significant natural or man-made features, such as thoroughfares or creeks, make inclusion of the entire property in the concept plan unnecessary to adequately review the items to be shown on a concept plan, the plan may

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include a smaller study area. Boundaries such as major thoroughfares (existing or proposed), creeks, political subdivisions, or other such natural or man-made features may be used to delineate the smaller study area.

VIII.12.4 Procedures and Submission Requirements for concept plan approval. Submission of an application for concept plan approval shall be preceded by a pre-application conference with the city staff (see subsection VIII.9.1). The concept plan shall be prepared by a qualified civil engineer, land planner, architect or surveyor, at a scale no smaller than one inch equals two hundred feet (1" = 200') and on sheets twenty-four inches by thirty-six inches (24" x 36"), and it shall show the following:

A. A title block within the lower right-hand corner of the concept plan with the proposed name of the project/subdivision, the name and address of the owner/developer and the land planner, engineer, architect or surveyor responsible for the design or survey, the scale of the drawing (both written and graphic scale), the date the drawing was prepared, total site acreage, and the location of the property according to the abstract and survey records of Dallas or Ellis County, whichever is appropriate;

B. A vicinity or location map that shows the location of the proposed development within the city (or its ETJ) and in relationship to existing roadways;

C. The boundary survey limits of the tract and scale distances with north clearly indicated;

D. The names of adjacent subdivisions (or the name of the owners of record and recording information for adjacent parcels of unplatted land), including parcels on the other sides of roads, creeks, etc. The concept plan shall include a depiction of all contiguous holdings of the property owners, the existing/proposed uses of the subject property, a general arrangement of future land uses, including the approximate number of lots and any residential uses anticipated, and a generalized circulation plan for the subject property;

E. The existing zoning and existing/proposed uses on adjacent land; the location, width and names of all existing or platted streets or other public ways within or adjacent to the tract; any existing easements (with recording information, width and purpose); existing buildings; railroad rights-of-way; topography (contours at five-foot intervals) with existing drainage channels or creeks (including the 100-year floodplain, if applicable); any other important natural features (such as rock outcroppings, caves, wildlife habitats, etc.); all substantial natural vegetation; and adjacent political subdivisions, corporate limits, or school district boundaries;

F. Proposed strategies for tree preservation (showing individual trees or tree masses that will be preserved, and the techniques that will be used to protect them during construction);

G. The layout and width (right-of-way lines) of existing and proposed thoroughfares, collector streets or intersections, and a general configuration of proposed streets, lots and blocks, including proposed median openings and left turn lanes on future divided roadways (existing and planned driveways on the opposite side of divided roadways must also be shown for coordination and sharing of future median openings);

H. A general arrangement of land uses and buildings, including but not limited to proposed nonresidential and residential densities; building heights, square footages, massing, orientation, loading/service areas, recycling containers, compactors and dumpster enclosures, pedestrian walkways, and parking areas; any proposed sites for parks, schools, public facilities, public or private open space; floodplains/ drainageways; and other pertinent development-related features; and

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I. The phasing of development (the anticipated order of development for the overall property).

VIII.12.5 Effect of Review. The concept plan shall be used only as an aid to show the anticipated layout of the proposed development, and to assess the adequacy of public facilities or services that will be needed to serve the proposed development. Any proposed use or development depicted on the concept plan shall not be deemed formal authorization or approval by the city until a final site plan is approved for the development (concept plan approval is to be thought of as a general acknowledgment by the city that the proposed layout generally conforms to the city's zoning regulations, and that the proposed development can be adequately served by required public facilities or services). If the applicant chooses to construct only the initial phases of a multi-phase project designated in the concept plan, a new concept plan may be required for site plan approval of subsequent phases, if the proposed development layout, character, or other conditions affecting the development substantially change from one phase to the next.

The approved concept plan shall be valid for a period of six months (i.e., 180 calendar days) from the date of concept plan approval by city council.
(Code 1996, ch. 14, exh. 14A, art. VIII, § 12)

Sec. 13. SITE PLAN REVIEW.

VIII.13.1 Applicability and purpose. Submission and city approval of a site plan is required as stated in section VIII.4. The purpose of final site plan approval is to ensure that a development project is in compliance with all applicable provisions of this Code and guidelines prior to commencement of construction. Approval of the site plan, preliminary plat, landscape plan, building facade plan, and engineering plans are required prior to site construction.

VIII.13.2 Extent of area that should be included in a site plan. When the overall development project is to be developed in phases, the site plan area shall include only the portion of the overall property that is to be developed/constructed.

VIII.13.3 Procedures and submission requirements for site plan approval. Submission of an application for site plan approval shall be preceded by a pre-application conference with the city staff. The site plan shall be prepared by a qualified civil engineer, land planner, architect or surveyor, at a scale no smaller than one inch equals one hundred feet (1" = 100') and on sheets twenty-four inches by thirty-six inches (24" x 36") and eleven inches by seventeen inches (11" x 17"), and it shall clearly show in detail how the site will be constructed (such as paving, buildings, landscaped areas, utilities, etc.). The site plan shall include, but not be limited to the following:

A. A title block within the lower right-hand corner of the site plan with the proposed name of the project/subdivision, the name, address and telephone number of the owner/developer and the land planner, engineer, architect or surveyor responsible for the plan, the scale of the drawing (both written and graphic scale), the date the drawing was prepared, total site acreage, and the location of the property according to the abstract and survey records of Dallas or Ellis County, whichever is appropriate;

B. A vicinity or location map (at a scale of no less than 1" = 1000') that shows the location of the proposed development within the city (or its ETJ) and in relationship to existing roadways;

C. The boundary survey limits of the tract (and each proposed lot) and scale distances with north clearly indicated;

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D. The names of adjacent additions or subdivisions (or, if individually owned, the name of the owners of record and recording information for adjacent parcels of platted or unplatted land), including parcels on the other sides of roads, creeks, etc.;

E. The existing zoning and existing/proposed uses on adjacent land; the location, width and names of all existing or platted streets or other public ways within or adjacent to the tract; any existing easements (with recording information, width and purpose); existing buildings; railroad rights-of-way; topography (contours at two-foot intervals) with existing drainage channels or creeks (including the 100-year floodplain, if applicable); any other important natural features (such as rock outcroppings, caves, wildlife habitats, etc.); and all substantial natural vegetation;

F. Proposed strategies for tree preservation (showing individual trees or tree masses that will be preserved, and the techniques that will be used to protect them during construction), as further provided by this chapter;

G. The layout and width (right-of-way lines and curblines) of existing and proposed thoroughfares, collector streets or intersections, and specific configuration of proposed streets, lots and blocks, proposed driveways (show driveway widths and distances between driveways), and proposed median openings and left turn lanes on future divided roadways (existing and planned driveways on the opposite side of divided roadways must also be shown for coordination and sharing of future median openings);

H. Specific locations and footprints of buildings, including but not limited to proposed nonresidential and residential densities; building heights, square footages (for multi-tenant or multi-purpose buildings, show square footage for each intended use), massing, orientation, loading/service areas (including proposed screening), recycling containers, compactors and dumpster enclosures (including proposed screening), pedestrian walkways, and parking areas (including parking ratio calculations); any proposed sites for parks, schools, public facilities, public or private open space; floodplains/drainageways; all proposed and existing utilities and easements; drainage structures; retention/detention ponds with proposed aesthetic treatments; screening walls; fences; signage; fire lanes and fire hydrants; lighting; visibility easements; and other pertinent development related features; and

I. A Landscape Plan showing turf areas, tree types and sizes, screening walls, ornamental plantings, planting schedule (including species, planted height, spacing, container/caliper size, numbers of each plant material, etc.) any existing wooded areas, trees to be planted, and irrigation plans (if required), as further provided by this chapter.

J. Building facade (elevation) plans showing elevations with any attached (wall-mounted) signage to be used, as determined appropriate by the city manager, or his/her designee.

Permit of the above items shall conform to the principles and standards of this chapter and the comprehensive master plan. To ensure the submission of adequate information, the city is empowered to maintain and distribute a separate list of specific requirements for site plan review applications. Upon periodic review, the city manager or his/her designee shall have the authority to update such requirements for site plan and development review applications. It is the applicant's responsibility to be familiar with, and to comply with, these requirements.

VIII.13.4 Effect of Review. The site plan shall be considered authorization to proceed with construction of the site provided all other required city approvals are obtained (such as preliminary plat, engineering plans, landscape plan, building facade plans, building permits, etc.). The approved site plan shall be valid for a period of six months (i.e., 180 calendar days) from the date of approval by the city

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council.
(Code 1996, ch. 14, exh. 14A, art. VIII, § 13)

ARTICLE IX. ZONING DISTRICTS

Sec. 1. ZONING DISTRICTS ESTABLISHED.

The city is divided into the following zoning districts. The use, height and lot area regulations, and other standards, as set out herein apply to each district, as set out in this section. The districts established herein shall be known as:

Abbreviated Designation	*Zoning District Name*
Base Districts	
A	Agricultural
SF-E	Single-Family Estate Residential (minimum 40,000-square-foot lots)
SF-1	Single-Family Residential-1 (minimum 20,000-square-foot lots)
SF-2	Single-Family Residential-2 (minimum 12,000-square-foot lots)
SF-3	Single-Family Residential-3 (minimum 9,000-square-foot lots)
SF-PH	Single-Family Residential-Patio Home (zero-lot- line homes)
O	Office
NS	Neighborhood Service
R	Retail
TC	Town Center Commercial
C	Commercial
I	Industrial
Provisional Districts	
SF-4	Single-Family Residential-4 (minimum 7,500-square-foot lots)
MF	Multifamily Residential
MH	Manufactured Home
Overlay Distrcts	
PD	planned development
PD-ED	planned development - Economic Development
SUP	specific use permit
Obsolete Districts	
SF-5	Single-Family Residential-5 (minimum 5,500-square-foot lots)
BP	Business Park
HC	Highway Commercial

(Code 1996, ch. 14, exh. 14A, art. IX, § 1)

Sec. 2. DEFINITIONS AND PURPOSE OF ZONING DISTRICT.

IX.2.1 A - Agricultural District

A. General Purpose and Description. The Agricultural, “A” district provides for the use of land for farming, ranching, gardening and similar uses of vacant land. Single-family uses on large lots are also appropriate for this district. When land in the “A” category is needed for urban purposes, it is anticipated the zoning will be changed to the appropriate zoning categories to provide for orderly growth and

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development in accordance with the comprehensive master plan. This district shall serve as the interim zoning district for any land annexed into the city until such time as it is zoned in accordance with the provisions herein.

B. Permitted Uses. Those uses listed for the “A” - Agricultural district in section XI.1 (use charts) as “X” (permitted) or “S” (specific use permit) are authorized uses permitted by right or specially permitted uses, respectively. Special permitted uses must be approved utilizing procedures set forth in section IX.4.4 (specific use permit).

C. Maximum Height

1. Two and one-half (2.5) stories, or thirty-five feet (35') for the main building/house.

2. Forty-five feet (45') for uninhabited agricultural structures (e.g., barns, silos, water towers, etc.), provided they are no closer than one hundred feet (100') from any residential structure on the premises, and they are set back at least one hundred feet (100') or three times their height (whichever is greater) from any front, side or rear property line.

3. Fifteen feet (15') for other accessory buildings, including detached garage, garden shed, accessory dwelling units, etc.

4. Other requirements set forth in section XV.1.9.

D. Area Regulations

1. Size of Lots

a. Minimum Lot Area - Three acres

b. Minimum Lot Width - Two hundred and fifty feet (250')

c. Minimum Lot Depth - Two hundred feet (200')

2. Size of Yards

a. Minimum Front Yard - Fifty feet (50')

b. Minimum Side Yard - Fifteen percent (15%) of the lot width, but need not exceed fifty feet (50'); twenty-five feet (25') from a street right-of-way line for a corner lot

c. Minimum Rear Yard - Forty feet (40')

3. Maximum Lot Coverage - Fifteen percent (15%) for main buildings and accessory buildings

4. Minimum Lot Access - No lot shall have less than thirty-five feet (35') access measured at the right-of-way line

E. Parking Regulations

1. Single-Family Dwelling Unit - A minimum of two enclosed, attached or detached, parking spaces

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no less than twenty-four feet by twenty-four feet (24 x 24), on the same lot as the main structure, plus two additional parking spaces on a paved driveway having a minimum length of fifty-five feet (55') as measured from ten feet (10') interior of any paved or improved public surface (i.e., roadway, sidewalk).

2. Other - See Article XVI Off-Street Parking and Loading Requirements

F. Minimum Floor Area per Dwelling Unit - Two thousand two hundred and fifty (2,250) square feet. Minimum dwelling unit areas specified shall be computed exclusive of breezeways, garages, open porches, carports and accessory buildings.

G. Minimum Exterior Construction Standards

1. Masonry - See section XII.1.1(A) [15.04.001(a)] (Minimum Masonry Requirements)

2. Roof Pitch - See section XII.1.1(B) [15.04.001(b)]

3. Roofing Systems - See section XII.1.1(C) [15.04.001(c)]

4. Chimney Design - See section XII.1.1(E) [15.04.001(e)]

H. Mailboxes - See section XII.1.2 [15.04.002]

I. Accessory Buildings - See section XII.1.3 [15.04.003]

J. Driveway

1. In “A” districts circle driveways are permitted with front yard setbacks of thirty feet (30') or more and where the driveway is a minimum of fifteen feet (15') from the front door.

2. All other Driveway requirements are found in section XII.1.4 [15.04.004]

K. Sidewalks - See section XII.1.5 [15.04.005]

L. Lighting - See section XII.1.6 [15.04.006]

M. Special Requirements - See section XII.1.7 [15.04.007]

N. Other Regulations - As established by Articles XV, XVI and XVII and subdivision regulations.

IX.2.2 SF-E - Single-Family Estate Residential District.

A. General Purpose and Description. The Single-Family Residential-Estate, “SF-E”, district is intended to provide for development primarily composed of single-family detached dwellings on larger lots that are not less than 40,000 square feet in size. Areas zoned for the SF-E district shall have, or shall make provision for, city water and sewer services. They shall be designed to adequately accommodate storm drainage; they shall have paved concrete streets with logical and efficient vehicular circulation patterns that discourage non-local traffic; they shall be properly buffered from nonresidential uses; and they shall be protected from pollution and undesirable environmental and noise impacts.

B. Permitted Uses. Those uses listed for the SF-E district in section XI.1 (use charts) as “X”

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(permitted) or “S” (specific use permit) are authorized uses permitted by right or specially permitted uses, respectively. Special permitted uses must be approved utilizing procedures set forth in section XI.4.4 [IX.4.4] (specific use permit).

C. Maximum Height.

1. Two and one-half (2.5) stories, or thirty-five feet (35') for the main building/house.

2. Fifteen feet (15') for other accessory buildings, including detached garage, garden shed, accessory dwelling units, etc.

3. Other requirements (see section XV.1.9).

D. Area Regulations

1. Size of Lots

a. Minimum Lot Area - Forty thousand (40,000) square feet; maximum density one

(1) dwelling unit per acre

b. Minimum Lot Width - One hundred forty feet (140')

c. Minimum Lot Depth - One hundred forty feet (140')

2. Size of Yards

a. Minimum Front Yard - Forty feet (40')

b. Minimum Side Yard - Twenty-five feet (25'); twenty-five feet (25') measured from a street right-of-way line for a corner lot

c. Minimum Rear Yard - Forty feet (40')

3. Maximum Lot Coverage - Twenty-five percent (25%) for the main building; fifty percent (50%) for the main building and any accessory buildings, driveways and parking areas combined

4. Minimum Lot Access - No lot shall have less than thirty-five feet (35') access measured at the right-of-way line

E. Parking Regulations

1. Single-Family Dwelling Unit - A minimum of two enclosed, attached or detached, parking spaces no less than twenty-four feet by twenty-four feet (24' x 24'), on the same lot as the main structure, plus two additional parking spaces on a paved driveway having a minimum length of thirty feet (30') as measured from ten feet (10') interior of any paved or improved public surface (i.e., roadway, sidewalk).

2. Other - See section XVI, Off-Street Parking and Loading Regulations

F. Minimum Floor Area per Dwelling Unit - Three thousand five hundred (3,500) square feet.

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Minimum dwelling unit areas specified shall be computed exclusive of breezeways, garages, open porches, carports and accessory buildings.

G. Minimum Exterior Construction Standards

1. Masonry - See section XII.1.1(A) [15.04.001(a)] (Minimum Masonry Requirements)

2. Roof Pitch - See section XII.1.1(B) [15.04.001(b)]

3. Roofing Systems - See section XII.1.1(C) [15.04.001(c)]

4. Chimney Design - See section XII.1.1(E) [15.04.001(e)]

H. Mailboxes - See section XII.1.2 [15.04.002]

I. Accessory Buildings - See section XII.1.3 [15.04.003]

J. Driveway

1. In “SE-E” [SF-E] districts circle driveways are permitted with front yard setbacks of twenty-five feet (25') or more and where the driveway is a minimum of ten feet (10') from the front door.

2. All other Driveway requirements are found in section XII.1.4 [15.04.004]

K. Sidewalks - See section XII.1.5 [15.04.005]

L. Lighting - See section XII.1.6 [15.04.006]

M. Special Requirements - See section XII.1.7 [15.04.007]

N. Other Regulations - As established by Articles XV, XVI and XVII and subdivision regulations.

IX.2.3 SF-1 - Single-Family Residential-1 District.

A. General Purpose and Description. The Single-Family Residential-1, “SF-1”, district is intended to provide for development and be composed of primarily low-density single- family detached dwellings on lots that are not less than 20,000 square feet in size. Areas zoned for the SF-1 district shall have, or shall make provision for, city water and sewer services. They shall be designed to adequately accommodate storm drainage; they shall have paved concrete streets with logical and efficient vehicular circulation patterns that discourage non-local traffic; they shall be properly buffered from nonresidential uses; and they shall be protected from pollution and undesirable environmental and noise impacts.

B. Permitted Uses. Those uses listed for the SF-1 district in section XI.1 (use charts) as “X” (permitted) or “S” (specific use permit) are authorized uses permitted by right or specially permitted uses, respectively. Special permitted uses must be approved utilizing procedures set forth in section XI.4.4. [IX.4.4] (specific use permit)

C. Maximum Height.

1. Two and one-half (2.5) stories, or thirty-five feet (35') for the main building/house.

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2. Fifteen feet (15') for other accessory buildings, including detached garage, garden shed, accessory dwelling units, etc.

3. Other requirements (see section XV.1.9).

D. Area Regulations.

1. Size of Lots

a. Minimum Lot Area - Twenty thousand (20,000) square feet; maximum density two dwelling units per acre

b. Minimum Lot Width - One hundred twenty-five feet (125')

c. Minimum Lot Depth - One hundred forty feet (140')

2. Size of Yards

a. Minimum Front Yard - Thirty-five feet (35')

b. Minimum Side Yard - Fifteen feet (15'); twenty-five feet (25') from a street right- of-way line for a corner lot

c. Minimum Rear Yard - Thirty feet (30')

3. Maximum Lot Coverage - Thirty-five percent (35%) for the main building; fifty percent (50%) for the main building and any accessory buildings, driveways and parking areas combined

4. Minimum Lot Access - No lot shall have less than thirty-five feet (35') access measured at the right-of-way line

E. Parking Regulations

1. Single-Family Dwelling Unit - A minimum of two enclosed, attached parking spaces no less than twenty-four feet by twenty-four feet (24' x 24'), on the same lot as the main structure, plus two additional parking spaces on a paved driveway having a minimum length of thirty feet (30') as measured from ten feet (10') interior of any paved or improved public surface (i.e., roadway, sidewalk).

2. Other - See section XVI, Off-Street Parking and Loading Regulations

F. Minimum Floor Area per Dwelling Unit - Twenty-seven hundred (2,700) square feet. Minimum dwelling unit areas specified shall be computed exclusive of breezeways, garages, open porches, carports and accessory buildings.

G. Minimum Exterior Construction Standards

1. Masonry - See section XII.1.1(A) [15.04.001(a)] (Minimum Masonry Requirements)

2. Roof Pitch - See section XII.1.1(B) [15.04.001(b)]

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3. Roofing Systems - See section XII.1.1(C) [15.04.001(c)]

4. Chimney Design - See section XII.1.1(E) [15.04.001(e)]

H. Mailboxes - See section XII.1.2 [15.04.002]

I. Accessory Buildings - See section XII.1.3 [15.04.003]

J. Driveway - See section XII.1.4 [15.04.004]

K. Sidewalks - See section XII.1.5 [15.04.005]

L. Lighting - See section XII.1.6 [15.04.006]

M. Special Requirements - See section XII.1.7 [15.04.007]

N. Other Regulations - As established by Articles XV, XVI and XVII and subdivision regulations.

IX.2.4 SF-2 - Single-Family Residential-2 District.

A. General Purpose and Description. The Single-Family Residential-2, “SF-2”, district is intended to provide for development and be composed of low-density single-family detached dwellings on lots that are not less than twelve thousand (12,000) square feet in size. Areas zoned for the SF-2 district shall have, or shall make provision for city water and sewer services. They shall be designed to adequately accommodate storm drainage; they shall have paved concrete streets with logical and efficient vehicular circulation patterns that discourage non-local traffic; they shall be properly buffered from nonresidential uses; and they shall be protected from pollution and undesirable environmental and noise impacts.

B. Permitted Uses. Those uses listed for the SF-2 district in section XI.1 (use charts) as “X” (permitted) or “S” (specific use permit) are authorized uses permitted by right or specially permitted uses, respectively. Special permitted uses must be approved utilizing procedures set forth in section XI.4.4 [IX.4.4] (specific use permit).

C. Maximum Height

1. Two and one-half (2.5) stories, or thirty-five feet (35') for the main building/house.

2. Fifteen feet (15') for other accessory buildings, including detached garage, garden shed, accessory dwelling units, etc.

3. Other requirements (see section XV.1.9).

D. Area Regulations

1. Size of Lots

a. Minimum Lot Area - Twelve thousand (12,000) square feet; also, the minimum average lot area shall be thirteen thousand five hundred (13,500) square feet in order to provide diversity in lot sizes within each SF-2 neighborhood; maximum density three dwelling units per acre

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b. Minimum Lot Width - Eighty-five feet (85')

c. Minimum Lot Depth - One hundred twenty feet (120')

2. Size of Yards

a. Minimum Front Yard - Thirty feet (30')

b. Minimum Side Yard - Ten feet (10') for interior side yard; twenty-five feet (25') from a street right-of-way line for a corner lot

c. Minimum Rear Yard - Twenty feet (20')

3. Maximum Lot Coverage - Thirty-five percent (35%) for the main building; fifty percent (50%) for the main building and any accessory buildings, driveways and parking areas combined

4. Minimum Lot Access - No lot shall have less than thirty-five feet (35') access measured at the right-of-way line

E. Parking Regulations

1. Single-Family Dwelling Unit - A minimum of two enclosed parking spaces no less than twenty-four feet by twenty-four feet (24' x 24'), on the same lot as the main structure, plus two additional parking spaces on a paved driveway having a minimum length of thirty feet (30') as measured from ten feet (10') interior of any paved or improved public surface (i.e., roadway, sidewalk).

2. Other - See section XVI, Off-Street Parking and Loading Regulations

F. Minimum Floor Area per Dwelling Unit - Two thousand (2,000) square feet; also, the minimum average floor area shall be two thousand two hundred (2,200) square feet in order to provide diversity in house sizes within each SF-2 neighborhood.

G. Minimum Exterior Construction Standards

1. Masonry - See section XII.1.1(A) [15.04.001(a)] (Minimum Masonry Requirements)

2. Roof Pitch - See section XII.1.1(B) [15.04.001(b)]

3. Roofing Systems - See section XII.1.1(C) [15.04.001(c)]

4. Chimney Design - See section XII.1.1(E) [15.04.001(e)]

H. Mailboxes - See section XII.1.2 [15.04.002]

I. Accessory Buildings - See section XII.1.3 [15.04.003]

J. Driveway - See section XII.1.4 [15.04.004]

K. Sidewalks - See section XII.1.5 [15.04.005]

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L. Lighting - See section XII.1.6 [15.04.006]

M. Special Requirements - See section XII.1.7 [15.04.007]

N. Other Regulations - As established by Articles XV, XVI and XVII and subdivision regulations.

IX.2.5 SF-3 - Single-Family Residential-3 District.

A. General Purpose and Description. The Single-Family Residential-3, “SF-3”, district is intended to provide for development of and be composed of primarily single-family detached dwellings on smaller and more compact lots of not less than nine thousand (9,000) square feet. Areas zoned for the SF-3 district shall have, or shall make provision for, city water and sewer services. They shall be designed to adequately accommodate storm drainage; they shall have paved concrete streets with logical and efficient vehicular circulation patterns that discourage non-local traffic; they shall be properly buffered from nonresidential uses; and they shall be protected from pollution and undesirable environmental and noise impacts.

B. Permitted Uses. Those uses listed for the SF-3 district in section XI.1 (use charts) as “X” (permitted) or “S” (specific use permit) is [are] authorized uses permitted by right or specially permitted uses, respectively. Special permitted uses must be approved utilizing procedures set forth in section XI.4.4 [IX.4.4] (specific use permit).

C. Maximum Height

1. Two and one-half (2.5) stories, or thirty-five feet (35') for the main building/house.

2. Fifteen feet (15') for other accessory buildings, including detached garage, garden shed, accessory dwelling units, etc.

3. Other requirements (see section XV.1.9).

D. Area Regulations

1. Size of Lots

a. Minimum Lot Area - Nine thousand (9,000) square feet; also, the minimum average lot area shall be eleven thousand (11,000) square feet in order to provide diversity in lot sizes within each SF-3 neighborhood; maximum density three and one-half (3.5) dwelling units per acre

b. Minimum Lot Width - Seventy feet (70')

c. Minimum Lot Depth - One hundred twenty feet (120')

2. Size of Yards

a. Minimum Front Yard - Thirty feet (30')

b. Minimum Side Yard - Eight feet (8') for interior side yard; fifteen feet (15') for a corner lot on a residential or collector street; twenty-five feet (25') for a corner lot on an arterial street

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c. Minimum Rear Yard - Twenty feet (20')

3. Maximum Lot Coverage - Forty percent (40%) for the main building; sixty percent (60%) for the main building and any accessory buildings, driveways and parking areas combined

4. Minimum Lot Access - No lot shall have less than thirty-five feet (35') access measured at the right-of-way line

E. Parking Regulations

1. Single-Family Dwelling Unit - A minimum of two enclosed, attached parking spaces no less than twenty-four feet by twenty-four feet (24' x 24'), on the same lot as the main structure, plus two additional parking spaces on a paved driveway having a minimum length of thirty feet (30') as measured from ten feet (10') interior of any paved or improved public surface (i.e., roadway, sidewalk).

2. Other - See section XVI, Off-Street Parking and Loading Regulations

F. Minimum Floor Area per Dwelling Unit - One thousand seven hundred and fifty (1,750) square feet; also, the minimum average floor area shall be one thousand eight hundred and fifty (1,850) square feet in order to provide diversity in house sizes within each SF-3 neighborhood.

G. Minimum Exterior Construction Standards

1. Masonry - See section XII.1.1(A) [15.04.001(a)] (Minimum Masonry Requirements)

2. Roof Pitch - See section XII.1.1(B) [15.04.001(b)]

3. Roofing Systems - See section XII.1.1(C) [15.04.001(c)]

4. Chimney Design - See section XII.1.1(E) [15.04.001(e)]

H. Mailboxes - See section XII.1.2 [15.04.002]

I. Accessory Buildings - See section XII.1.3 [15.04.003]

J. Driveway - See section XII.1.4 [15.04.004]

K. Sidewalks - See section XII.1.5 [15.04.005]

L. Lighting - See section XII.1.6 [15.04.006]

M. Special Requirements - See section XII.1.7 [15.04.007]

N. Other Regulations - As established by Articles XV, XVI and XVII and subdivision regulations.

IX.2.6 O - Office District.

A. General Purpose and Description. The Office, “O”, District is established to provide an appropriate setting for low intensity office and professional uses, such as for the use of land on which

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two-story garden office buildings can be constructed. The “O” District can be used as a transition district between residential uses and more intense uses, and, with appropriate buffers and landscaping, this District may be located in close proximity to residential districts. Permitted uses should be compatible with adjacent residential areas by limiting heights to one or two stories, and shall not include uses that create excessive amounts of traffic, noise, trash or late-night business operations. Traffic generated by uses in this District shall not be designed or encouraged to travel through residential areas. Adaptive reuse of existing structures is encouraged. Buildings in this district should be compatible and similar in scale with residential uses and adjacent property.

B. Permitted Uses. Those uses listed for the O district in section XI.1 (use charts) as “X” (permitted) or “S” (specific use permit) are authorized uses permitted by right or specially permitted uses, respectively. Special permitted uses must be approved utilizing procedures set forth in section XI.4.4 [IX.4.4] (specific use permit).

C. Maximum Height

1. Two stories or thirty-five feet (35') for the main buildings.

2. One story for accessory buildings.

3. Other (see section XV.1.9).

D. Area Regulations

1. Size of Lots

a. Minimum Lot Area - Six thousand (6,000) square feet; Twelve thousand (12,000) square feet on Interstate 35 and other regional thoroughfare frontage

b. Minimum Lot Width - Sixty feet (60'), except one hundred and twenty feet (120') along Interstate 35 and other regional thoroughfare frontage

c. Minimum Lot Depth - One hundred feet (100')

2. Size of Yards

a. Minimum Front Yard - Thirty feet (30') from ultimate right-of-way line of roadway; Fifty feet (50') from ultimate right-of-way line on Interstate 35 and other regional thoroughfare frontage; all yards adjacent to a street shall be considered a front yard (see section XV.1.5 for additional setback requirements)

b. Minimum Side and Rear Yard - Twenty feet (20') plus one foot (1') for every foot in height over fifteen feet (15') adjacent to a residentially zoned or use of property (see below)

c. Interior Side Yards - The interior side yard setback between two nonresidential buildings may be reduced to zero feet (0') where the two buildings share a common interior lot line, where construction of a party wall in accordance with the city’s building codes is used, and when approved by the city council on the site plan following a favorable recommendation by the planning and zoning Commission. When such a reduced side yard setback is utilized, the equivalent open space and landscape plantings and buffers that are normally required along a shared side property boundary shall be provided elsewhere on each

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respective affected lot (i.e., shall not be waived, just provided somewhere else). Approval of a site plan that shows such a reduced 0' side yard setback between two nonresidential buildings shall be discretionary in nature and shall be based upon an analysis of the location, the configuration, and the impact and compatibility of the proposed construction with respect to adjacent land uses and structures.

3. Maximum Lot Coverage - Fifty percent (50%) including main and accessory buildings; maximum eighty percent (80%) impervious coverage (including all buildings, parking areas, sidewalks, etc.)

4. Minimum Lot Access - No lot shall have less than thirty-five feet (35') access measured at the right-of-way line

5. Maximum Floor Area Ratio (FAR) - One to one (1:1)

6. Maximum Building Size - The maximum building footprint (first floor) area of a structure shall be determined and limited by applying the lot's size, minimum building setbacks, maximum of 50% lot coverage, minimum parking requirement, minimum landscaping percentage and areas, and other pertinent development requirements.

E. Parking Requirements - As established by Article XVI, Off-Street Parking and Loading Requirements.

F. Building Material - See section 15.04.033.

G. Special District Requirements

1. Driveway Spacing - See section XIV.1.1 [15.04.031]

2. Swimming Pools - See section XIV.1.4 [15.04.034]

3. Lighting - See section XIV.1.3 [15.04.033]

4. site plan Review - See section XIV.1.5 [15.04.035]

5. Landscaping Requirements - See section XVII.1.7 [Article 15.02]

6. Screening Requirements - See section XVII.5.3 [Article 15.02]

7. Long-term or permanent open storage and temporary or permanent outside display of merchandise and seasonal items are prohibited.

H. Building Facade Plans (Elevations) - See section XIV.1.6 [15.04.036]

I. Specific On-Site Storage Prohibited - See section XIV.1.7 [15.04.037]

J. Signs - See section XIV.1.8 [15.04.038]

K. Other Regulations - See Articles XV, XVI and XVII and standards established in the subdivision regulations.

IX.2.7 NS - Neighborhood Service District

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A. General Purpose and Description. The Neighborhood Service, “NS”, district provides a district for retail use which provides limited local neighborhood, low intensity retail and service facilities for the retail sales of good and services to surrounding residential uses. These shopping areas shall utilize established landscape and buffering requirements. The “NS” district should be located along or at the intersection of major collectors or thoroughfares to accommodate higher traffic volumes, but it can also act as a buffer against residential areas.

B. Permitted Uses. Those uses listed for the NS district in section XI.1 (use charts) as “X” (permitted) or “S” (specific use permit) are authorized uses permitted by right or specially permitted uses, respectively. Special permitted uses must be approved utilizing procedures set forth in section XI.4.4 [IX.4.4] (specific use permit).

C. Maximum Height

1. Two stories or thirty-five feet (35') for the main buildings.

2. One story for accessory buildings.

3. Other (section XV.1.9).

D. Area Regulations

1. Size of Lot

a. Minimum Lot Area - Ten thousand (10,000) square feet, or a minimum of six thousand (6,000) square feet on a collector or local/residential street with a specific use permit

b. Minimum Lot Width - Sixty feet (60')

c. Minimum Lot Depth - One hundred feet (100')

2. Size of Yards

a. Minimum Front Yard - Thirty feet (30') from ultimate right-of-way line of roadway; all yards adjacent to a street shall be considered a front yard (see section XV.1.5 for additional setback requirements)

b. Minimum Side and Rear Yard - Fifteen feet (15') unless adjacent to a residentially zoned or use of property (see below)

c. Minimum Side or Rear Yard Adjacent to a Residential District - Twenty feet (20') for one-story building, and an additional one feet (1') for every one foot (1') (or fraction thereof) above one story in height

d. Interior Side Yards - The interior side yard setback between two nonresidential buildings may be reduced to zero feet (0') where the two buildings share a common interior lot line, where construction of a party wall in accordance with the city’s building codes is used, and when approved by the city council on the site plan following a favorable recommendation by the planning and zoning commission. Where such a reduced side yard setback is utilized, the equivalent open space and landscape plantings and buffers that

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are normally required along a shared side property boundary shall be provided elsewhere on each respective affected lot (i.e., shall not be waived, just provided somewhere else). Approval of a site plan that shows such a reduced 0' side yard setback between two nonresidential buildings shall be discretionary in nature and shall be based upon an analysis of the location, the configuration, and the impact and compatibility of the proposed construction with respect to adjacent land uses and structures.

3. Maximum Lot Coverage - Fifty percent (50%) including main and accessory buildings; maximum eighty percent (80%) impervious coverage (including all buildings, parking areas, sidewalks, etc.)

4. Maximum Floor Area Ratio (FAR) - Point five to one (.5:1)

5. Maximum Building Size - The maximum building footprint (first floor) area of a structure shall be determined and limited by applying the lot's size, minimum building setbacks, maximum of 50% lot coverage, minimum parking requirement, minimum landscaping percentage and areas, and other pertinent development requirements.

E. Parking Requirements - As established by section XVI, Off-Street Parking and Loading Requirements.

F. Building Material - See section 15.04.033.

G. Special Requirements

1. Driveway Spacing - See section XIV.1.1 [15.04.031]

2. Lighting - See section XIV.1.3 [15.04.033]

3. site plan Review - See section XIV.1.5 [15.04.035]

4. Landscaping Requirements - See section XVII.1.7 [Article 15.02]

5. Screening Requirements - See section XVII.5.3 [Article 15.02]

6. Temporary Outside Display - Temporary (i.e., not long-term or permanent) outside display of seasonal items (e.g., Christmas trees, pumpkins, landscape vegetation, etc.) shall be allowed but limited to the following:

a. A permit from the city is required for each seasonal display.

b. The display in any of the parking spaces that are required by this chapter for the primary uses of the property is prohibited. Additional parking spaces or improved surface, constructed for the purpose of temporary outside display shall be specifically identified on the required site plan and shall be clearly and distinctively marked (i.e., different paint color) as a designated display area.

c. Temporary outside display located in the designated parking spaces shall be surrounded by a temporary fence (i.e., materials such as wood and cinder block).

d. Merchandise shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on-site or off-site, in any way.

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e. At no time shall public rights-of-way, pedestrian walkways or adjacent properties be obstructed by display merchandise.

f. All merchandise shall be displayed in a orderly manner, and the display area shall be maintained in a clean, litter-free manner.

7. Long-term or Permanent Open Storage - Long-term or permanent open storage is prohibited.

H. Building Facade Plans (Elevations) - See section XIV.1.6 [15.04.036]

I. Specific On-Site Storage Prohibited - See section XIV.1.7 [15.04.037]

J. Signs - See section XIV.1.8 [15.04.038]

K. Other Regulations - See Articles XV, XVI and XVII and standards established in the subdivision regulations.

IX.2.8 R - Retail District

A. General Purpose and Description. The Retail, “R”, district is established to provide for retail areas and service facilities serving a neighborhood or several neighborhoods and designed as a retail center. These shopping areas should utilize established landscape and buffering requirements. The Retail district should be located along or at the intersection of major collectors or thoroughfares to accommodate higher traffic volumes.

B. Permitted Uses. Those uses listed for the R district in section XI.1 (use charts) as “X” (permitted) or “S” (specific use permit) are authorized uses permitted by right or specially permitted uses, respectively. Special permitted uses must be approved utilizing procedures set forth in section XI.4.4 [IX.4.4] (specific use permit).

C. Maximum Height

1. Two stories or thirty-five feet (35') for the main buildings.

2. One story for accessory buildings.

3. Other (section XV.1.9).

D. Area Regulations

1. Size of Lot

a. Minimum Lot Area - Forty-three thousand five hundred sixty (43,560) square feet or one acre, or a minimum of ten thousand (10,000) square feet on a collector or local/residential street only with a specific use permit

b. Minimum Lot Width - One hundred feet (100'), except one hundred and fifty feet (150') along Interstate 35 or other regional major thoroughfare frontage

c. Minimum Lot Depth - One hundred feet (100')

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2. Size of Yards

a. Minimum Front Yard - Thirty feet (30') from ultimate right-of-way line of roadway on all roadways; all yards adjacent to a street shall be considered a front yard (see section XV.1.5 for additional setback requirements)

b. Minimum Side and Rear Yard - Twenty feet (20') unless adjacent to a residentially zoned or use of property (see subsection below)

c. Minimum Side or Rear Yard Adjacent to a Residential District - Twenty-five feet (25') for one-story building, and an additional one foot (1') for every one foot (1') (or fraction thereof) above one story in height

d. Interior Side Yards - The interior side yard setback between two nonresidential buildings may be reduced to zero feet (0') where the two buildings share a common interior lot line, where construction of a party wall in accordance with the city's building codes is used, and when approved by the city council on the site plan following a favorable recommendation by the planning and zoning commission. Where such a reduced side yard setback is utilized, the equivalent open space and landscape plantings and buffers that are normally required along a shared side property boundary shall be provided elsewhere on each respective affected lot (i.e., shall not be waived, just provided somewhere else). Approval of a site plan that shows such a reduced 0' side yard setback between two nonresidential buildings shall be discretionary in nature and shall be based upon an analysis of the location, the configuration, and the impact and compatibility of the proposed construction with respect to adjacent land uses and structures.

3. Maximum Lot Coverage - Fifty percent (50%) including main and accessory buildings; maximum eighty percent (80%) impervious coverage (including all buildings, parking areas, sidewalks, etc.)

4. Maximum Floor Area Ratio (FAR) - One to one (1:1)

5. Maximum Building Size - The maximum building footprint (first floor) area of a structure shall be determined and limited by applying the lot's size, minimum building setbacks, maximum of 50% lot coverage, minimum parking requirement, minimum landscaping percentage and areas, and other pertinent development requirements.

E. Parking Requirements - As established by section XVI, Off-Street Parking and Loading Requirements.

F. Building Material - See section 15.04.033.

G. Special Requirements

1. Driveway Spacing - See section XIV.1.1 [15.04.031]

2. Lighting - See section XIV.1.3 [15.04.033]

3. site plan Review - See section XIV.1.5 [15.04.035]

4. Landscaping Requirements - See section XVII.1.7 [Article 15.02]

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5. Screening Requirements - See section XVII.5.3 [Article 15.02]

6. Temporary Outside Display - Temporary (i.e., not long-term or permanent) outside display of seasonal items (e.g., Christmas trees, pumpkins, landscape vegetation, etc.) shall be allowed but limited to the following:

a. A permit from the city is required for each seasonal display.

b. The display in any of the parking spaces that are required by this chapter for the primary uses of the property is prohibited. Additional parking spaces or improved surface constructed for the purpose of temporary outside display shall be specifically identified on the required site plan and shall be clearly and distinctively marked (i.e., different paint color) as a designated display area.

c. Temporary outside display located in the designated parking spaces shall be surrounded by a temporary fence (i.e., materials such as wood and cinder block).

d. Merchandise shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on-site or off-site, in any way.

e. At no time shall public rights-of-way, pedestrian walkways or adjacent properties be obstructed by display merchandise.

f. All merchandise shall be displayed in an orderly manner, and the display area shall be maintained in a clean, litter-free manner.

7. Long-term or Permanent Outside Display - Long-term or permanent outside display area shall be allowed if the following criteria are followed:

a. All display merchandise shall be limited to the area in front of the main building between the fire lane and the front building facade. In the event the subject project has multiple entrances (i.e., multiple front facades) only one side shall be allowed to have outside display.

b. The amount of display area shall not exceed sixty percent (60%) of the front facade of the main building, exclusive of doors, windows and driveways.

c. Display merchandise shall not encroach into the fire lane, parking lot/spaces, walkways, rights-of-way or roadways.

d. Merchandise shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on-site or off-site, in any way, nor obstruct any designated fire lane.

e. All merchandise shall be displayed in a neat, orderly manner, and the display area shall be maintained in a clean, litter-free manner.

8. Long-term or Permanent Open Storage - Long-term or permanent open display and storage shall require the application for, approval of and issuance of a specific use permit (SUP) in accordance with section XI.4.4 [IX.4.4] of this chapter. A maximum of five percent (5%) of the total lot area may be designated for long-term, permanent open storage and shall be screened from public view, shall not be located on top of the building. Screening for long-term, permanent open storage shall conform to the following:

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a. Open display and storage for merchandise such as garden supplies, landscape vegetation, lawn mowers, building materials, etc. requires an extension of the masonry wall of the front facade and, at a minimum, chain-link fencing and solar screening with masonry columns. The masonry columns shall be a minimum of thirty feet (30') apart and are required on the sides exclusive of the front facade and the wall adjacent to the main structure. Also, the screening of chain-link fencing and solar screening is inclusive of the roof. The storage area, as an extension of the main building, is at least the same height as the product to be screened but extending no higher than the roof of the main building and constructed to one side of the main building. Solar screening shall be maintained in good condition. No tarps or other fabric-like screening shall be allowed. No merchandise from this area shall be placed outside the open storage area. The required site plan shall reflect the open storage area with a detailed description of building materials.

In the event this open display and storage area abuts a similar nonresidential district or is not visible from any public right-of-way or the general public, the planning and zoning commission and city council, upon proper request by applicant, may consider a proposal for less screening.

b. Long-term, permanent open storage of shopping carts requires a designated area, identified in the required site plan, adjacent to and made a part of the main building. The designated area shall be along the front facade of the project and be screened from public view by an approved masonry wall, not to exceed four feet (4') in height, and may include an ornamental feature reaching above the wall. The ornamental feature may take the form of a waterfall, live vegetation, lighting or other items that enhance the beauty of the main building and, for purposes of the safety of the general public, does not entirely block the view from persons inside and outside the open storage area. This designated open storage area is not to be confused with the various shopping cart cages (temporary storage) located in the parking lot for the convenience of the customers.

9. Additional Open Storage Behind the Main Building - Open storage may also be allowed behind the main building but in no instance shall the storage be visible from any public street or adjacent property. Screening in accordance with the provisions of section XVII.5.3 [Article 15.02] is required.

H. Building Facade Plans (Elevations) - See section XIV.1.6 [15.04.036]

I. Specific On-Site Storage Prohibited - See section XIV.1.7 [15.04.037]

J. Signs - See section XIV.1.8 [15.04.038]

K. Other Regulations - See Articles XV, XVI and XVII and standards established in the subdivision regulations.

IX.2.9 “TC” - Town Center.

A. General purpose and description. The Town Center, “TC”, District is available only for use as a planned development district, requirements of which are set forth in section IX.4.2 below, and only within the area zoned for the Town Center. The standards of the Town Center base district, as well as the permitted uses, shall remain in effect unless requested, amended and approved at the time of application. The development standards in the Town Center, “TC”, district, are designed to maintain and encourage the development of a downtown area of the city in a “pedestrian friendly” environment that is conducive to special events such as sidewalk sales, street dances, festivals, and other similar events. Standards are generally intended to regulate development such that this District becomes the focal point of the city. The Town Center District is premised upon the development and promotion of a pedestrian-oriented and

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community-friendly area with an architectural style of the “1920’s-style Town Center” (as depicted on Illustration “A”, attached).

B. Permitted Uses. Those uses listed for the “TC” district in section XI.1 (use charts) as “X” (permitted) or “S” (specific use permit) are authorized uses permitted by right or specially permitted uses, respectively. Special permitted uses must be approved utilizing procedures set forth in section XI.4.4 [IX.4.4] (specific use permit).

C. Maximum Height

1. Two stories or thirty-five feet (35') for the main buildings.

2. One story for accessory buildings.

3. Other (section XV.1.9).

D. Area Regulations

1. Size of Lot

a. Minimum Lot Area - none specified

b. Minimum Lot Width - none specified

c. Minimum Lot Depth - none specified

2. Size of Yards

a. Minimum Front Yard - to accommodate sidewalks with a minimum width of eight feet (8') from the back of the street curb to the front of the building

b. Minimum Side Yard - zero feet (0') if next to another Town Center district building, or shall match the required front yard setback if on a street or alley corner

c. Minimum Rear Yard - twenty-five feet (25')

3. Maximum Lot Coverage - sixty-five percent (65%) including main and accessory buildings

4. Maximum Floor Area Ratio (FAR) - one to one (1:1)

E. Design Standards for the “TC” District. In combination with the design standards setout below, the city requires development within the Town Center District to meet the architectural style of “1920’s Town Center” as depicted on Illustration “A”, attached hereto and made a part of this chapter.

1. Building Massing and Scale - A building’s massing is its exterior volume and its scale is the relationship of its overall size and its component parts with its adjoining buildings, spaces and people.

a. A building’s massing shall:

i. relate to its site, use and to the massing of adjacent buildings; and

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ii. serve to define entry points and help orient pedestrians.

b. The scale of individual building facade components shall relate to one another and the human scale, particularly at the street level.

c. Buildings or facades shall emphasize and frame or terminate important vistas.

2. Building Rhythm - A building's rhythm is the pattern created by the regular recurrence or alteration of its constituent architectural components.

a. Nonresidential and mixed use buildings in the Town Center, to the extent practicable.

b. Variations in the rhythms within individual building facades shall be achieved within any block of building facades.

c. Breaks in the predominate rhythm may also be used to reinforce changes in massing and important elements such as building entrances or pedestrian pass- throughs.

3. Architectural elements - Architectural elements are the individual components of a building, including walls, doors, windows, cornices, parapets, roofs, pediments and other features. Architectural composition is the relationship between the architectural elements in an individual building. Architectural elements shall be designed to the appropriate scale and proportions of the selected architectural style. (i.e., building designs based on an art deco style shall utilize architectural elements of a scale and proportion characteristic of that style.)

a. Entrances - The design and location of building entrances in the Town Center district are important to help define the pedestrian environment and create community-friendly environments.

i. Entrances shall be easily identifiable as primary points of access to buildings.

ii. Building entrances may be defined and articulated by architectural elements such as lintels, pediments, pilasters, columns, porticos, porches, overhangs, railings, balustrades and others as appropriate. All building elements should be compatible with the architectural style, materials, colors and details of the building as a whole.

iii. Entrances to upper-level uses may be defined and integrated into the design of the overall building facade.

b. Facade Treatments - Facade treatments are that portion of a building's elevation facade facing any public street extending from the ground to the roof that consists of a single layer or architectural expression.

i. Retail ground floors shall have windows covering a minimum of forty percent (40%) of the major street fronting facades. Other ground level uses shall have facade treatments appropriate to such uses.

ii. All sides of a building shall be consistent with respect to style, material, colors and details only to the extent that they establish continuity with the main street-front facade.

iii. On facades fronting on service or parking areas and along secondary streets, windows need not be

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provided at the ground floor level. However, buildings should avoid long, monotonous, uninterrupted walls. Building wall offsets, including projections, recesses, niches, fenestration, or changes of materials or color shall be used to add architectural variety and interest, and to relieve the visual impact of a blank wall.

iv. Parapet and roof-line offsets between facades may be provided in order to break down the scale of the block and create architectural interest and variety.

v. Architectural elements, such as canopies, awnings, roof and floor overhands [overhangs], and colonnades shall be provided as appropriate to protect pedestrians, help unify parts of a building or block, provide human scale, or provide a backdrop for signage and graphics.

c. Storefronts - Retailers located at the street level primarily use storefronts to orient and advertise merchandise to customers.

i. Retail buildings shall provide street-level pedestrian-oriented uses at the ground floor level.

ii. Storefronts on facade treatments that span multiple tenants shall use architecturally compatible materials, colors, details, awnings, signage and lighting fixtures.

d. Building Materials - See section 15.04.033.

4. Pedestrian Network and Streetscape

a. Pedestrian Network - Sidewalks are a critical part of pedestrian connectivity in the Town Center district. In order to enhance the safety of the pedestrian environment, all development in the Town Center district shall be subject to the following:

i. The street network, with its adjoining sidewalks, shall function as the primary pedestrian network.

ii. Where necessary mid-block pedestrian connections from the street to parking lots at the rear of the buildings shall be provided at key points.

iii. Pedestrian crosswalks shall be clearly designated and provided at all key street intersections.

iv. Sidewalks shall be constructed from the back of curb to the building front or property line.

v. Sidewalks shall be a minimum of eight feet (8') measured from the back of the curb to the building facade. That portion of the sidewalk that is free of any obstructions to allow for the passage of pedestrians shall be a minimum of six feet (6').

b. Streetscape Treatment - The following guidelines for streetscape standards are provided in order to create an attractive and animated sidewalk environment. The developer shall propose a well-designed and unified streetscape plan for key streets in the Town Center district.

i. Street trees shall be selected and placed with the approval of the city at the time of site plan submittal, review and consideration.

ii. Street trees shall be planted in accordance with the Landscape Plan proposed by the developer and approved by city council.

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iii. Street furnishings shall be installed in accordance with a Streetscape Plan proposed by the developer and approved by city council. Street furnishings may include planting strips, raised planters, trash receptacles, streetlight standards, street signs, way-finding signs, media boxes, seating, public art, water features, fire hydrants, etc.

iv. Street furnishings shall be constructed of a long-life, low-maintenance material and shall be the responsibility of the owner.

F. Parking Requirements - One space per 100 square feet of gross floor area, and each use shall provide a minimum of four spaces. On-street parking (parallel or head-in) shall be permitted in this district. Parking shall not be located and designed in such a manner to discourage or conflict with pedestrians. For any use which cannot provide off- street parking due to the size or location of the lot, such parking may be provided on other property not more than two hundred feet (200') from the site, in accordance with Article XVI of this chapter. In cases where the parking requirement cannot be achieved, up to twenty-five percent (25%) of the parking requirement may be waived by the city council on the site plan, or may be provided as head-in parking spaces or off-site with city council approval on the site plan for such an alternative arrangement.

G. Special Requirements

1. Driveway Spacing - See section XIV.1.1 [15.04.031]

2. site plan Review

a. Public hearing, review and approval of a site plan by the planning and zoning commission and the city council (in accordance with section VIII.9.3) shall be required for site development and construction of any structure within the “TC” district. No certificate of occupancy shall be issued unless all construction and development conforms to the site plan as approved by the city council.

b. For site development and construction, building facade (i.e., elevation) plans shall be submitted for review and approval along with the site plan. Facade plans shall clearly show how the buildings will look, especially as viewed from the roads upon which the property faces or sides, and will portray a reasonably accurate depiction of the materials and colors to be used. Architectural style and scale of buildings within the “TC” district shall be compatible with the styles and scale of other adjacent buildings to create and preserve the unique character of the downtown area.

The city manager or his/her designee may, as he/she deems appropriate, require submission of additional information and materials (possibly actual samples of materials to be used) during the site plan review process.

c. A public hearing is required by the planning and zoning commission and the city council for all site plans within the “TC” district. Development standards for all uses in the “TC” district shall be established on the site plan and all supporting information will be required at the time of approval.

3. Utilities - All utility lines to business establishments shall be placed underground.

4. Landscaping Requirements - See section XVII.1.7 [Article 15.02]

5. Screening Requirements - See section XVII.5.3 [Article 15.02]

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6. Lighting - See section XIV.1.3 [15.04.033].

7. Temporary Outside Display - Temporary (i.e., not long-term or permanent) outside display of seasonal items (e.g., Christmas trees, pumpkins, live vegetation etc.) shall be allowed but limited to the following:

a. A permit from the city is required for each seasonal display.

b. Display merchandise may be placed/located at the front facade of the main building but at no time shall inhibit pedestrian traffic on the sidewalks, be located in required parking spaces, restrict rights-of-way, or obstruct adjacent properties.

c. Merchandise shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on-site or off-site, in any way (i.e., sidewalk sales cannot block the sidewalk or extend out into the street).

d. Merchandise shall only be located in front of the property/business that is selling the items.

e. All outside display items shall be removed at the end of business each day (except for large seasonal items such as Christmas trees).

f. All merchandise shall be displayed in an orderly manner, and the display area shall be maintained in a clean, litter-free manner.

8. Long-term and Permanent Open Storage - Long-term and permanent open storage is prohibited in the “TC” district.

H. Building Facade Plans (Elevations) - See section XIV.1.6 [15.04.036]

I. Specific On-Site Storage Prohibited - See section XIV.1.7 [15.04.037]

J. Other Regulations - See Articles XV, XVI and XVII and standards established in the subdivision regulations.

IX.2.10 “C” - Commercial District

A. General Purpose and Description. The commercial, “C”, district, is intended to provide a location for commercial and service-related establishments, such as wholesale product sales, welding/contractors shops, automotive repair services, upholstery shops, region- serving shopping centers with large-scale anchor businesses, and other similar higher intensity retail and commercial uses. Uses in this district may utilize open storage areas that are screened from public view (see section XVII.5.3 [Article 15.02]). Some light manufacturing may also be allowed with certain conditions. The uses envisioned for the district will typically utilize smaller sites and have operation characteristics that are generally not compatible with residential uses and some nonresidential uses. Convenient access to thoroughfares and collector streets shall also be a primary consideration.

B. Permitted Uses. Those uses listed for the C district in section XI.1 (use charts) as “X” (permitted) or “S” (specific use permit) are authorized uses permitted by right or specially permitted uses, respectively. Special permitted uses must be approved utilizing procedures set forth in section XI.4.4

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[IX.4.4] (specific use permit).

C. Maximum Height

1. Two stories or thirty-five feet (35') for the main buildings.

2. One story for accessory buildings.

3. Other (section XV.1.9).

D. Area Regulations

1. Size of Lot

a. Minimum Lot Area - One-half acre (21,780 square feet)

b. Minimum Lot Width - One hundred twenty feet (120')

c. Minimum Lot Depth - One hundred seventy-five feet (175')

2. Size of Yards

a. Minimum Front Yard - Sixty feet (60') from ultimate right-of-way line of roadway; all yards adjacent to a street shall be considered a front yard (see section XV.1.5 for additional setback requirements)

b. Minimum Side and Rear Yard - Twenty feet (20') unless adjacent to a residentially zoned or use of property (see subsection below)

c. Minimum Side or Rear Yard Adjacent to a Residential District - Twenty feet (20') for one-story building, and an additional one foot (1') for every one foot (1') (or fraction thereof) above one story in height

d. Interior Side Yards - The interior side yard setback between two nonresidential buildings may be reduced to zero feet (0') where the two buildings share a common interior lot line, where construction of a party wall in accordance with the city's building codes is used, and when approved by the city council on the site plan following a favorable recommendation by the planning and zoning commission. Where such a reduced side yard setback is utilized, the equivalent open space and landscape plantings and buffers that are normally required along a shared side property boundary shall be provided elsewhere on each respective affected lot (i.e., shall not be waived, just provided somewhere else). Approval of a site plan that shows such a reduced 0' side yard setback between two nonresidential buildings shall be discretionary in nature and shall be based upon an analysis of the location, the configuration, and the impact and compatibility of the proposed construction with respect to adjacent land uses and structures.

3. Maximum Lot Coverage - Fifty percent (50%) including main and accessory buildings; maximum eighty percent (80%) impervious coverage (including all buildings, parking areas, sidewalks, etc.)

4. Minimum Lot Access - No lot shall have less than thirty-five feet (35') access measured at the right-of-way.

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5. Maximum Floor Area Ratio (FAR) - Point five to one (0.5:1)

6. Minimum Building Size - The maximum building footprint (first floor) area of a structure shall be determined and limited by applying the lot's size minimum building setbacks, maximum of 50% lot coverage, minimum parking requirement, minimum landscaping percentage and areas, and other pertinent development requirements.

E. Parking Requirements - As established by Article XVI, Off-Street Parking and Loading Requirements.

F. Building Material - See section 15.04.033.

G. Special Requirements

1. Driveway Spacing - See section XIV.1.1 [15.04.031]

2. Lighting - See section XIV.1.3 [15.04.033]

3. site plan Review - See section XIV.1.5 [15.04.035]

4. Landscaping Requirements - See section XVII.1.7 [Article 15.02]

5. Screening Requirements - See section XVII.5.3 [Article 15.02]

6. Temporary Outside Display - Temporary (i.e., not long-term or permanent) outside display of seasonal items (e.g., Christmas trees, pumpkins, landscape vegetation, etc.) shall be allowed but limited to the following:

a. A permit from the city is required for each seasonal display.

b. The display in any of the parking spaces that are required by this chapter for the primary uses of the property is prohibited. Additional parking spaces or improved surface constructed for the purpose of temporary outside display shall be specifically identified on the required site plan and shall be clearly and distinctively marked (i.e., different paint color) as a designated display area.

c. Temporary outside display located in the designated parking spaces shall be surrounded by a temporary fence (i.e., materials such as wood and cinder block).

d. Merchandise shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on-site or off-site, in any way.

e. At no time shall public rights-of-way, pedestrian walkways or adjacent properties be obstructed by display merchandise.

f. All merchandise shall be displayed in an orderly manner, and the display area shall be maintained in a clean, litter-free manner.

7. Long-term or Permanent Outside Display - Long-term or permanent outside display area shall be allowed if the following criteria are followed:

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a. All display merchandise shall be limited to the area in front of the main building between the fire lane and the front building facade. In the event the subject project has multiple entrances (i.e., multiple front facades) only one side shall be allowed to have outside display.

b. The amount of display area shall not exceed sixty percent (60%) of the front facade of the main building, exclusive of doors, windows and driveways.

c. Display merchandise shall not encroach into the fire lane, parking lot/spaces, walkways, rights-of-way or roadways.

d. Merchandise shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on-site or off-site, in any way, nor obstruct any designated fire lane.

e. All merchandise shall be displayed in a neat, orderly manner, and the display area shall be maintained in a clean, litter-free manner.

8. Long-term or Permanent Open Storage - Long-term or permanent open display and storage shall require the application for, approval of and issuance of a specific use permit (SUP) in accordance with section XI.4.4 [IX.4.4] of this chapter. A maximum of five percent (5%) of the total lot area may be designated for long-term, permanent open storage and shall be screened from public view but shall not be located on top of the building. Screening for long-term, permanent open storage shall conform to the following:

a. Open display and storage for merchandise such as garden supplies, landscape vegetation, lawn mowers, building materials, etc. requires an extension of the masonry wall of the front facade and, at a minimum, chain-link fencing and solar screening with masonry columns. The masonry columns shall be a minimum of thirty feet (30') apart and are required on the sides exclusive of the front facade and the wall adjacent to the main structure. Also, the screening of chain-link fencing and solar screening is inclusive of the roof. The storage area, as an extension of the main building, is at least the same height as the product to be screened but extending no higher than the roof of the main building and constructed to one side of the main building. Solar screening shall be maintained in good condition. No tarps or other fabric-like screening shall be allowed. No merchandise from this area shall be placed outside the open storage area. The required site plan shall reflect the open storage area with a detailed description of building materials.

In the event this open display and storage area abuts a similar nonresidential district or is not visible from any public right-of-way or the general public, the planning and zoning commission and city council, upon proper request by applicant, may consider a proposal for less screening.

b. Long-term, permanent open storage of shopping carts requires a designated area, identified in the required site plan, adjacent to and made a part of the main building. The designated area shall be along the front facade of the project and be screened from public view by an approved masonry wall, not to exceed four feet (4') in height, and may include an ornamental feature reaching above the wall. The ornamental feature may take the form of a waterfall, live vegetation, lighting or other items that enhance the beauty of the main building and, for purposes of the safety of the general public, does not entirely block the view from persons inside and outside the open storage area. This designated open storage area is not to be confused with the various shopping cart cages (temporary storage) located in the parking lot for the convenience of the customers.

9. Additional Open Storage Behind the Main Building - Open storage may also be allowed behind the main building but in no instance shall the storage be visible from any public street or adjacent

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property. Screening in accordance with the provisions of section XVII.5.3 [Article 15.02] is required.

H. Building Facade Plans (Elevations) - See section XIV.1.6 [15.04.036]

I. Specific On-Site Storage Prohibited - See section XIV.1.7 [15.04.037]

J. Signs - See section XIV.1.8 [15.04.038]

K. Other Regulations - See Articles XV, XVI and XVII and standards established in the subdivision regulations.

IX.2.11 I - Industrial District

A. General Purpose and Description. The Industrial, “I”, district provides for a wide range of commercial and industrial uses all of which should be comparatively nuisance free and may be governed by appropriate business regulations. This district may take the form of an Industrial or business park. Activities primarily intended are light manufacturing, assembling and fabrication activities, warehousing, research and development, wholesaling and service operations that do not typically depend upon frequent customer or client visits. The uses do require accessibility to major thoroughfares, major highways, or other means of transportation such as the railroad. The district specifically excludes residences on the basis that the mixture of residential use and public services and facilities for residences with those for industry is contrary to the purpose of these regulations.

B. Permitted Uses. Those uses listed for the “I” district in section XI.1 (use charts) as “X” (permitted) or “S” (specific use permit) are authorized uses permitted by right or specially permitted uses, respectively. Special permitted uses must be approved utilizing procedures set forth in section XI.4.4 [IX.4.4] (specific use permit).

C. Maximum Height

1. Thirty-five feet (35') for main buildings.

2. One story for accessory buildings.

3. Other (section XV.1.9).

D. Area Regulations

1. Size of Lot

a. Minimum Lot Area - One acre (43,560 square feet); Industrial zoning shall not be located closer than one thousand feet (1,000') from I35 or other major regional thoroughfares; however, an Industrial zoned lot or site may derive access from I35 or other major regional thoroughfare via a public street, but no less than a collector street, or a private entrance that passes through other appropriately zoned property provided that the applicable street right-of-way or common fire lane/access easement is dedicated by Plat or by other recorded instrument that is acceptable to the city.

b. Minimum Lot Width - One hundred feet (100'); an entrance for an Industrial zoned lot or site from I35 or other major regional thoroughfare shall be the width of the access-giving public street or private fire lane/ access easement.

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c. Minimum Lot Depth - One hundred fifty feet (150') from the front (i.e., addressed) street right-of-way line.

2. Size of Yards

a. Minimum Front Yard - Sixty feet (60') from ultimate right-of-way line of roadway; all yards adjacent to a street shall be considered a front yard (see section XV.1.5 for additional setback requirements)

b. Minimum Side and Rear Yard - Twenty-five feet (25') unless adjacent to a residentially zoned or use of property (see subsection below)

c. Minimum Side or Rear Yard Adjacent to a Residential District - Fifty feet (50') for one-story building, and an additional one foot (1') for every story (or fraction thereof) above one story in height

3. Maximum Lot Coverage - Sixty percent (60%) including main and accessory buildings; maximum eighty percent (80%) impervious coverage (including all buildings, parking areas, sidewalks, etc.)

4. Maximum Floor Area Ratio (FAR) - Point five to one (.5:1)

5. Maximum Building Size - The maximum building footprint (first floor) area of a structure shall be determined and limited by applying the lot’s size, minimum building setbacks, maximum of 60% lot coverage, minimum parking requirement, minimum landscaping percentage and areas, and other pertinent development requirements.

E. Parking Requirements - As established by Article XVI, Off-Street Parking and Loading Requirements.

F. Building Material - See section 15.04.033.

G. Special Requirements

1. Driveway Spacing - See section XIV.1.1 [15.04.031]

2. Lighting - See section XIV.1.3 [15.04.033]

3. Site plan Review - See section XIV.1.5 [15.04.035]

4. Landscaping Requirements

a. Any Industrial District deriving its access (driveway) from a private entrance from I-35 or another major regional thoroughfare shall landscape a minimum of seventy-five percent (75%) of the front yard setback along the thoroughfare and thirty percent (30%) of the remaining private entrance. See section XVII.1.7 [Article 15.02] for landscaping requirements.

b. For additional landscaping requirements see section XVII.1.7 [Article 15.02].

5. Screening Requirements - See section XVII.5.3 [Article 15.02]

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6. Temporary Outside Display - Temporary (i.e., not long-term or permanent) outside display of seasonal items (e.g., Christmas trees, pumpkins, landscape vegetation, etc.) shall be allowed but limited to the following:

a. A permit from the city is required for each seasonal display.

b. The display in any of the parking spaces that are required by this chapter for the primary uses of the property is prohibited. Additional parking spaces or improved surface constructed for the purpose of temporary outside display shall be specifically identified on the required site plan and shall be clearly and distinctively marked (i.e., different paint color) as a designated display area.

c. Temporary outside display located in the designated parking spaces shall be surrounded by a temporary fence (i.e., materials such as wood and cinder block).

d. Merchandise shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on-site or off-site, in any way.

e. At no time shall public rights-of-way, pedestrian walkways or adjacent properties be obstructed by display merchandise.

f. All merchandise shall be displayed in an orderly manner, and the display area shall be maintained in a clean, litter-free manner.

7. Long-term or Permanent Outside Display - Long-term or permanent outside display area shall be allowed if the following criteria are followed:

a. All display merchandise shall be limited to the area in front of the main building between the fire lane and the front building facade. In the event the subject project has multiple entrances (i.e., multiple front facades) only one side shall be allowed to have outside display.

b. The amount of display area shall not exceed sixty percent (60%) of the front facade of the main building, exclusive of doors, windows and driveways.

c. Display merchandise shall not encroach into the fire lane, parking lot/spaces, walkways, rights-of-way or roadways.

d. Merchandise shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on-site or off-site, in any way, nor obstruct any designated fire lane.

e. All merchandise shall be displayed in an orderly manner, and the display area shall be maintained in a clean, litter-free manner.

8. Long-term or Permanent Open Storage - Long-term or permanent open display and storage shall require the application for, approval of and issuance of a specific use permit (SUP) in accordance with section XI.4.4 [IX.4.4] of this chapter. A maximum of five percent (5%) of the total lot area may be designated for long-term, permanent open storage and shall be screened from public view but shall not be located on top of the building. Screening for long-term, permanent open storage shall conform to the following:

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a. Open display and storage for merchandise such as garden supplies, landscape vegetation, lawn mowers, building materials, etc. requires an extension of the masonry wall of the front facade and, at a minimum, chain-link fencing and solar screening with masonry columns. The masonry columns shall be a minimum of thirty feet (30') apart and are required on the sides exclusive of the front facade and the wall adjacent to the main structure. Also, the screening of chain-link fencing and solar screening is inclusive of the roof. The storage area, as an extension of the main building, is at least the same height as the product to be screened but extending no higher than the roof of the main building and constructed to one side of the main building. Solar screening shall be maintained in good condition. No tarps or other fabric-like screening shall be allowed. No merchandise from this area shall be placed outside the open storage area. The required site plan shall reflect the open storage area with a detailed description of building materials.

In the event this open display and storage area abuts a similar nonresidential district or is not visible from any public right-of-way or the general public, the planning and zoning commission and city council, upon proper request by applicant, may consider a proposal for less screening.

b. Long-term, permanent open storage of shopping carts requires a designated area, identified in the required site plan, adjacent to and made a part of the main building. The designated area shall be along the front facade of the project and be screened from public view by an approved masonry wall, not to exceed four feet (4') in height, and may include an ornamental feature reaching above the wall. The ornamental feature may take the form of a waterfall, live vegetation, lighting or other items that enhance the beauty of the main building and, for purposes of the safety of the general public, does not entirely block the view from persons inside and outside the open storage area. This designated open storage area is not to be confused with the various shopping cart cages (temporary storage) located in the parking lot for the convenience of the customers.

9. Additional Open Storage Behind the Main Building - Open storage may also be allowed behind the main building but in no instance shall the storage be visible from any public street or adjacent property. Screening in accordance with the provisions of section XVII.5.3 [Article 15.02] is required.

H. Building Facade Plans (Elevations) - See section XIV.1.6 [15.04.036]

I. Specific On-Site Storage Prohibited - See section XIV.1.7 [15.04.037]

J. Signs - See section XIV.1.8 [15.04.038]

K. Other Regulations - See Articles XV, XVI and XVII and standards established in the subdivision regulations.
(Code 1996, ch. 14, exh. 14A, art. IX, § 2;Ordinance O-03-09 adopted 4/20/09 ; Ordinance O-01-20, sec. 2, adopted 3/17/20 ; Ordinance O-01-20, sec. 3, adopted 3/17/20 ; Ordinance O-01-20, sec. 4, adopted 3/17/20 ; Ordinance O-01-20, sec. 5, adopted 3/17/20 ; Ordinance O-01-20, sec. 6, adopted 3/17/20 ; Ordinance O-01-20, sec. 7, adopted 3/17/20)

Sec. 3. PROVISIONAL DISTRICTS.

Provisional districts are available only for use within a planned development and only in combination with base districts as listed in section IX.1 above. The standards set for the base district shall remain in effect unless requested and approved at the time of application. The provisional districts are adopted and offered for use as incentive for a more dense residential development but in not instance shall more than one provisional district be used within a planned development district. A successful application for a planned development district including one of the provisional districts shall also include retail or

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neighborhood services in an amount no less than twenty percent (20%) and common open space at a ratio of one acre per fifty (50) residential dwelling units, single-family or multifamily unless otherwise approved by the city manager or his/her designee. Open space may be developed as one large park or with a maximum of twenty-five [percent] (25%) as neighborhood pocket parks, shall include playground equipment, walking and biking trails, pavilions, etc. but shall be approved at the time of site plan. No concept plan or site plan shall be approved without a mix of uses. Phasing of a planned development district including a provisional district shall account for proportional amounts of nonresidential development and open space with residential development. No building permit for construction of a provisional district may be issued until a certificate of occupancy is issued for the non-provisional district uses and development of the required open space is in progress.

IX.3.1 SF-4 - Single-Family Residential-4 District

A. General Purpose and Description. The Single-Family Residential-4, “SF-4”, district is intended to provide for development of and be composed of primarily single-family detached dwellings on smaller and more compact lots of not less than seven thousand five hundred (7,500) square feet. SF-4 is available only as a Provisional District and shall, in no instance, account for more than fifteen percent (15%) of the total residential units within the approved development. Lots meeting the SF-4 district criteria shall be grouped together and may be used as a buffer between residential and nonresidential districts. Areas zoned for the SF-4 district shall have, or shall make provision for, city water and sewer services. They shall be designed to adequately accommodate storm drainage; they shall have paved concrete streets with logical and efficient vehicular circulation patterns that discourage non-local traffic; they shall be properly buffered from nonresidential uses; and they shall be protected from pollution and undesirable environmental and noise impacts.

B. Permitted Uses. Those uses listed for the SF-4 district in section XI.1 (use charts) as “X” (permitted) or “S” (specific use permit) are authorized uses permitted by right or specially permitted uses, respectively. Special permitted uses must be approved utilizing procedures set forth in section XI.4.4 [IX.4.4] (specific use permit).

C. Maximum Height

1. Two and one-half (2.5) stories, or thirty-five feet (35') for the main building/house.

2. Fifteen feet (15') for other accessory buildings, including detached garage, garden shed, accessory dwelling units, etc.

3. Other requirements (see section XV.1.9).

D. Area Regulations

1. Size of Lots

a. Minimum Project Area - Determined by planned development and maximum percentage for Provisional District.

b. Minimum Lot Area - Seven thousand five hundred (7,500) square feet; also, the minimum average lot area shall be nine thousand (9,000) square feet in order to provide diversity in lot sizes within each SF-4 neighborhood; maximum density three and one-half (3.5) dwelling units per acre

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c. Minimum Lot Width - Seventy feet (70')

d. Minimum Lot Depth - One hundred feet (100')

2. Size of Yards

a. Minimum Front Yard - Twenty-five feet (25')

b. Minimum Side Yard - Ten percent (10%) or five feet (5') for interior side yard; fifteen feet (15') for a corner lot on a residential or collector street; twenty-five feet (25') for a corner lot on an arterial street

c. Minimum Rear Yard - Twenty feet (20')

3. Maximum Lot Coverage - Thirty-five percent (35%) for the main building; sixty percent (60%) for the main building and any accessory buildings, driveways and parking areas combined

4. Minimum Lot Access - No lot shall have less than thirty-five feet (35') access measured at the right-of-way line

E. Parking Regulations

1. Single-Family Dwelling Unit - A minimum of two enclosed, attached parking spaces behind the front building line on the same lot as the main structure, plus two

(2) additional parking spaces on a paved driveway having a minimum length of thirty feet (30') as measured from ten feet (10') interior of any paved or improved public surface (i.e., roadway, sidewalk).

2. Other - See Article XVI, Off-Street Parking and Loading Regulations

F. Minimum Floor Area per Dwelling Unit - One thousand five hundred and fifty (1,550) square feet; also, the minimum average floor area shall be one thousand seven hundred (1,700) square feet in order to provide diversity in house sizes within each SF-4 neighborhood.

G. Minimum Exterior Construction Standards

1. Masonry - See section XII.1.1(A) [15.04.001(a)] (Minimum Masonry Requirements)

2. Roof Pitch - See section XII.1.1(B) [15.04.001(b)]

3. Roofing Systems - See section XII.1.1(C) [15.04.001(c)]

4. Chimney Design - See section XII.1.1(E) [15.04.001(e)]

H. Mailboxes - See section XII.1.2 [15.04.002]

I. Accessory Buildings - See section XII.1.3 [15.04.003]

J. Driveway - See section VII.1.4 [XII.1.4 [15.04.004]]

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K. Sidewalks - See section XII.1.5 [15.04.005]

L. Building Facade Plans (Elevations) - For any on-site facilities within the SF-4 District, see section XIV.1.6 [15.04.036].

M. Lighting - See section XII.1.6 [15.04.006]

N. Special Requirements - See section XII.1.7 [15.04.007]

O. Other Regulations - As established by Articles XV, XVI and XVII and subdivision regulations.

IX.3.2 SF-PH - Single-Family Residential - Patio Home District (Zero-Lot-Line Homes)

A. General Purpose and Description. The Single-Family Residential-Patio Home, “SF-PH”, district is designed to provide for development of primarily detached single-family residences on compact lots having one side yard reduced to zero feet (i.e., “zero-lot-line”), and having not less than four thousand (4,000) square feet. Patio Home developments shall be arranged in a clustered lot pattern with a common usable open space system that is an integral part of the development. Individual ownership of each lot is required and this District may serve as a “buffer” or a transition between lower density residential areas or nonresidential areas along major thoroughfares. SF-PH is available only as a provisional district and shall, in no instance, account for more than fifteen percent (15%) of the total residential units within the approved development. Areas zoned for the SF-PH district shall have, or shall make provision for, city water and sewer services. They shall be designed to adequately accommodate storm drainage; they shall have paved concrete streets with logical and efficient vehicular circulation patterns that discourage non-local traffic; they shall be properly buffered from nonresidential uses; and they shall be protected from pollution and undesirable environmental and noise impacts.

B. Permitted Uses. Those uses listed for the SF-PH district in section XI.1 (use charts) as “X” (permitted) or “S” (specific use permit) are authorized uses permitted by right or specially permitted uses, respectively. Special permitted uses must be approved utilizing procedures set forth in section XI.4.4 [IX.4.4] (specific use permit).

C. Maximum Height

1. Two and one-half (2.5) stories, or thirty-five feet (35') for the main building/house.

2. Ten feet (10') for other accessory buildings, including detached garage, garden shed, accessory dwelling units, etc.

3. Other requirements (see section XV.1.9).

D. Area Regulations

1. Size of Lots

a. Minimum Lot Area - Four thousand (4,000) square feet; also, the minimum average lot area shall be four thousand seven hundred (4,700) square feet in order to provide diversity in lot sizes within each SF-PH neighborhood; maximum density eight (8) dwelling units per acre

b. Maximum Project Size - The maximum size of a patio home development shall be determined by

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the planned Development and maximum percentage for a provisional district.

c. Minimum Lot Width - Forty-five feet (45')

d. Minimum Lot Depth - Eighty feet (80')

2. Size of Yards

a. Minimum Front Yard - Twenty feet (20'); twenty-five feet (25') to the garage door face for front-entry homes

b. Minimum Side Yard - One side yard reduced to zero feet (0'); other side yard a minimum of ten feet (10') required with fifteen feet (15') required on corner lots adjacent to a residential or collector street, and twenty-five feet (25') required on corner lots adjacent to an arterial street

c. Minimum Rear Yard - Fifteen feet (15'); twenty feet (20') for rear garage entry

3. Maximum Lot Coverage - Fifty percent (50%) for the main building; sixty-five percent (65%) for the main building and any accessory buildings, driveways and parking areas combined

E. Parking Regulations

1. Single-Family Dwelling Unit - A minimum of two enclosed parking spaces behind the front building line on the same lot as the main structure, plus one additional parking space on the paved driveway.

2. Visitor Parking - One parking space per dwelling unit (off-street) which is located within three hundred feet (300') of each dwelling unit.

3. Other - See Article XVI, Off-Street Parking and Loading Requirements

F. Minimum Floor Area per Dwelling Unit - One thousand five hundred (1,500) square feet.

G. Minimum Exterior Construction Standards - All exterior wall elevations of each primary structure and any detached garage shall be constructed of one hundred percent (100%) masonry construction to include brick, stone, granite or marble; excluding doors and windows.

H. Chimney Design - See section XII.1.1(E) [15.04.001(e)]

I. Minimum Lot Access - No lot shall have less than thirty-five feet (35') access measured at the right-of-way line

J. Minimum Landscaping Requirements - Sixty percent (60%) of the street yard; see section XVII.1.6 [Article 15.02]

K. Screening Requirements - See section XVII.5 [Article 15.02]

L. Special Requirements

1. One side yard shall be reduced to zero feet, while the other side yard shall be a minimum of ten

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feet (10); fifteen feet (15') for a corner lot on the residential or collector street side, or twenty-five feet (25') for a corner lot on an arterial street. A minimum six-foot (6') wide maintenance easement shall be placed on the adjacent lot (i.e., the other side of the zero-lot-line) to enable the property owner to maintain that portion of his/her house that is on the zero-lot-line. Side yards and maintenance easements shall be shown on the subdivision plat. A minimum separation between patio homes of ten feet (10') shall be provided. Roof overhangs will be allowed to project into the maintenance easement a maximum of twenty-four inches (24").

2. All utilities shall be provided separately to each lot in the SF-PH district so that each dwelling unit is individually metered.

3. Maintenance Requirements for Common Areas - A homeowners' association (HOA) is required for continued maintenance of common land and facilities.

4. Usable Open Space Requirements - The required percentage of open space shall be in compliance with those set forth in the Provisional District Requirements, Article XIII.

5. Landscaped Areas - Additional common open space and landscaped areas that do not qualify as usable open space may be provided, but shall not be counted toward the usable open space requirement.

6. Single-family lots and detached dwellings constructed in this district shall conform to the standards as set forth in the SF-3 zoning district.

7. The elimination of a garage space by enclosing the garage with a stationary building wall shall be prohibited unless another garage of the same size (i.e., that has the same number of parking spaces) is built, simultaneously with the garage enclosure, elsewhere on the same lot within the proper setbacks, not exceeding the maximum lot coverage, etc.

8. Recreational vehicles, travel trailers, camper trailers, campers, trailers, boats, boat trailers, motor homes or other recreational vehicles or equipment may not be used for on-site dwelling purposes, and shall be prohibited from being parked in this zoning district.

9. Electrical fencing and barbed wire is prohibited as perimeter fencing.

10. Open storage is prohibited (except for usable materials for the resident's personal use or consumption such as firewood, garden materials, lawn equipment that is in usable and running condition, etc., which cannot be stored in any required setback and which shall be screened from view of public streets and neighboring properties).

11. Single-family homes with side-entry garages where lot frontage is only to one street (not a corner lot) shall have a minimum of twenty-five feet (25') from the door face of the garage to the side property line for maneuvering. The minimum setback from any garage door to a street or alley right-of-way line shall also be twenty-five feet (25').

12. Swimming pools, spas and hot tubs shall comply with the the standards set forth in the ICC International Swimming Pool and Spa Code, adopted in § 3.14.001 of this Code, ~~Standard Swimming Pool Code and the Uniform Swimming Pool, Spa and Hot Tub Code, as adopted,~~ and other provisions of this Code pertaining to same. ~~Uniform Swimming Pool, Spa and Hot Tub Code, as amended, and the city'~~

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~~Codes and Ordinances pertaining to same~~.[199]

13. site plan approval shall be required for any nonresidential use (e.g., school, church, child care center, private recreation facility, etc.) in the SF-PH district. Any nonresidential land use which may be permitted in this district shall conform to the "NS" - Neighborhood Service district standards with respect to building setbacks, landscaping, exterior building construction, screening requirements, lighting, signage, etc.

M. Other Regulations - See Articles XII [15.04, division 1], XV, XVI and XVII and standards established by the subdivision regulations.

IX.3.3 MF - Multifamily Residential District.

A. General Purpose and Description. The Multifamily Residential, "MF" district is intended to promote the development of and be comprised of attached residential dwellings for more than two families. The maximum density is 14 dwelling units per acre. The principal permitted land uses will include low- and mid-rise multiple-family dwellings and garden apartments. MF is available only as a Provisional District and may only be approved through the planned Development rezoning process. Development meeting the MF district criteria shall be grouped together and may be used as a buffer between residential and nonresidential districts. Recreational, religious, health and educational uses normally located to service residential areas are also permitted in this district. This district should be located adjacent to a major thoroughfare and serve as a buffer between nonresidential development or heavy automobile traffic and medium- or low-density residential development. Areas zoned for the MF district shall have, or shall make provision for, city water and sewer services. They shall be designed to adequately accommodate storm drainage; they shall have paved concrete drive aisles with logical and efficient vehicular circulation patterns; they shall be properly buffered from nonresidential uses; and they shall be protected from pollution and undesirable environmental and noise impacts.

B. Permitted Uses.

1. Those uses listed for the MF district in section XI.1 (use charts) as "X" (permitted) or "S" (specific use permit) are authorized uses permitted by right or specially permitted uses, respectively. Special permitted uses must be approved utilizing procedures set forth in section XI.4.4 [IX.4.4] (specific use permit).

2. Multiple-Family Dwellings greater than two units per building.

3. Municipally owned facilities and uses.

4. Leasing offices for the apartment complex.

5. Temporary field construction offices for uses incidental to construction work on the premises, which the buildings shall be removed upon the completion or abandonment of construction work, by order of the building official. Specific time allowed and location shall be specified by the building official.

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[199] **Sec. 3. Provisional districts.** Pool and spa code is changed to refer to the adopted code as shown.

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6. Accessory buildings and uses customarily incidental to the above uses and located on the same lot therewith, but not involving the conduct of a retail business, except as provided herein:

a. The term “accessory use” shall include home occupations as defined in Article XIX, Definitions.

b. Accessory buildings greater than two hundred fifty (250) square feet require a specific use permit (SUP), must be “site built” and conform to the following conditions:

i. The exterior must be constructed of like and similar materials to those of the primary structure;

ii. The accessory building, including any item attached to its roof, shall not exceed a maximum height of fifteen feet (15') at its tallest point;

iii. The accessory building shall be constructed with a roof pitch matching that of the primary structure;

iv. Accessory buildings located closer than ten feet (10') from a side or rear lot line of a corner lot, must be screened from the side and rear with an opaque fence of a minimum six feet (6') in height; and

v. See section XII.1.3 [15.04.003] for additional accessory building regulations.

7. Swimming Pool (available for use by the residents and guests of the multifamily complex).

8. Common areas, community center, recreation center, and other facilities or amenities, provided they are for use by the residents and guests of the multifamily complex.

9. The uses as may be permitted under the provisions of specific use permits, section XI.4.4 [IX.4.4], for Multiple-Family (MF) Districts.

C. Maximum Height.

1. Two and one-half (2.5) stories, or thirty-five feet (35') for the main building/house; where a structure exceeds twenty-five feet (25') in height, it shall be set back from the front property line one additional foot beyond the required front yard setback for each foot above twenty-five feet (25') in height.

2. Fifteen feet (15') for other accessory buildings, including detached garage, garden shed, carports, gazebo, clubhouse, mail kiosks, laundry rooms, etc.

3. Other requirements (see section XV.1.9).

D. Area Regulations.

1. Size of Lots.

a. Minimum Project Area - Determined by planned development and maximum percentage for Provisional District.

b. Minimum Lot Area - Three thousand (3,000) square feet per dwelling unit, not to exceed 14 dwelling units per acre (calculated on gross platted acreage).

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c. Minimum Lot Width - One hundred feet (100')

d. Minimum Lot Depth - One hundred twenty feet (120')

e. Special Exception - If a property was platted or zoned for MF prior to the effective date of this chapter, then it can remain its original size and configuration and does not have to meet the minimum project size, lot width or lot depth stated above. The property shall conform to all other MF development standards herein, unless the building setbacks shown on a recorded Plat vary from those contained herein, in which case the platted setbacks shall prevail unless a Replat modifies same.

2. Size of Yards.

a. Minimum Front Yard - Forty feet (40'). All areas adjacent to a street shall be deemed front yards.

b. Minimum Side and Rear Yard - Twenty feet (20'), unless adjacent to a single- family or patio home district then side and rear setbacks shall be according to the height of the multifamily building, as follows:

i. One-story building - twenty feet (20')

ii. Two-story building - sixty feet (60')

iii. Over two-story building - seventy-five feet (75')

c. Building Separation

i. One-story buildings - Fifteen feet (15') for buildings without openings; twenty-five feet (25') for buildings with openings

ii. Two-story buildings (or a two-story building adjacent to a one-story building) - Twenty feet (20') for buildings without openings; thirty-five feet (35') for buildings with openings

iii. Over two-story buildings (or an over two-story building adjacent to a one- or two-story building) - Thirty-five feet (35') for buildings with or without openings

3. Minimum Floor Area per Dwelling Unit.

a. Efficiency unit - 500 square feet per unit.

b. One-bedroom unit - Eight hundred (800) square feet per unit.

c. Two- or three-bedroom units - An additional one hundred fifty (150) square feet for every bedroom over one (e.g., three-bedroom unit must have eleven hundred (1,100) square feet, etc.).

d. No units larger than three-bedroom is allowed.

4. Dwelling Unit Mix - Not more than fifteen percent (15%) of the dwelling units within a complex may be efficiency-type units and not more than ten percent (10%) of the dwelling units within a complex may have 3 bedrooms. The remaining minimum of seventy-five percent (75%) shall be a mix of one- and two-bedroom dwelling units.

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5. Maximum Lot Coverage - Forty percent (40%) total, including main and accessory buildings; sixty percent (60%) for the main building and any accessory buildings, driveways and parking areas combined

6. Minimum Lot Access - No lot shall have less than thirty-five feet (35') access measured at the right-of-way line

E. Parking Regulations

1. 1 enclosed, attached space for each efficiency unit

2. 2 enclosed, attached spaces for each one-bedroom unit

3. 2 enclosed, attached spaces and one covered space for each two- and three-bedroom unit

4. An additional one-half (1/2) parking space shall be provided for each bedroom, including efficiency, within the development. The additional parking spaces are not required to be enclosed or covered.

5. The average number of parking spaces for the total development shall be no less than two spaces per dwelling unit. The minimum required enclosed parking spaces for dwelling units shall be enclosed and attached to the dwelling unit it serves. The remaining required parking spaces for each dwelling unit shall be covered. Both enclosed and covered parking spaces shall be constructed of a masonry product consistent and complementary to the main structure and roof pitch to match the main buildings.

6. No covered parking space may be located closer than six feet (6') from any building or closer than two feet (2') from any side or rear lot line.

7. All parking areas adjacent to public streets shall be screened from view. Screening may be in the form of live plant materials, berms, low masonry walls that match the exterior finish of main buildings, or any combination of the above.

8. See Article XVI, Off-Street Parking and Loading Requirements, for additional requirements.

F. Minimum Exterior Construction Standards - All exterior wall elevations of each primary structure shall be constructed of one hundred percent (100%) masonry construction to include brick, stone, granite or marble; excluding doors and windows.

G. Refuse Facilities

1. Every multifamily dwelling unit shall be located within two hundred feet (200') of a refuse facility measured along the designated pedestrian and vehicular travelway. A refuse container of at least six cubic yards shall be provided for every 30 dwelling units (or portion thereof). A refuse facility shall be a dumpster or other similar receptacle designed for receiving garbage in bulk for more than one dwelling, and all refuse containers shall be maintained in accordance with local public health and sanitary regulations. Refuse dumpsters shall be no closer than thirty feet (30') to any adjacent single-family residential property and shall be located so as to provide safe and convenient pickup by refuse collection agencies.

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2. Each refuse facility shall be screened from view, from persons standing at ground level on the site or immediately adjoining property, on three sides by a solid screening wall of brick or stone masonry not less than six feet (6'), nor more than eight feet (8') in height or enclosed within a building, and on the fourth side by gates. Refuse containers shall be provided and maintained in a manner to satisfy local public health and sanitary regulations. Each refuse facility shall have a gate and be located so as to provide safe and convenient pickup by refuse collection agencies. To the extent practicable, the location of the refuse facility shall be identified on the Site or concept plan.

H. Special Requirements

1. Driveway Spacing - See section XIV.1.1 [15.04.031]

2. site plan Review - See section XIV.1.5 [15.04.035]

3. Single-family dwelling units constructed in this District shall conform to SF-E, SF-l, SF-2, SF-3 or SF-PH District standards respectively.

4. Recreational vehicles, travel trailers, camper trailers, campers, trailers, boats, boat trailers, motor homes, other recreational vehicles or equipment, or storage units, may not be parked or stored in this district nor used for on-site dwelling purposes.

5. Open storage is prohibited.

6. A site plan with facade elevations is required for all multifamily developments in this District in accordance with the requirements for planned development Districts and shall be an exhibit to the authorizing ordinance. See section XIV.1.6 [15.04.036].

7. Fire lanes, fire hydrants and dwelling unit distances from fire lanes and fire hydrants shall be in compliance with the International Fire Code (IFC) as adopted and as amended.

8. A four-foot (4') wide paved walkway shall connect the front door of each ground floor unit to the adjacent parking area. The minimum width of any sidewalk parallel and adjacent to head-in parking spaces shall be six feet (6') to accommodate a two-foot (2') bumper overhand [overhang] for vehicles.

9. Buildings shall not exceed two hundred feet (200') in length.

10. All parking areas shall have appropriate lighting and shall be positioned such that no light adversely impacts adjacent residential areas. See section XIV.1.3 [15.04.033], Lighting.

11. All multifamily dwelling units shall have roof slopes with a minimum of 4:12 pitch.

12. Buildings with facades that are longer than fifty feet (50') shall have their facades broken up into smaller areas through the use of varying facade setbacks, arcades, architectural features such as recessed vestibules, columns, canopies, or other acceptable means.

13. Boats, campers, trailers, and other recreational vehicles shall be prohibited unless oversize parking areas are provided as part of the approved site plan. This parking area shall not be used to meet the minimum parking requirements and shall not be in view from a public street.

14. All buildings containing residential units shall provide a sign, visible from the entrances,

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identifying the unit numbers (i.e., addresses) within the building. Signage shall be visible from entrances into the complex or from vehicular drive aisles within the complex such that each individual unit is easy to locate by visitors, delivery persons, or emergency personnel.

15. All mechanical, heating, and air-conditioning units shall be screened or hidden from view (See section XIV.5.3 [XVII.5.3 [Article 15.02]], Screening).

16. Multifamily complexes shall have screening surrounding the property and have a security gate at each point of ingress/egress. All screening walls or other devices shall be placed on the property line. (See section XIV.5.3 [XVII.5.3 [Article 15.02]], Screening.)

17. All living units will be equipped with washer and dryer connections.

18. Landscape Area Requirements - A minimum of ninety percent (90%) of the street yard and twenty percent (20%) of the total lot area shall be devoted to a combination of landscaping (i.e., pervious surface area) and usable open space (see above). See section XVII.1.7 [Article 15.02] for landscaping requirements.

19. Screening Requirements - See section XVII.5.3 [Article 15.02] for screening requirements.

20. Building Facade Plans (Elevations) - For any on-site facilities within the MF District, see section XIV.1.6 [15.04.036].

21. site plan approval (see section VIII.13.3) shall be required for any multifamily or nonresidential use (e.g., school, church, child care center, private recreation facility, etc.) in the MF district. Any nonresidential land use which may be permitted in this district shall conform to the “NS” - Neighborhood Service district standards with respect to building setbacks, landscaping, exterior building construction, screening requirements, lighting, signage, etc.

22. Additional Special Requirements in section XII.1.7 [15.04.007]

I. Special Provisional District Requirements - See Article XIII

J. Other Regulations - As established by Articles XII [15.04, division 1], XV, XVI and XVII and subdivision regulations.

IX.3.4 MH - Manufactured Home District.

A. General Purpose and Description. The Manufactured Home, “MH”, district is a detached residential district establishing standards for the development of manufactured, HUD-code mobile home subdivisions. MH is available only as a Provisional District and shall, in no instance, account for more than fifteen percent (15%) of the total residential units within the approved development. Lots meeting the MH district criteria shall be grouped together and may be used as a buffer between residential and nonresidential districts. Manufactured/mobile home subdivisions include individually platted lots for sale within the subdivision, for the placement of manufactured/mobile home units. The manufactured home district establishes area and design requirements for subdivisions. Subdivisions shall provide open space and recreational areas appropriate for the acreage and number of units contained. Areas zoned for the MH district shall have, or shall make provision for, city water and sewer services. They shall be designed to adequately accommodate storm drainage; they shall have paved concrete streets with logical and efficient vehicular circulation patterns that discourage non-local traffic; they shall be properly buffered from

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nonresidential uses; and they shall be protected from pollution and undesirable environmental and noise impacts.

B. Permitted Uses. Those uses listed for the “MH” district in section XI.1 (use charts) as “X” (permitted) or “S” (specific use permit) are authorized uses permitted by right or specially permitted uses, respectively. Special permitted uses must be approved utilizing procedures set forth in section XI.4.4 [IX.4.4] (specific use permit).

The installation of mobile homes for use or occupancy as residential dwellings in the city is prohibited. This provision is prospective and shall not apply to any mobile home used and occupied as a residential dwelling in the city on the effective date of this chapter. An existing mobile home located in the city, as of the date of this chapter, will be allowed to remain on its existing site until it is removed from the city, or until the condition of the mobile home violates the Codes of the city. When the condition of the mobile home violates city Codes, the building official shall require the owner to repair, demolish or move the mobile home out of the city. To the extent required by state and federal law a mobile home may be replaced a by a HUD-Code Manufactured home with the limitation of one replacement and a HUD-Code Manufactured Home may be replaced by another HUD-Code Manufactured Home provided it is a newer manufactured home and is at least as large in living space as the prior manufactured home. Any and all structural repair or remodeling of a mobile home shall require a building permit and all work shall be done by a state-certified, licensed contractor or home-occupied owner. An existing, but temporarily vacant, mobile home located in the city as of the date of this chapter, will be considered “occupied” for purposes of this provision if it has been an actual residential use within 30 days prior to enactment of this chapter, is vacant for purposes of refurbishment for future residential use at the time of enactment of this chapter or subsequently becomes vacant for purposes of refurbishment for future residential use after enactment of this chapter, and such vacancy is terminated by actual residential use of a mobile home within 60 days of enactment of this chapter.

C. Area Regulations

1. Size of Lot

a. Minimum Project Size - Determined by planned development and maximum percentage for Provisional District.

b. Minimum Lot Area - Seven thousand five hundred (7,500) square feet; also, the minimum average lot area shall be nine thousand (9,000) square feet in order to provide diversity in lot sizes within each MH neighborhood; maximum density three and one-half (3.5) dwelling units per acre

c. Minimum Lot Width - Seventy feet (70')

d. Minimum Lot Depth - One hundred feet (100')

2. Size of Yards

a. Minimum Front Yard - Twenty-five feet (25') from a public dedicated street or driveway.

b. Minimum Side Yard - Ten percent (10%) or seven feet (7') for interior side yard; fifteen feet (15') for a corner lot on a residential or collector street; twenty-five feet (25') for a corner lot on an arterial street.

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c. Minimum Rear Yard - Twenty feet (20')

3. Maximum Lot Coverage - Thirty-five percent (35%) for the main building; sixty percent (60%) for the main building and any accessory buildings, driveways and parking areas combined.

a. The entry (i.e., door) side of any garage shall have a thirty-five-foot (35') setback as measured from any property or street right-of-way line

4. Minimum Floor Area per Dwelling Unit - One thousand five hundred and fifty (1,550) square feet; also, the minimum average floor area shall be one thousand seven hundred (1,700) square feet in order to provide diversity in dwelling sizes with each MF neighborhood.

5. Maximum Lot Coverage - Thirty-five percent (35%) for the main building/unit; sixty percent (60%) for the main building and any accessory buildings, driveways and parking areas combined

6. Minimum Lot Access - No lot shall have less than thirty-five feet (35') access measured at the right-of-way line

D. Parking Regulations: A minimum of two enclosed spaces attached to the dwelling unit by a covered breezeway and located on the same lot as the dwelling unit, plus two additional parking space on a paved driveway having a minimum length of thirty feet (30') as measured from ten feet (10') interior of any paved or improved public surface (i.e., roadway, sidewalk).

E. Maximum Height Limit

1. Two and one-half (2.5) stories, or thirty-five feet (35') for the main building/house; where a structure exceeds twenty-five feet (25') in height, it shall be set back from the front property line one additional foot beyond the required front yard setback for each foot above twenty-five feet (25') in height.

2. Fifteen feet (15') for other accessory buildings, including detached garage, garden shed, carports, gazebo, clubhouse, mail kiosks, laundry rooms, etc.

3. Other requirements (see section XV.1.9).

F. Minimum Exterior Construction Standards - Skirting of a HUD-Code manufactured home or mobile home shall be of a product with the visual affect of brick or stone.

G. site plan Requirement - All new Manufactured Home Subdivisions are allowed only as part of a planned development and, therefore, require a site plan submission for the city’s consideration. site plans shall conform to the requirements set forth in section VIII.4.

H. Mailboxes - See section XII.1.2 [15.04.002]

I. Accessory Buildings - See section XII.1.3 [15.04.003]

J. Driveway - See section XII.1.4 [15.04.004]

K. Sidewalks - See section XII.1.5 [15.04.005]

L. Anchorage of Manufactured/Mobile Homes - To insure against natural hazards such as tornados,

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high winds and electrical storms, full anchorage for each manufactured/mobile home shall be provided according to the following:

1. All manufactured/mobile homes shall be provided an adequate foundation for the placement of tie-downs, thereby securing the superstructure against uplift, sliding, rotation and overturning;

2. The pad shall be constructed of concrete which shall adequately support the weight of the HUD-Code manufactured home which may be placed thereon and be durable and well drained under normal use and weather conditions;

3. The height of the HUD-Code manufactured home frame above ground elevation, measured at 90 degrees to the frame, shall not exceed four feet (4') from the top of the pad;

4. Provide anchors and tie-downs such as cast-in-place concrete “dead men,” eyelets embedded in concrete foundations or runway screw augers, arrowhead anchors, or other devices which secure the stability of the HUD-Code manufactured Home, and shall be placed at least at each corner of the HUD-Code manufactured home; and

5. Cover an area of at least two hundred forty (240) square feet or at least one-third (1/3) the area of the largest HUD-Code manufactured home which may be placed on the space, whichever is greater. No surface provided for a purpose other than the foundation of HUD-Code manufactured/mobile home shall be considered a part of such pad.

M. Skirting

1. All manufactured/mobile home units located in the city Limits shall provide skirting from the top of the unit’s frame to grade prior to resident move-in. Also, see subsection IX.3.4.F above.

2. All manufactured/mobile homes located in the city Limits as of the effective date of this chapter shall be required to have skirting no later than 90 days from the enactment of this chapter. However, before being subject to a penalty for violation of this subsection, the city manager or his/her designee shall serve the owner or occupant of any manufactured/mobile home without skirting with written notice, delivered by Certified Mail, of violation hereof requiring compliance within such time as designated therein;

3. Access to the underneath of the manufactured/mobile home shall be available for repair purposes only and not for storage or trash accumulation; and

4. A permit shall be applied and paid for prior to the installation of skirting.

N. Special Requirements

1. Single-family, patio home, or townhouse residential units constructed in this district shall conform to SF-E, SF-1, SF-2, SF-3, or SF-PH district standards, respectively.

2. site plan approval shall be required for any nonresidential use (e.g., school, church, child care center, private recreation facility, etc.) in the MH district. Any nonresidential land use which may be permitted in this district shall conform to the “NS” - Neighborhood Service district standards with respect to building setbacks, landscaping, exterior building construction, screening requirements, lighting, signage, etc. See section VIII.13.3 and IX.2.7.

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3. Building Facade Plans (Elevations) - For any on-site facilities within the MH District, see section XIV.1.6 [15.04.036].

4. Specific On-Site Storage Prohibited - See section XIV.1.7 [15.04.037]

5. The storage, handling and use of liquefied petroleum gases and flammable liquids shall be done in compliance with all applicable state law and rules and this Code.

6. All applicable city codes and ordinances, including all Building, Plumbing, Electrical and Fire Codes as adopted and all applicable state law are in force in this district.

7. Additional Special Requirements in section XII.1.7 [15.04.007]

O. Special Provisional District Requirements - See Article XIII

P. Other Regulations - As established by Articles XII [15.04, division 1], XV, XVI and XVII and subdivision regulations.
(Code 1996, ch. 14, exh. 14A, art. IX, § 3; Ordinance O-03-09 adopted 4/20/09 ; Ordinance O-10-20 adopted 8/18/20)

Sec. 4. OVERLAY AND SPECIAL DISTRICTS.

IX.4.1 Purpose. Overlay districts shall be used in conjunction with base zoning districts where it is appropriate to do so. In the use of the following overlay zoning classifications, the base district shall remain in effect as it is already in existence unless changed by zoning amendment and in accordance with the provisions of Article IV (Zoning Amendments, Appeals and Variances). New base districts or changes in existing base districts may be requested at the same time overlay or special prefix districts are requested.

IX.4.2 PD - planned development District

A. General Description and Purpose

1. The planned development District, “PD”, is a district which accommodates planned associations of uses or mixed uses developed as integral land use units such as industrial districts, offices, commercial or service centers, shopping centers, residential developments of multiple or mixed housing including attached single- family dwellings or any appropriate combination of uses which may be planned, developed or operated as integral land use units either by a single owner or a combination of owners. A PD District may be used to permit new or innovative concepts in land utilization not permitted by other zoning districts in this chapter. While greater flexibility is given to allow special conditions or restrictions which would not otherwise allow the development to occur, procedures are established herein to insure against misuse of increased flexibility.

a. A planned development district is a tool to permit new or innovative concepts in land utilization not permitted by other zoning districts in this chapter, to ensure the compatibility of land uses, and to allow for the adjustment of changing demands to meet the current needs of the community. This tool shall be required to meet one or more of the following purposes:

i. To provide for a superior design on lots or buildings;

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ii. To provide for increased recreation and open space opportunities for public use and enjoyment;

iii. To provide amenities or features that would be of special benefit to the property users or to the overall community;

iv. To protect or preserve natural amenities and environmental assets such as trees, creeks, ponds, floodplains, slopes, viewscapes, or wildlife habitats;

v. To protect or preserve existing historical buildings, structures, features or places;

vi. To provide an appropriate balance between the intensity of development and the ability to provide adequate supporting public facilities and services; and vii. To meet or exceed the standards of this chapter.

2. Planned development applications that do not meet or exceed the minimum requirements of this chapter shall be recommended by staff to be denied. Staff will provide to the planning and zoning commission and city council a written report of deficiencies.

B. Permitted Uses

1. An application for a PD district shall specify the base zoning districts upon which the PD is based, and the use or the combination of uses proposed (particularly if any of the proposed uses are not allowed by right in the base zoning district). PD designations shall not be attached to SUP requirements. specific use permits allowed in a base zoning districts are allowed in a PD only if specifically identified as allowable by SUP at the time of PD approval, and if specifically cited as an “additional use” (i.e., to those allowed by right in the PD) in the ordinance establishing the PD. Any use that is not specifically cited as permitted (by right or by SUP) in the applicable base zoning districts or the PD Ordinance shall be prohibited unless the PD Ordinance is amended using the procedures set forth in this section and in Article IV (zoning amendments, appeals and variances) of this chapter.

2. In the case of residential PD districts, the proposed lot sizes shall generally be no smaller than the lot sizes allowed in the base zoning district for each type of housing (e.g., single-family) except for minor changes in a small percentage of the lots in order to provide improved design, or to provide flexibility in the layout of the subdivision or diversity in lot size choices. A residential PD shall strive to provide choice and variety in lot sizes throughout the neighborhood by specifying an average lot size that is larger than the minimum lot size, and that will truly accomplish the purpose of providing a variety of lot sizes.

C. planned development Requirements

1. In the PD District, uses shall conform to the standards and regulations of the Zoning District to which it is most similar and the particular zoning district must be stated in the granting Ordinance as the base zoning district or districts. All applications to the city shall list all requested deviations from the standard requirements set forth throughout this chapter (applications without this list will be considered incomplete).

2. The city council of the city, after public hearing and proper notice to all parties affected and after recommendation from the planning and zoning commission, may authorize the creation of a planned development (PD) overlay district.

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3. This chapter granting a PD district shall include a statement as to the purpose and intent of the PD district granted therein. A specific list is required of deviations in each district or districts and general statement citing the reason for the PD request.

4. Development requirements for each separate PD District shall be set forth in the amending Ordinance granting the PD District and may include, but not be limited to: uses, density, lot area, lot width, lot depth, yard depths and widths, building height, building elevations, coverage, floor area ratio, parking, access, screening, landscaping, buffer zones between uses, accessory buildings, signs, lighting, project phasing or scheduling, management associations, and other requirements as the city council and planning and zoning commission may deem appropriate. The planned development district shall conform to all other sections of this chapter, the subdivision regulations and this Code, unless specifically excluded in the granting ordinance.

5. The planned development request shall require a minimum of two distinct uses, residential or nonresidential. A PD District shall not be utilized to vary the standard requirements of a single straight zoning district to accommodate the financial or development desires of the applicant.

6. The minimum acreage for a planned development request shall be as follows:

a. Single-family residential development (e.g., A, SF-E, SF-1, SF-2, SF-3) - 30 contiguous acres

b. Provisional Districts (e.g., SF-4, SF-PH, MF, MH) - Minimum acreage of a Provisional District shall be determined by the maximum acreage set in sections IX.3.1, IX.3.2, IX.3.3, and IX.3.4 of this chapter and the accompanying mix of uses proposed in the planned Development application.

c. Nonresidential development (including office, neighborhood service, retail, commercial or industrial) development - Ten contiguous acres

d. Mixed-use development - The minimum acreage for each portion of a mixed-use PD district shall be as set forth above for each type of land use within the mixed- use district (unless this requirement is recommended by the planning and zoning commission, and waived by city council upon approval of the PD district, due to unusual size constraints that are unique to the subject land parcel itself).

e. Any type of development within the Town Center (TC) area - No minimum acreage requirement, provided that the request is deemed to be in substantial conformance with the TC district regulations with some minor flexibility that would allow and encourage favorable development or redevelopment of a property, and provided that the request cannot be construed as “spot zoning.”

7. A PD request, which shall be based upon more than one base zoning district, shall also include a legal (i.e., metes and bounds) description and graphic exhibit describing/ showing the proposed boundaries of each respective area and its base zoning district (e.g., shown as “Proposed PD-SF-2”, “Proposed PD-NS”, etc.).

8. While greater flexibility is given to allow special conditions or restrictions that would not otherwise allow the development to occur, procedures are established herein to ensure against misuse of increased flexibility.

9. As part of the zoning application for a planned development, the city manager or his/ her designee may require submission of a written report that discusses the impact the proposed PD will have on city water and wastewater utility systems, the local and regional storm drainage system, private utility

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service systems (i.e., cable TV, telephone, electric, gas, etc.), solid waste collection, city and other entities' tax base, public safety (i.e., police, fire, emergency medical services, etc.), public schools (i.e., number of school-age children anticipated) and traffic on surrounding and other nearby roadways. Letters from the city's utility and engineering personnel, the School District, and private utility providers may be required prior to approval of the PD in order to ensure that the proposed development will not unreasonably overload these essential systems and services.

10. (See Article VIII for platting standards)

f. Upon written request of the applicant, the city manager may grant a waiver of the above-enumerated minimum acreage requirements for a planned development, but in no event shall any waiver (i) allow a planned development of less than 20 acres minimum acreage for a planned development or component thereof with single- family residential base zoning or (ii) allow a planned development of less than two acres minimum acreage for a planned development or component thereof with a nonresidential base zoning. Any waiver granted hereunder by the city manager shall be based upon the city manager's determination of the following factors:

I. Whether the proposed use/base zoning for the planned development implements the policies adopted in the city's comprehensive plan, including the future land use plan;

2. Population density impacts of the proposed planned development, including, but not limited to traffic impacts;

3. Whether the proposed use/base zoning for the planned development will be appropriate in the immediate area and for its relationship to the general area and the city as a whole;

4. Whether the proposed use/base zoning for the planned development will be in accord with existing or proposed plans for providing schools, streets, water supply, sanitary sewer, or other utilities in the area.

5. The amount of vacant land currently classified for developments similar to what is being proposed in the vicinity and elsewhere in the city; and

6. The anticipated impact on areas that are already designated for similar development.

D. Establishment - In establishing a planned development District in accordance with this section, the city council shall approve and file as part of the amending ordinance appropriate plans and standards for each planned development District. To facilitate understanding of the request during the review and public hearing process, the concurrent submission of a concept plan for the proposed nonresidential or Provisional District project, or a Land Study for a proposed Single-Family residential project, shall be required along with the PD zoning application. A preliminary plat may be submitted in lieu of the concept plan for a Single-Family PD (see the subdivision regulations for submission and other requirements) if the applicant prefers to do so, and if the applicant wishes to expend the resources and funds necessary to prepare a complete preliminary plat submission.

1. concept plan - The concept plan shall be submitted by the applicant at the time of the PD request. The Plan shall show the applicant's intent for the use of the land within the proposed planned development District in a graphic manner and, as may be required, supported by written documentation of proposals and standards for development. The city may prepare application forms which further describe and explain the following requirements.

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a. Residential concept plan - A concept plan for residential land use shall show general use, thoroughfares and preliminary lotting arrangements. (See section VIII.12 of this chapter for concept plan requirements and procedures.)

i. A concept plan shall be submitted with any residential PD zoning request for a development comprised of single-family dwellings on individually platted lots, and shall show general uses, phasing of the development, access, thoroughfares, alleys (if proposed), preliminary lot arrangements, proposed densities, proposed screening, landscaped or private amenity areas, project scheduling and other pertinent development data.

ii. For residential development which does not propose platted lots, the concept plan shall set forth the size, type and location of buildings and building sites, access, density, building height, fire lanes, screening, parking areas, landscaped areas, project scheduling, and other pertinent development data.

b. Nonresidential concept plan - A concept plan shall be submitted with any nonresidential, single-family, or Provisional District PD zoning request, and shall clearly show all pertinent aspects of the type and nature of the proposed development. Data which may be submitted by the applicant, or required by the planning and zoning commission or city council, may include but is not limited to the types of uses, access, topography and boundary of PD area, physical features of the site, existing and proposed streets, alleys and easements, location of existing and proposed public facilities, building heights and locations, parking areas and ratios, fire lanes, screening and landscaped areas, project phasing and scheduling, buffer zones between residential and nonresidential uses, and other information to adequately describe the proposed development and to provide data for approval which is to be used in drafting the preliminary plat. (See section VIII.12 of this chapter for concept plan requirements and procedures.)

i. For a single-family PD (or portion of a PD) - A preliminary plat (see the subdivision regulations) shall be submitted for approval within one year from the approval date of the PD covered by the overall PD concept plan. If a preliminary plat is not submitted within one year, then the PD concept plan shall be subject to review by the planning and zoning commission and the city council to determine its continued validity. If the city determines that the PD concept plan is no longer valid or that the proposed development is no longer viable, then a new PD concept plan (along with a zoning application to amend the PD Ordinance and its accompanying concept plan) must be submitted for review and approval prior to preliminary plat review/approval (and any subsequent issuance of a building permit) for any single-family portion of the PD district.

ii. For a nonresidential, single-family attached, or Provisional District PD (or portion of a PD) - A detailed site plan and preliminary plat shall be submitted for approval (in accordance with subsection IX.4.2(D)(1)(c) below, and with section VIII.4 of this chapter, and with the subdivision regulations) within one year from the approval date of the concept plan for all or some portion of the PD covered by the overall PD concept plan. If a detailed site plan and preliminary plat are not submitted within one year, then the PD concept plan may be subject to review by the planning and zoning commission and the city council to determine its continued validity. If the city determines that the PD concept plan is no longer valid or that the proposed development is no longer viable, then a new PD concept plan (along with a zoning application to amend the PD Ordinance and its accompanying concept plan) must be submitted for review and approval prior to detailed site plan and preliminary plat review/approval (and any subsequent issuance of a building permit) for any nonresidential, single-family attached, or Provisional District PD or portion of the PD district.

c. PD site plan (detailed) - Submission and approval of the detailed PD site plan shall be in

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accordance with section VIII.4 of this chapter, and shall accompany an application for a nonresidential, multifamily, single-family attached, or Provisional District planned development zoning if the applicant prefers to submit the detailed site plan in lieu of the required PD concept plan. The detailed PD site plan will establish the final plans for development of the planned Development district (or any portion thereof), and it shall substantially conform to the site layout and development data approved on the PD concept plan (adopted along with the PD Ordinance). If a PD concept plan was previously approved for the overall PD district, then a detailed PD site plan (along with the required engineering/architectural site construction plans and preliminary plat) may be submitted for only the sections or lots that are proposed for immediate development rather than for the entire PD. If no concept plan was approved with this chapter establishing the PD, then a concept plan for the entire PD must be submitted and approved prior to approval of a detailed site plan (along with the required engineering/architectural site construction plans and preliminary plat) for only the portions of the PD that are proposed for immediate development. (See section VIII.4 of this chapter for site plan requirements and procedures.).

For any single-family residential district (A, SF-E, SF-1, SF-2, SF-3, SF-4, SF- PH, MH) a Final Plat shall qualify as the site plan.

d. Lapse, Extension and Reinstatement of PD concept plan or PD site plan shall be in accordance with the provisions of section VIII.10 of this chapter (Lapse of concept plan or site plan approval).

E. Approval Process and Procedures - The procedure for establishing a Planned Development District shall follow the procedure for zoning amendments as set forth in Article IV of this chapter. This procedure is further expanded as follows for approval of concept or site plan.

1. The planning and zoning commission shall consider and make a recommendation to city council on the concept plan or site plan after holding a public hearing. For the planning and zoning commission to make a recommendation:

a. The applicant submits adequate data with the request for the Planned Development District to fulfill the requirement for a concept plan or detailed site plan;

b. Information on the concept plan and attached application is sufficient to determine the appropriate use of the land and the preliminary plat will not deviate substantially from it.

c. If the above two conditions are not met, then the applicant shall submit any and all additional required information and another public hearing must be held by the planning and zoning commission prior to a recommendation of the concept plan or detailed site plan.

2. After sufficient Public notice of a separate public hearing on the application and upon the city council receiving the recommendation from the commission, the city council shall consider the PD application, all development requests and the concept plan or detailed site plan.

3. This chapter establishing the Planned Development District shall not be approved or adopted until the Concept or site plan is approved by city council and until all other procedural requirements set forth in Article VIII are satisfied. The concept plan or site plan, Architectural Plan (Elevations), legal description, proof of ownership and other required documents shall be attached to the PD ordinance as an Exhibit.

a. The concept plan or site plan may be approved in sections. When the plan is approved in sections, then separate approvals by the planning and zoning commission and city council for the initial and subsequent sections will be required.

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b. A concept plan or site plan shall be submitted for approval within six months from the approval of the concept plan for some portion of the concept plan. If a partial development plan is not submitted within six months, the concept plan is subject to review by the planning and zoning commission and city council. If the entire project is not started within two years, the planning and zoning commission and city council may review the original concept plan to ensure its continued validity. If the city determines the concept is not valid, a new Plan must be approved prior to issuing a building permit for any portion of the PD District.

c. Although a public hearing may not be required for the development plan, approval by the planning and zoning commission and city council is still required.

F. When a zoning request for a PD District is being considered, a written report from the city manager or his/her designated representative, discussing the impact on planning, engineering, water utilities, electric, sanitation, building inspection, tax, police, fire, and traffic, and written comments from the applicable public school district, and from private utilities may be submitted to the planning and zoning commission prior to the commission making any recommendations to the city council. In the event written comments are not forthcoming in a reasonable amount of time, the commission may, at its discretion, make a recommendation to the city council without the comments or advisement.

G. If three or more buildings are situated on one lot, regardless of the zoning classification, a conceptual plan or a development plan (detail site plan) shall be submitted for consideration and possible approval by the planning and zoning commission and city council. No public hearing is required unless such plan is/are attached to the original zoning amendment or PD Ordinance.

H. All planned development districts approved in accordance with the provisions of this chapter in its original form, or by subsequent amendments thereto, shall be referenced on the zoning district map, and a list of such planned development districts shall be maintained in the city secretary's office. All approved planned development districts shall comply with this article.

I. Prior to adoption of this chapter, the city council had established various planned development districts, some of which are to be continued in full force and effect. The ordinances or parts of ordinances approved prior to this Code shall be carried forth in full force and effect and are the conditions, restrictions, regulations and requirements which apply to the respective planned development districts shown on the zoning map at the date of adoption.

IX.4.3 PD-ED - Planned Development - Economic Development District

A. Purpose and Intent

1. The planned development - Economic Development, "PD-ED", District is a tool that can provide greater flexibility for a variety of large retail and light commercial uses by allowing for unique and innovative concepts in land use not permitted by other zoning districts in this chapter. These projects will promote economic development while encouraging reliable sales tax revenue streams and enhancing the quality of life for the citizens of the city. While greater flexibility is given to permit special conditions or restrictions which would not otherwise allow the development to occur, procedures are established herein to insure against misuse of increased flexibility. The approval and creation of a PD-ED District, a successful economic development incentive application and combined with herein specified conditions, the city may choose to participate with the owner/developer in an economic development incentive package.

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2. The PD-ED District may only be applied to property of high visibility and has ease of ingress and egress. Two planned development (PD) classifications are created by this enabling ordinance. Properties adjacent to, within twelve hundred feet (1200') of or is a tract that its point of beginning is within the 1200' of the Interstate 35 and future Loop 9 corridors may be available for planned development - Economic Development Tier One (PD-ED Tier 1) classification. Properties adjacent to, within three hundred feet (300') of or is a tract that its point of beginning is within the 300' of other Major Arterials (e.g., 4-lane divided or larger) may be available for planned development - Economic Development Tier Two (PD-ED Tier 2) classification. Unless otherwise referenced independently, the overall classification shall be referred to as “PD-ED”. Each classification, PD-ED Tier 1 and PD-ED Tier 2, are depicted on Illustration “B”.

3. All regulations of the underlying base district that are not in conflict with the regulations of the PD-ED District shall apply. In the event of conflict between the regulations of the PD-ED District and the underlying base district, regulations of the PD-ED District shall control.

B. Economic Development Incentives

1. Owners or developers of the property have the right to apply for economic development incentives offered by the city provided the applicant meets all applicable guidelines as set forth in the city’s Economic Development Incentive Program as adopted by Resolution No. 298-97, and as it may be amended. PD-ED District approval is subject to specific requirements satisfying the city’s economic development goals as set forth in the city’s Economic Development Incentive Program.

2. New private capital investment, exclusive of land values and related to targeted retail, commercial and industrial uses will be considered for economic development incentives [and] will be considered in accordance with the city’s Economic Development Incentive Program, as it exists and as it may be amended. Targeted uses include large retail facilities, office complexes, shopping and personal service centers, hotels, restaurants, movie theaters, museums or any combination of uses which may be planned, developed or operated as integral land use units either by a single owner or a combination of owners. Further targeted uses include corporate campus, business parks, resort uses, business uses related to the telecommunications industry, clean manufacturing uses related to the telecommunications industry or electronic components and logistical warehousing and distribution uses related to the telecommunications industry, electronic components or other high-value products.

3. The incentives will be considered and negotiated on a project-by-project basis commensurate with the quality and character of the development and the extent to which it contributes to accomplishing community character and quality of life objectives. Incentives will be considered for approval by the city council only after community input and public hearing and may include, but are not limited to: expedited development review, permit fee waivers, infrastructure assistance, public-private partnerships and performance-based ad valorem tax abatements. Give-back provisions shall be included in the event of non-performance. The purpose of this criterion is to promote a vigorous, diversified and regionally competitive economy, while creating a balanced tax base to ensure the city’s long-term financial ability to respond to the service demands of both new and existing development without placing a disproportionate tax burden on homeowners.

4. At the request of the applicant for a targeted retail, commercial or industrial use exceeding the amount specified in the city’s economic development incentive program for new private capital investment, exclusive of land values, the city council may consider approval of certain project-specific waivers or incentives only after community input and public hearing. The waivers or incentives may

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include, but are not limited to: expedited development review, permit fee waivers, infrastructure assistance, public-private partnerships and performance-based tax abatements. Give-back provisions shall be included in the event of non-performance. Consideration of such waivers or incentives shall precede consideration of the PD-ED.

C. "Go Green" Incentives. The city desires to take a proactive approach in improving the environment. The city recognizes how we grow today will influence not only how we live, but how future generations live. If we unanimously "Go Green" by developing a healthier and more environmentally responsible community a difference can be realized not only in our community but in the nation and the world.

The city is taking a progressive approach in the "Go Green" movement by making available "Go Green" development incentives for those projects that seek to mitigate the effects of urbanization, ensure growth does not occur at the expense of environmental quality, preserves natural landscapes and sensitive ecological resources and as much open space as possible.

1. Following are the principles by which the "Go Green" development incentives will be judged and awarded. In order to qualify for incentives no less than fifty percent (50%) of the following points shall be included in a submitted project:

* Mix land uses to produce a "live, work, play" community;

* Take advantage of compact building design;

* Provide a variety of transportation choices and encourage walkable projects;

* Design landscape utilizing SmartScape or Xeriscape criteria;

* Preserve open space, natural landscape and ecological resources while reducing impervious surfaces;

* Water conservation (i.e., E.T. irrigation sensors);

* Promote and utilize recycling;

* Utilize environmentally friendly lighting sources, appliances, mechanical equipment, etc.; and

* Exceed the minimum energy standards as adopted in the current International Energy Code (IEC).

2. The incentives will be considered and negotiated on a project-by-project basis commensurate with the quality and character of the development and the extent to which it contributes to accomplishing community goals for improving the environment and quality of life. Incentives will be considered for approval by the city council only after community input and public hearing and may include, but are not limited to: expedited development review, permit fee waivers, infrastructure assistance, public-private partnerships and performance-based ad valorem tax abatements. Give-back provisions shall be included in the event of non-performance. The purpose of this criterion is to promote a vigorous, diversified and regionally competitive economy, while creating a balanced tax base to ensure the city's long- term financial ability to respond to the service demands of both new and existing development without placing a disproportionate tax burden on homeowners.

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3. At the request of the applicant who offers a "Go Green" project and a targeted retail, commercial or industrial use exceeding the amount specified in the city's economic development incentive program for new private capital investment, exclusive of land values, the city council may consider approval of certain project specific waivers or incentives only after community input and public hearing. The waivers or incentives may include, but are not limited to: expedited development review, permit fee waivers, infrastructure assistance, public-private partnerships and performance-based tax abatements. Give-back provisions shall be included in the event of non-performance. Consideration of such waivers or incentives shall precede consideration of the PD-ED.

4. An incentive package available to qualifying developments shall not extend longer than 10 years, unless otherwise permitted under the city's economic development incentive program and agreed upon by city council, and will be awarded incrementally depending on the characteristics and quantity of the proposed project.

D. Permitted Uses

1. PD-ED Tier 1

a. Any permitted use in the base zoning district for the subject property shall be allowed in a PD-ED Tier 1 District.

b. Variations from the base zoning uses shall be identified by the applicant in the zoning request. After consideration by the planning and zoning commission and upon approval by the city council the permitted uses and conditions necessary for the change shall specifically be identified in the establishing ordinance granting a PD-ED Tier 1 District. The size, location, facade, appearance and method of operation may be specified to the extent necessary to insure compliance with the purpose of this chapter and the comprehensive plan. The PD-ED Tier One District shall conform to all other regulations of the applicable base zoning districts which are not specifically changed or excluded in the granting ordinance.

c. Targeted retail uses for the PD-ED Tier 1 District include land use that qualifies for sales tax or hotel/motel tax generation. These uses include but are not limited to:

i. Convenience Store

ii. Department Store

iii. Electronic and Home Appliance Store

iv. Garden Center (5% outside/sidewalk display)

v. Grocery Store (minimum 20,000 sq. ft.)

vi. Health-related Store

vii. Home Improvement Centers (seasonal outside display only with SUP)

viii. Medical Supplies Store

ix. Retail Service, Incidental

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x. Restaurant (drive-thru with SUP)

xi. Sporting Goods Store

d. Targeted professional uses for the PD-ED Tier 1 District include but are not limited to:

i. Bank and Savings & Loan

ii. Hospital, Clinic and Medical facilities

iii. Museum or Art Gallery

iv. Neighborhood Service (maximum 5,000 sq. ft.)

v. Professional Office Complex

vi. Radio Broadcasting without Tower

e. Targeted leisure/entertainment uses for the PD-ED Tier 1 District include but are not limited to:

i. Arts and Cultural Establishments

ii. Commercial Amusement (primarily indoor)

iii. Hotel (minimum 100 units, no outside unit entry)

iv. Indoor Movie Theater

v. Personal Fitness Facilities

vi. Resort

f. In unique circumstances residential uses may be incorporated into the PD-ED Tier 1 District as a mixed use development; however, the residential uses may only constitute a minor portion (less than 10%) of the use and value generated from the development and may not occupy any ground-level space. The residential development, in whole or in part, will not qualify for economic development incentives, unless the city council, through an Economic Development Agreement, takes such appraised taxable value into account in determining the appropriate incentive.

2. PD-ED Tier 2 Uses

a. Any permitted use in the base zoning district for the subject property shall be allowed in a PD-ED Tier 2 District.

b. Variations from the base zoning uses shall be identified in the zoning request by the applicant. After consideration by the planning and zoning commission and upon approval by the city council the permitted uses and conditions necessary for the change shall specifically be identified in the establishing ordinance granting a PD-ED Tier 2 District. The size, location, facade, appearance and method of operation may be specified to the extent necessary to insure compliance with the purpose of this chapter and the comprehensive plan. The PD-ED Tier Two District shall conform to all other regulations of the

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applicable base zoning districtss which are not specifically changed or excluded in the granting ordinance.

c. Targeted retail uses for the PD-ED Tier 2 District include land use that qualifies for sales tax or hotel/motel tax generation. These uses include but are not limited to:

i. Bakery

ii. Convenience Store

iii. Department Store

iv. Electronic and Home Appliance Store

v. Garden Center (maximum 15% outside display)

vi. Grocery Store (minimum 12,000 sq. ft.)

vii. Health-related Store

viii. Home Improvement Centers (maximum 10% outside display)

ix. Medical Supplies Store

x. Retail Service, Incidental

xi. Restaurant (drive-thru with SUP)

xii. Sporting Goods Store

d. Targeted professional uses for the PD-ED Tier 2 District include but are not limited to:

i. Bank and Savings & Loan

ii. Funeral Parlor or Mortuary

iii. Golf Course and Country Club

iv. Greenhouses and Nurseries

v. Hospital, Clinic and Medical facilities

vi. Museum or Art Gallery

vii. Neighborhood Service uses (maximum 5,000 sq. ft.)

viii. Professional Office Complex

ix. Radio Broadcasting without Tower

e. Targeted leisure/entertainment uses for the PD-ED Tier 2 District include but are not limited to:

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i. Arts and Cultural Establishments

ii. Commercial Amusement, inside (outdoor with SUP)

iii. Hotel (minimum 75 units, no outside unit entry)

iv. Indoor Movie Theater

v. Miniature Golf, Driving Range and Putting Course

vi. Drive-in Movie Theater (with SUP)

vii. Personal Fitness Facilities

viii. Private Club with Alcoholic Beverage Sales

ix. Resort

x. Roller Skating Rink

f. Targeted industrial uses for the PD-ED Tier 2 District include but are not limited to:

i. Assembly of Electronic Instruments and Devices

ii. Automotive repair shop

iii. Commercial School

iv. Distribution Warehouse

v. Drugs and Pharmaceutical Manufacturing

vi. Dry Cleaning Plant or Commercial Laundry

vii. Electronic Manufacturing

viii. Glass Products from Previously Manufactured Glass

ix. Instrument and Meter Manufacturing

x. Medical Laboratory

xi. Optical Goods Manufacturing

xii. Research and Scientific Laboratories

g. In unique circumstances residential uses may be incorporated into the PD-ED Tier 2 District as a mixed use development; however, the residential uses may only constitute a minor portion (less than 20%) of the use and value generated from the development and may not occupy any of the ground-level

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space. The residential development, in whole or in part, will not qualify for economic development incentives, unless the city council, through an economic development agreement, takes such appraised taxable value into account in determining the appropriate incentive.

E. Conditional Uses. Requested uses which are to be conditioned on other criterion shall be clearly identified and defined by the applicant. Conditional uses shall be considered by the planning and zoning commission and city council utilizing procedures set forth in Article IV. If approval is given the conditions will be detailed in the amending ordinance.

F. Permitted Accessory Uses. When varying from the uses within the underlying zoning district the applicant shall provide a list of requested accessory uses and the conditions necessary for change in standards from the underlying zoning district. These permitted accessory uses shall be considered by the planning and zoning commission and city council and, if approved, will be detailed in the amending ordinance.

G. Limitation of Uses. Uses prohibited shall be those uses specifically prohibited within the underlying zoning district. The following uses are expressly prohibited within any PD-ED District and cannot be established as a permitted, conditioned or accessory use under any circumstances:

1. Batch plants

2. Commercial parking lots

3. Freight forwarding warehouses

4. Mini-Warehouses

5. Office Warehouse

6. Off-premise/billboard signage

7. Outside storage of material/equipment

8. Pawnshops

9. Retail establishments for used car sales and service

10. Retail sales of building materials displayed in an unenclosed or incompletely enclosed area with outside storage

11. Salvage/wrecking yards

H. Density Requirements. The city encourages the applicant to be creative with the design and layout of PD-ED Districts. Flexibility may be granted for requirements associated with density, lot size, open space, building coverage and impervious coverage; however, following are examples of appropriate guidelines. When varying from the guidelines the applicant shall provide adequate information for consideration.

1. Maximum Building Height

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a. PD-ED Tier One and PD-ED Tier Two: Two stories or thirty-five feet (35') for the main buildings

b. One story for accessory buildings

2. Area Regulations

a. Size of Lot

i. Minimum Lot Area - PD-ED Tier One: Ten acres (435,600 sq. ft.) PD-ED Tier Two: Two acres (87,120 sq. ft.)

ii. Minimum Lot Width - PD-ED Tier One: Five Hundred feet (500') PD-ED Tier Two: Two hundred feet (200')

In the event an Industrial ("I") District achieves access from the Tier One frontage, the minimum access shall be Fifty feet (50') and meet or exceed all required landscaping.

iii. Minimum Lot Depth -PD-ED Tier One: Five hundred feet (500') PD-ED Tier Two: Two hundred feet (200')

b. Size of Yards

i. Minimum Front Yard - Tier One - Sixty feet (60') and Tier Two - Thirty feet (30') from ultimate right-of-way line of roadway; all yards adjacent to a street shall be considered a front yard.

ii. Minimum Side and Rear Yard - Fifteen feet (15') unless adjacent to a residentially zoned property.

iii. Minimum Side and Rear Yard Adjacent to a Residential District - Twenty- five feet (25') for a building of fifteen feet (15'), and an additional one foot (1') for each foot above fifteen feet (15').

iv. Interior Side Yards - The interior side yard setback between two nonresidential buildings may be reduced to zero feet (0') where the two buildings share a common interior lot line, where construction of a party wall in accordance with the city's building codes is used, and when approved by the city council on the site plan following a favorable recommendation by the planning and zoning commission. Where such a reduced side yard setback is utilized, the equivalent open space and landscape plantings and buffers that are normally required along a shared side property boundary shall be provided elsewhere on each respective affected lot (i.e., this requirement shall not be waived but provided elsewhere on site). Furthermore, applicant shall display on the site plan all required fire access. Approval of a site plan that shows such a reduced 0' side yard setback between two nonresidential buildings shall be discretionary in nature and shall be based upon an analysis of the location, the configuration, and the impact and compatibility of the proposed construction with respect to adjacent land uses and structures.

c. Maximum Lot Coverage - Fifty percent (50%) including main and accessory buildings; maximum eighty percent (80%) impervious coverage (including all buildings, parking areas, sidewalks, etc.)

d. Maximum Floor Area Ratio (FAR) - PD-ED Tier One: One to one (1:1).

PD-ED Tier Two: Point five to one (.5:1)

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e. Maximum Building Size - The maximum building footprint (first floor) area of a structure shall be determined by applying the lot's size, minimum building setbacks, maximum of 50% lot coverage, minimum, parking requirement, minimum landscaping percentage and other pertinent development requirements.

I. Off-Street Parking and Loading Requirements. Requirements associated with off-street parking shall be initially established in accordance with Article XVI of this chapter (Off- Street Parking and Loading Requirements) and the underlying use or zoning district. When varying from these guidelines the applicant shall provide the method for establishing the new standards and the conditions necessary for the change in standards from those established.

J. Exterior Building Material. The city encourages the development of properties unique in design and that which aids in creating and following through with a theme. The facade of a building should be utilized to create an inviting atmosphere and excitement about the associated business. However, the city also requires materials to be used that will create integrity of the facility, withstand harsh elements and that will endure time. These requirements allow adequate variations for independent and unique design.

1. Masonry Requirement - One hundred percent (100%) of the exterior of all new buildings (excluding doors and windows) shall be finished in one or more of the following materials indicated below:

a. Brick, stone, cast stone, rock, marble and granite.

b. Stucco may be used on up to 40% of a building facade but must be an authentic lath and stucco technology. Dryvit type systems ("EIFS" - Exterior Insulation and Finish Surfaces) or Styrofoam products may not be used. Control joints in stucco must be coordinated with the architectural design and should be indicated on the plans submitted. No stucco board is permitted.

c. Architectural glass with less than twenty percent (20%) reflectance. However, only a maximum of twenty-five percent (25%) of a building facade may be constructed in architectural glass.

d. Split-face concrete block, poured-in-place concrete and tilt-wall concrete. Concrete products shall have an integrated color and be textured or patterned. Tilt-wall concrete structures shall include reveals, punch-outs or other similar surface characteristics and adornments to enhance the facade on at least ten percent (10%) of each facade.

e. Allowed wall systems include tilt-up concrete panels and engineered steel wall panels with masonry-like exterior finish. The exterior surface of wall systems must be textured masonry or covered with brick or stone. When tilt-up concrete wall systems are used, the visual effect of the design must reflect the wall support of structural systems that allow attenuated subdivision between openings. Large areas of blank wall, typically seen when such systems are used for retail/ industrial/ distribution facilities, are not allowed. Rather the exterior wall must be finished providing a predominately masonry or themed (e.g., Texas star) appearance. Any portion of the tilt-up concrete wall system visually exposed in the building skin must be subdivided in a design that modulates with the features of the building elevation design (such as window bands or lines of structure).

f. Cementitious board materials (i.e., Hardy plank) shall not be allowed.

2. Additional Accent Materials - In addition, a minimum of ten percent (10%) of the following accent materials may be allowed, excluding all windows, doors and glass construction, in order to

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establish a unique architectural theme for the establishment.

a. Baked-on color finish or anodized aluminum with specific exclusion to galvanized metal,

b. Glass Block, or

c. Tile

3. Side and Rear Facades - Sides not facing a road or residential area and rear facades shall be finished in a similar color, texture and material as the main front facade of the building.

4. Architectural Features - In addition to the features described in section I [1.] above, the facades of all primary commercial structures which face a street shall also include key architectural features such as:

a. All primary structures shall be designed with distinguishable architectural elements, such as a distinct base, wall and cornice or top.

b. The use of arcades, covered walkways, architectural awnings, canopies or porticos is required along twenty-five percent (25%) of the primary facade and/ or street facing facades.

c. Use of gables is permitted. Gables must be designed as: gable parapet, brick gables or craftsmanship gable.

d. No building facade shall extend for a distance greater than three times the mean elevation of the wall's height without having an offset of fifteen percent (15%) or more of the wall's height. This offset shall extend for a distance equal to at least twenty-five percent (25%) of the maximum length of either adjacent plane.

e. No horizontal wall shall extend for a distance greater than three times the height of the wall without changing height by a minimum of fifteen percent (15%) of the wall's height. The height change shall continue for a minimum distance equal to at least twenty-five percent (25%) of the maximum length of either adjacent plane.

5. Changes in Materials - The location of exterior wall material changes (e.g., brick to stucco or brick to stone) shall have a logical relationship to changes in the form of the structure and not be dictated by the simple economy. Material changes in the same wall plane are prohibited unless the dominant material is terminated with an architectural element such as a column or an offset. All materials must wrap the corner and change in one of the manners described above.

6. Roof - The implied visible purpose of the roof form is to perform those functions associated with a roof. This is to provide protection, sunshade or shed water. A roof which exists only to conceal mechanical equipment is not allowed. Roof guidelines are as follows:

a. Sloped Roof Materials shall be one of the following:

i. Metal R Panel (baked-on color finish or anodized aluminum with specific exclusion to galvanized metal

ii. Natural Stone

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iii. High quality clay or concrete tile in warm gray or dark earth tone color range

iv. High quality composition shingle with a 40-year warranty or longer. Composition shingles shall be in gray or "weathered blend" color or other dark color. All roof colors shall be limited to a "Verde," dark bronze or naturally weathered or earth tone color.

b. In instances where pitched roofs are constructed, it is important that the roof mass be balanced with the remainder of the building. Furthermore, design should allow for the intersecting of gables, dormers and other compositional components to achieve asymmetrical balance.

c. Flat roofs shall be concealed behind a parapet or an extension of the wall plane.

d. No plumbing stacks, venting stacks or roof-mounted attic ventilators (except gable or dormer vents) shall penetrate the roof surfaces facing the street. Roof projections must be mounted straight and perpendicular to the ground plane and be painted to blend with the roof color. Roof projections and HVAC equipment mounted on the roof shall be screened from view and shall not be visible from any streets abutting or adjacent to the structure.

e. The minimum roof pitch, visible from the street, shall be 8:12.

7. Outdoor Storage and Accessory Buildings - Any accessory building or storage building, which is allowed under this chapter, shall be of like appearance to the primary building.

K. Landscaping and Open Space Requirements. As the city intends to promote SmartScape and Xeriscape with the adoption of this chapter and desires to reward incentives for the use of those practices, the submission of creative open space and landscaping are encouraged.

If the applicant does not desire to utilize SmartScape or Xeriscape practices or benefit from the incentives associated with those practices, the requirements associated with landscaping and open space shall be initially established in accordance with section XVII.1 [Article 15.02] of this chapter (city's landscaping and open space regulations) and other specific, adopted city ordinances. When varying from the guidelines within the landscaping and open space regulations, the applicant shall provide the method for establishing the new standards and the conditions necessary for the change in standards from those established.

L. Utility Services. All utility service lines is underground.

M. Mechanical Equipment. All air-conditioning compressors, boilers, power and meter boxes and satellite dishes must be completely screened from public view. Screening materials must consist of architectural devices that are logical visual extensions of the building design.

N. Building Services. All building services (i.e., delivery entrance) must be located on that side of the building which does not front public streets and shall be screened or hidden from the view of adjacent residential uses. Screening materials must consist of architectural devices that are logical visual extensions of the building design.

O. Fencing, Walls and Screening Requirements

1. In the event that a PD-ED District sides or backs upon any type of residential district screening is required. See section XVII.5 [Article 15.02] for available screening options. Screening shall be erected on

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the property line separating these districts. The purpose of the screening wall or fence is to provide a visual and protective barrier between the properties

2. When screening is required between nonresidential and residential uses, it is the responsibility of the nonresidential use to construct and maintain the screening wall.

3. No wall or fence shall be erected in any front or side yard which is adjacent to a public street unless the wall or fence is required to screen the development from an adjacent residential area (particularly if the residence has, or could have, a back yard fence that would be exposed to view from the street if the required screening wall were not extended out to the street right-of-way). In this case, the wall or fence shall be extended out to the street right-of-way line by the developer of the nonresidential development and the wall or fence shall be finished on both sides in a material, manner and color that is compatible to the exterior finish materials used on the main building. Screening walls or fences shall be placed such that they do not impede the visibility of vehicles entering or exiting the nonresidential development.

4. Buffer-yards may be allowed in the front yard or side yard of a PD-ED District in a manner that they do not impede visibility for vehicles entering and exiting the development. With the construction of buffer-yards in the front yard or side yard, masonry monument signs, approximately eight feet (8') tall by ten feet (10') long with up-lighting on the face of the sign, shall be constructed immediately interior of the public right-of-way for identification.

5. All wall or fence construction requires a permit.

6. If open storage is approved by the city council, the screening wall or fence shall be a minimum of six feet (6') in height and shall be constructed according to section XVII.5 [Article 15.02] Walls, Fences and Buffer-yards[.] No outside storage may exceed the height of the wall, fence or buffer. Outside storage exceeding eight feet (8') shall require approval by the city in the site plan process.

7. Refuse storage areas (e.g., dumpster) which are not within a screened rear storage area and which are visible from any public right-of-way shall be visually screened by a minimum six-foot (6') solid brick or stone wall on at least three sides. The fourth side, which is to be used for garbage pickup service, must provide a gate to secure the refuse storage area. Each refuse facility shall be located so as to facilitate pickup by refuse collection agencies. Reinforced concrete-paved pad sites and approaches (according to the city's standard construction details as adopted or as may be amended) shall be provided for refuse facilities for loading and unloading.

8. Plans and specifications for screening walls or fences around ground-mounted utility structures (e.g., transformers, natural gas regulating stations, etc.) shall be approved in writing by the affected utility company and shall be submitted, along with an approval letter from the utility company, to the city manager or his/her designee for review and approval prior to construction of the screening/fencing.

P. Lighting. In an effort to reduce negative effects on the environment, the city encourages the use of "GO GREEN" light sources. As stated in subsection C ("GO GREEN") above, the city desires to participate in this initiative by offering incentives for these practices. Standards of controlling lighting and glare are set forth to reduce the annoyance and inconvenience to property owners and traffic hazards to motorists. These standards are intended to allow reasonable enjoyment of adjacent and nearby properties by their owners and occupants while requiring adequate levels of lighting of parking areas.

1. The city desires to encourage and promote the development of properties unique in design and

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that which aids in creating or following through with a theme. The outside lighting of a building/complex/project should be utilized to complement an inviting atmosphere and excitement about the associated business. However, the city requires materials to be used that will create integrity of the facility, withstand harsh elements and that will endure time. Minimum standards for light standards are set forth in section XIV.1.3 [15.04.033].

2. In order to preserve the night sky and to reduce glare on roadways, pedestrian areas and adjacent properties, light sources (e.g., light bulbs) shall be oriented toward the center of the site or shielded so not to be visible from the nearest property line. This applies to refractory lenses that extend beyond the lighting fixture and are designed to redirect the lighting source horizontally. This does not apply to neon or internally lit signs.

3. The allowable maximum intensity measured at the property line of a residential use in a residential district shall be 0.25 footcandles.

4. Bare bulbs of 15 watts or more or strings of lamps are prohibited, except for temporary lighting not exceeding forty-five (45) days per year.

5. All off-street parking areas, for nonresidential uses in a PD-ED district, which are used after dark shall be illuminated beginning at sunset and continuing throughout the hours of use or until midnight, whichever is earlier. However, beginning at the close of business for each property and until sunrise a minimum of twenty percent (20%) of all parking area lighting shall remain illuminated. The following minimum requirements are set for lighting of parking areas:

a. On the parking area surface, an average of at least two footcandles, initial measurement, and a minimum average of one footcandle on a maintained basis.

b. Luminaries located in an off-street parking area on privately owned property shall be mounted at a height not to exceed thirty feet (30') as measured vertically from the horizontal surface of the nearest parking pavement.

Q. Sign. On-premise signage shall be provided in accordance with the city's sign regulations. The city encourages the use of monument signs constructed of brick or stone and also encourages the submission of a comprehensive sign package to encompass all on-premise and off-premise signage that blends with the overall design of the project and avoids visual blight and pollution.

1. The purpose of this section is to allow a specialized review of signs which may have meritorious design and seek to promote a unique quality for the proposed development, but which require special consideration. The specialized review shall encompass the number, size, height, color, location, lighting or relation to adjacent property. The review shall ensure the promotion of the public health, safety and welfare and consistency with the goals of community character; the physical impact of the proposed sign on adjacent properties; and adequate mitigation of potentially unfavorable factors, such as the number, size, height, color, location, lighting and other potentially unfavorable impacts. Any form of monument, statue, artwork, tower, signage, as defined herein, or as proposed for a particular development as an architectural feature, other than a prohibited sign, may be presented as a comprehensive sign package for approval as stated herein.

2. No building permit shall be issued in any PD-ED District for any use for which a comprehensive sign package is sought under this section until a special sign permit has been approved according to the requirements of this section.

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3. Any person, firm or corporation having a proprietary interest in any property within the city corporate limits requesting approval of a special sign permit as part of a PD- ED District shall submit an application and appropriate filing fee at the same time as the submittal of the zoning application with the following:

a. A clear description of the proposed comprehensive sign package.

b. A drawing, at a scale of not less than one-quarter inch (1/4") to one foot (1'), including the following:

i. each sign proposed;

ii. the location of each proposed sign on a site plan at a scale of not less than one inch (1") to two hundred feet (200').

c. An 8-1/2" x 11" photo matte (PMT) reduction of any of the above drawings.

4. The city council, after public hearing and proper notice to all parties affected and after public hearing and recommendation by the planning and zoning commission, may authorize the issuance of special sign permits for the comprehensive sign package as part of the ED-PD.

5. The planning and zoning commission, in considering and determining its recommendations to the city council on any request for a special sign permit, may require from the applicant plans, information, operating data and expert evaluation concerning the location, function and characteristics of any sign proposed.

6. The city council may, in the interest of the public welfare and to ensure compliance with this chapter, establish conditions of operation, location, arrangement and construction of any use for which a permit is authorized. In authorizing the location of any use listed as a special sign permit, the city council may impose such development standards and safeguards as the conditions and location indicate important to the welfare and protection of adjacent property from glare, offensive view of other undesirable conditions.

7. All special sign permits approved in accordance with the provisions of this section shall be referenced on the zoning district map and a file containing all documents relevant to the application and disposition of such special sign permit shall be maintained by the city manager or his/her designee.

R. Temporary Outside Display - Temporary (i.e., not long-term or permanent) outside display of seasonal items (e.g., Christmas trees, pumpkins, live vegetation etc.) shall be allowed but limited to the following:

1. A permit from the city is required for each seasonal display.

2. Display merchandise may be placed/located at the front facade of the main building but at no time shall inhibit pedestrian traffic on the sidewalks, be located in required parking spaces, restrict rights-of-way, or obstruct adjacent properties.

3. Merchandise shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on-site or off-site, in any way (i.e., sidewalk sales cannot block the sidewalk or extend

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out into the street).

4. Merchandise shall only be located in front of the property/business that is selling the items.

5. All outside display items shall be removed at the end of business each day (except for large seasonal items such as Christmas trees).

6. All merchandise shall be displayed in an orderly manner, and the display area shall be maintained in a clean, litter-free manner.

S. Long-term and Permanent Open Storage - Long-term and permanent open storage is prohibited in the TC district.

T. Special Requirements

1. Driveway Spacing (i.e., distance between driveways, measured edge-to-edge):

a. Driveway spacing in a PD-ED Tier One shall be determined by the rules and regulations of the Texas Department of Transportation (TxDOT). Driveways accessing a local collector street shall be no less than one driveway per one hundred linear feet (100') of frontage. From time to time adjoining properties may be required to share driveways for ingress and egress.

b. Driveway spacing in a PD-ED Tier Two shall be no less than one driveway per two hundred linear feet (200') of frontage. Driveways accessing a local collector street shall be no less than one driveway per one hundred linear feet (100') of frontage. From time to time adjoining properties may be required to share driveways for ingress and egress.

c. Minimum distance from driveway to street corner shall be no less than seventy- five feet (75') as measured from the street corner radius point of tangency. Fifty feet (50') may be permitted via site plan approval by city council, upon recommendation by the planning and zoning commission, provided that the lesser distance of fifty feet (50') is approved in writing by the city manager, or his/her designee, or, if located on a State roadway, it is approved in writing by the local representative of TxDOT.

U. Submittal Requirements. To facilitate understanding of the request during the review and public hearing process the concurrent submission of a concept plan for the proposed project shall be required along with the PD-ED zoning application.

1. concept plan - This Plan shall be submitted by the applicant at the time of the PD-ED zoning request. The Plan shall show the applicant’s intent for the use of the land within the proposed PD-ED District in a graphic manner and, as may be required, supported by written documentation of proposals and standards for development. The city may prepare application forms that further describe and explain the following requirements:

a. A concept plan shall be submitted with any zoning district allowed under this chapter and shall clearly show all pertinent aspects of the type and nature of the proposed development. The concept plan shall show the types of uses proposed; access, topography and boundaries of the PD-ED area; existing physical features of the site; existing and proposed streets, alleys, easements and lot lines; location of existing or proposed public facilities; building heights and locations; parking areas and ratios; fire lanes; screening and landscaped areas; project phasing and scheduling; and other pertinent development data to adequately describe the proposed development.

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b. A detailed site plan and preliminary plat shall be submitted in accordance with this chapter for approval within one year from the approval date of the concept plan for all or some portion of the PD-ED District covered by the overall PD-ED concept plan. If the detailed site plan and preliminary plat are not submitted within one year, then the PD-ED concept plan may be subject to review by the planning and zoning commission and the city council to determine its continued validity. If the city determines that the PD-ED concept plan is no longer valid or that the proposed development is no longer viable, then a new PD-ED concept plan, along with a PD-ED zoning application to amend the PD-ED Ordinance and its accompanying concept plan, must be submitted for review and approval prior to detailed site plan and preliminary plat review/ approval and any subsequent issuance of a building permit for any portion of the PD-ED District.

c. PD-ED site plan (detailed) and preliminary plat - Submission and approval of the detailed PD-ED site plan shall be in accordance with this chapter and shall accompany the preliminary plat. The detailed PD-ED site plan will establish the final plans for development of the PD-ED District, or any portion thereof, and it shall substantially conform to the concept plan and development data approved on the city council. A PD-ED site plan, along with the required engineering and architectural site construction plans and preliminary plat, may be submitted for only the sections or lots that are proposed for immediate development rather than for the entire PD-ED District. Building facade (i.e., elevation) plans shall be submitted for review and approval along with the site plan. Facade plans shall clearly show how the buildings will look, especially as viewed from the major thoroughfare upon which the property faces or sides and will portray a reasonably accurate depiction of the materials and colors to be used. The city manager, or his/her designee, may require submission of additional information and materials (possibly actual samples of materials to be used) during the site plan review process.

d. Lapse, Extension or Reinstatement of PD-ED concept plan or PD-ED site plan shall be in accordance with the provisions of Article VIII (concept plan/Site Plat) of this chapter.

V. Approval Process and Procedures

1. The procedure for establishing a PD-ED District shall follow the procedures for zoning amendments as set forth in section IV.1 of this chapter.

2. This chapter establishing the PD-ED District shall not be adopted until the accompanying concept plan is approved by the city council, and until all other procedural requirements set forth in this chapter are satisfied.

3. When considering a PD-ED zoning request the planning and zoning commission and/ or city council may require a written report from the city manager, or his/her designee, discussing the project's impact upon planning, engineering, water and wastewater utilities, electric, sanitation, building inspection, tax, police, fire and traffic, as well as written comments from applicable public agencies (e.g., School District, TxDOT, etc.). In the event written comments and advisement are not forthcoming in a reasonable amount of time, the commission may, at its discretion, make a recommendation to the city council without the comments or advisement.

4. Upon final approval of the PD-ED District, in accordance with the provision of this chapter, shall be prefixed by a "PD-ED1" or "PD-ED2" designation and assigned a unique identification number (e.g., PD-ED1-1, PD-ED2-1) or title (e.g., PD- ED1-Target, PD-ED2-Hampton Plaza) and shall also be referenced on the Official Zoning Map. A list of such PD-ED Districts, showing the developer's (i.e., zoning applicant's) name, acreage and location of the property, base zoning districts, PD- ED ordinance

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adoption date, uses permitted and any other special stipulations of each PD-ED District, shall be maintained in the city secretary's office.

5. Prior to the adoption of this chapter, the city council previously established certain PD-ED districts, some of which are to be continued in full force and effect.

IX.4.4 SUP - specific use permits

A. Purpose and Intent

1. Nature of Conditional, or Specific, Use - A conditional, or specific, use is a land use which, because of its unique nature, is compatible with the permitted land uses in a given zoning district only upon a determination that the external effects of the use in relation to the existing and planned uses of adjoining property and the neighborhood can be mitigated through imposition of certain standards and conditions. This section, along with the comprehensive master plan, sets forth the standards used to evaluate proposed conditional uses and the procedures for approving specific use permit applications.

2. Permit Required - No conditional use shall be established and no building permit shall be issued for any use designated as a conditional use within any zoning district until a specific use permit (SUP) is issued in accordance with the provisions of this section. An application for a specific use permit shall be accompanied by a concept plan or a detailed site plan prepared in the manner described in Article VIII of this chapter. The concept plan or site plan shall illustrate the proposed use to be established, its relationship to adjoining properties, and how it meets the approval standards set forth in Article VIII.

B. Status of Conditionally Permitted Uses. The following general rules apply to all conditional uses:

1. The designation of a use in a zoning district as may be permitted by SUP in section

XI.4.4 [IX.4.4] of this chapter does not constitute an authorization or assurance that such use will be approved.

2. Approval of a specific use permit shall authorize only the particular use for which the SUP is issued. An SUP may only be issued to the identified property and to the applicant. Any change in applicant shall render the SUP null and void. An SUP cannot be transferred to any other owner, applicant or property.

3. No use authorized by a specific use permit shall be enlarged, extended or relocated, nor may the number of dwelling units be increased, unless an application is made for approval of a new specific use permit in accordance with the procedures set forth in this section and section XI.4.4 [IX.4.4] of this chapter.

4. Development of the use shall not be carried out until the applicant has secured all the permits and approvals required by these zoning regulations, this Code, and any permits that may be required by regional, state or federal agencies.

C. Application for specific use permit

1. Application Requirements - An application for a specific use permit may be submitted by the property owner or by the property owner's designated representative to the city. The application shall be accompanied by a concept plan or site plan prepared in accordance with the requirements of Article VIII

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herein. If a base zoning district amendment is required or requested, such rezoning application shall accompany the application for a specific use permit.

2. Subdivision Approval - If the proposed use requires a division of land or requires platting the property, an application for subdivision approval (e.g., site plan or preliminary plat) shall be submitted in conjunction with the application for a specific use permit (see subdivision regulations). Approval of the specific use permit shall not become effective until final approval of the subdivision application provided that, if the land is to be divided and developed in phases, the approval of the specific use permit shall take effect upon final plat approval of the phase of the subdivision containing the property on which the conditional use is to be located.

D. Procedures for specific use permits

1. Planning and zoning commission Recommendation - Upon receipt of the recommendation from the city manager, the planning and zoning commission shall advertise, post and conduct a public hearing in order to formulate its recommendations to the city council on the specific use permit application. Following the public hearing and determination of conformance with the comprehensive master plan, the planning and zoning commission shall recommend approval, approval subject to modification, or denial of the proposal to the city council in accordance with section II.1.7. If the appropriateness of the use cannot be assured at the location, the planning and zoning commission shall recommend denial of the application as being incompatible with existing uses or with other uses permitted by right in the district.

2. city council Action - The city council shall be the final decision-maker on applications for specific use permits. Following a duly advertised and posted public hearing, consideration of the planning and zoning commission's recommendations and determination of conformance with the comprehensive master plan, the city council shall approve, modify or deny the proposal for a specific use permit in accordance with section XI.4.4 [IX.4.4]. If the appropriateness of the use cannot be assured at the location, the application for specific use permit shall be denied as being incompatible with existing uses or with other uses permitted by right in the district.

E. Standards

1. Factors for Consideration - When considering applications for a specific use permit, the planning and zoning commission in making its recommendation and the city council in rendering its decision on the application shall, on the basis of the concept plan/site plan and other information submitted, evaluate the impact of the conditional use on, and the compatibility of the use with, surrounding properties and neighborhoods to ensure the appropriateness of the use at a particular location. The planning and zoning commission and the city council shall specifically consider the extent to which:

a. The proposed use at the specified location is consistent with the goals, objectives and policies contained in the adopted comprehensive master plan;

b. The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;

c. The proposed use meets all supplemental standards specifically applicable to the use as set forth in Article XV of this chapter;

d. The proposed use is compatible with and preserves the harmony, character and integrity of adjacent development and neighborhoods and, as required by the particular circumstances, includes

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improvements or modifications either on-site or within the public rights-of-way to mitigate development-related adverse impacts, including but not limited to:

i. Situational suitability, which may include but are not limited to, lighting, noise restrictions, hours of operation, business regulations and loading zones.

ii. Adequate ingress and egress to property and proposed structures thereon with particular reference to vehicular and pedestrian safety and convenience, and access in case of fire;

iii. Off-street parking and loading areas;

iv. Refuse and service areas;

v. Utilities with reference to location, availability, and compatibility;

vi. Screening and buffering, features to minimize visual impacts, or setbacks from adjacent uses;

vii. Control of signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

viii. Required yards and open space;

ix. Height and bulk of structures;

x. Hours of operation;

xi. Exterior construction material and building design; and

xii. Roadway adjustments, traffic-control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development-generated traffic on neighborhood streets.

e. The proposed use is not materially detrimental to the public health, safety, convenience and welfare, or results in material damage or prejudice to other property in the vicinity.

2. Conditions - In approving the application, the planning and zoning commission may recommend, and the city council may impose, such additional conditions (e.g., hours of operation, etc.) as are reasonably necessary to assure compliance with these standards and the purpose and intent of this section, in accordance with the procedures in Article IV. The additional conditions shall exceed the minimum standards contained herein or in any other applicable provision of this Code, and they cannot, in effect, relax or grant relief from any of the city's minimum standards (see subsection C [3.] below). Any conditions imposed shall be set forth in the ordinance approving the conditional use and shall be incorporated into or noted on the concept plan or site plan for final approval. Other than additional conditions specifically amended or altered in the approving ordinance or site plan, all other district regulations of the base zoning district shall apply. The city manager or his/her designee shall verify that the plan incorporates all conditions set forth in the ordinance authorizing the conditional use and shall sign the plan to indicate final approval. The city shall maintain a record of such approved conditional uses and the site plans and conditions attached thereto.

3. Prohibition on Waivers and Variances - The foregoing additional conditions (i.e., standards of

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development for the SUP) shall not be subject to variances that otherwise could be granted by the zoning board of adjustment, nor may conditions imposed by the city council subsequently be waived or varied by the ZBA. In conformity with the authority of the city council to authorize conditional uses, the city council may waive or modify specific standards otherwise made applicable to the use by this chapter, to secure the general objectives of this section; provided, however, that the city council shall not waive or modify any approval factor set forth in subsection A of this section [subsection 1. above].

4. General Provisions of specific use permit. A specific use permit shall contain the following provisions, among any others deemed necessary and advisable by the city council for the conduct of operation of a particular use and to ensure continuation of situational suitability.

a. The specific use permit is specific to an identified physical or legal location and to the owner/applicant and shall not be transferred to any other location, entity or person without the approval of the city council in accordance with the procedures for approval of a new SUP; and

b. Any violations of the terms and conditions of the specific use permit shall render the "SUP" null and void without further notice or hearing.

F. Expiration and Extension. A specific use permit may be rescinded by the city council, on its own motion and at its discretion, for failure to commence development or for failure to extend the time for performance for the concept plan or site plan approved along with the SUP.

G. Amendment. No proposed or existing building, premise or land use authorized as a conditional use may be established, enlarged, modified, structurally altered, or otherwise changed from that approved in the specific use permit, unless such amendment is authorized in accordance with the standards and procedures set forth in this section, and the specific use permit and approved concept plan or site plan are amended accordingly.

H. Other Regulations. The zoning board of adjustment shall not have jurisdiction to hear, review, reverse, or modify any decision, determination, or ruling with respect to the specific land use designated by any specific use permit.

I. Use Regulations. Uses allowed by SUP are specified in section XI.1.

J. Identification of specific use permits. All SUPs approved in accordance with the provisions of this chapter, as may be amended, shall be prefixed by an "SUP" designation and assigned a unique identification number (e.g., SUP-1, SUP-2, SUP-3, and so on), and shall also be referenced on the zoning map. A list of such SUPs, showing the developer's (i.e., zoning applicant's) name, acreage and location of the property, base zoning districts, SUP ordinance adoption date, uses permitted and any other special stipulations of each SUP, shall be maintained in the city secretary's office.

K. Prior specific use permit ordinances remaining in effect. Prior to adoption of this chapter, the city council previously established certain SUPs, some of which are to be continued in full force and effect. The ordinances or parts of ordinances approved prior to this chapter, specified in Appendix A-1, shall be carried forth in full force and effect and are the conditions, restrictions, regulations and requirements which apply to the respective SUPs shown on the zoning map as of the effective date of this chapter. Each prior SUP ordinance is assigned a unique identification number (e.g., SUP-1, SUP-2, SUP-3, and so on) as shown in Appendix A-1, and subsequent SUP ordinances adopted after the effective date of this chapter shall be similarly numbered for identification purposes.
(Code 1996, ch. 14, exh. 14A, art. IX, § 4; Ord. No. O-03-24, 1-23-2024)

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Editors' note–Appendix A-1, referred to in subsection K., is not printed herein.

Sec. 5. OBSOLETE DISTRICTS.

The zoning regulations of this section shall apply only to planned development districts approved prior to the effective date of this chapter. This section contains the following types of obsolete zoning regulations:

A. Obsolete Districts. The SF-5, BP and HC districts have been removed from the remainder of this chapter and shall not henceforth be applied to any property in the city. The standards of these districts shall continue to apply only in planned development districts approved prior to the effective date of this chapter that reference the regulations of these districts in the adopting ordinance.

B. Modified dimensional regulations. Some of the dimensional regulations for single-family detached dwellings have been modified as of the effective date of this chapter. The original regulations existing prior to the effective date of this chapter and retained in this section shall continue to apply only to planned development districts approved prior to the effective date of this chapter that reference the dimensional regulations of such districts in the adopting ordinance.

C. Obsolete Use. Some planned development districts approved prior to the effective date of this chapter authorize the development of single-family detached (medium density) dwellings. The development standards for single-family detached (medium density) dwellings contained in this section shall continue to apply to such districts.

D. Obsolete planned development standards. Prior to the effective date of this chapter, the city's zoning ordinance contained specific development standards for uses other than single-family detached (medium density) dwellings in planned development districts. These standards applied in planned development districts where no other standards were specifically referenced in the adopting ordinance. These standards shall continue to apply to such districts but shall not be applicable to planned development districts approved after the effective date of this chapter.
(Code 1996, ch. 14, exh. 14A, art. IX, § 5)

ARTICLE X. ZONING DISTRICT MAP

Sec. 1. PURPOSE.

The zoning regulations and districts as herein established have been prepared in consonance with the adopted comprehensive plan. The regulations are designed to promote the health, safety, morals and general welfare of the city. They have been designed to lessen the congestion in the streets; to secure safety from fire, panic and other dangers; to insure adequate light and air; to prevent the overcrowding of land, to avoid undue concentration of population; to facilitate the adequate provision of transportation, circulation, water, sewerage, schools, parks, and other public requirements. They have 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.
(Code 1996, ch. 14, exh. 14A, art. X, § 1; Ordinance O-03-09 adopted 4/20/09)

Sec. 2. ZONING MAP.

X.2.1 Division of city into Boundaries. The city is divided into zones, or districts, and the boundaries of

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zoning districts set out herein are delineated upon a zoning district map (the "zoning map") of the city, adopted as a part of Ordinance O-06-18 as if the same were set forth herein in detail.

X.2.2 Original Zoning Map. One original of the zoning map shall be filed in the office of the city secretary and labeled as "Official Zoning Map of the City of Glenn Heights, Texas, Exhibit A to Ordinance O-06-18." This original shall be the Official Zoning Map and shall bear the signature of the mayor and attestation of the city secretary. This original shall not be changed in any manner. In case of any question, this original, together with subsequent amending ordinances, shall be controlling. Reproductions for informational purposes may be made of the official zoning map.

X.2.3 Replica Zoning Map. An additional copy ("replica copy") of the official zoning map shall be placed in the office of the city manager or his/her designee. The replica copy shall be used for reference and shall be maintained up-to-date by posting thereon all subsequent amendments, including annexations.

Any changes or amendments made to the zoning map shall be made on the replica copy promptly after the amendment has been approved by the city council, together with a descriptive entry on the map that shows the ordinance number and the date upon which each official action was taken by the city council to amend the zoning map, and the effective date of such map change.
(Code 1996, ch. 14, exh. 14A, art. X, § 2; Ordinance O-06-18 adopted 6/5/18)

Sec. 3. ZONING DISTRICT BOUNDARIES.

The district boundary lines shown on the zoning map are usually along streets, alleys, property lines, or extensions thereof. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

A. Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines.

B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

C. Boundaries indicated as approximately following city limits shall be construed as following city limits.

D. Boundaries indicated as following stream lines shall be construed to follow such stream lines, and in the event of change in the stream line shall be construed as moving with the actual stream line.

E. Boundaries indicated as following railroad lines shall be construed to be located along the centerline of the railroad right-of-way lines.

F. Boundaries indicated as parallel to or extensions of features indicated above in A through E shall be so construed. Distances not specifically indicated on the original zoning maps shall be determined by the scale of the map.

G. When any street, alley, or other public way is vacated by official action of the city council or whenever such area is franchised for building purposes, the zoning district line adjoining each side of such street, alley, or other public way shall be automatically extended to the centerline of such vacated street, alley, or way and all areas so involved shall then and henceforth be subject to all regulations of the extended districts.

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H. The zoning classification applied to a tract of land adjacent to a street shall extend to the centerline of the street, unless as a condition of zoning approval, it is stated that the zoning classification shall not apply to the street.

I. When physical features on the ground are at variance with information shown on the official zoning district map or when there arises a question as to how or whether a parcel of property is zoned and such question cannot be otherwise resolved by the application of this chapter, the property shall be considered as classified, A, Agricultural District, in the same manner as provided for newly annexed territory.

J. If the zoning of property is invalidated by a judgment of a court of competent jurisdiction, the property shall be considered classified as “A”, (Agricultural) in the same manner as provided for newly annexed territory until such time as the property can be rezoned.

K. Zoning changes which are still valid and which were made between the effective date of the previous this chapter (Ordinance. O-10-08, as amended), adopted on April 21, 2008, and the effective date of this chapter are indicated in approximate locations on the zoning map. For exact legal descriptions refer to adopting ordinances for each particular permanent zoning change.

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Use	A	SF-E	SF-1	SF-2	SF-3	SF-4	SFPH	MF	MH	TC	O	NS	R	C	I	PD	PDED
Accessory bldg > 650 sf	S	X	X	X	S	S		S			S	S	S	S	S	X	
Accessory bldg w/main	X	X	X	X	S	S		X			X	X	X	X	X	X	
Accessory residence/Guest house	S	S	S	S	S	S										S	
Accessory use	S										S	S	S	S	S	X	X
Adm/corporate hdqts											X		X	X	X	X	
Airport																X	
Amusement park, perm														S	S	X	
Amusement, comm (ind)													S	S	S	X	X
Amusement, comm (out)														S	S	X	
Animal clinic (inside)											S	S	S	X	X	X	
Animal pound, municipal											X	X	X	X	X	X	
Antenna, CB/amateur	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
Antenna, commercial											S	S	S	S	S	X	
Antenna, satellite dish	X	X	X	X	X	X	X	X	X	S	X	X	X	X	X	X	X
Antique shop										S	S	X	X	S			X
Apartment house								X								X	X
Appliance store, home											S	S	X	X	X	X	X
Appliance service/repair											S	S	S	S	S	X	S
Assembly hall										S	S	X	S	S		X	
Assembly, electronics															S	X	
Athletic stadium/field (Public)	S	S	S	S	S	S		S			S	S	X S	X	S	S	S
Auto Assembly and Rebuild													S	S	S	X	
Auto Paint, Body and Upholstery Repair													S	S	S	X	
Auto center													S	S	S	X	
Auto leasing/rental											S	S	S	X	S	X	X
Auto parts, inside											S	S	X	X	S	X	X
Auto parts, outside																	
Auto repair, major													S	S	S	X	

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Auto repair, minor													S	S	S	X	
Auto storage														S	S		
Automobile sales, new													S	S	S	X	
Automobile sales, used													S	S	S	X	
Automobile sales/service													S	S	S	X	
Bakery/confectionary												X	X	X	X	X	S
Bank										X	X	X	X	X	X	X	X
Bank, automatic teller										X	X	X	X	X	X	X	X
Bar										S		S	S	S	S	S	X
Barber shop/college										S		X	X	X	S	X	X
Basement/cellar	X	X	X	X	X												
Batch plant, asphalt perm																	
Batch plant, asphalt temp	S	S	S	S	S	S	S	S	S		S	S	S	S	S	S	S
Batch plant, concrete perm																	
Batch plant, concrete temp	S	S	S	S	S	S	S	S	S		S	S	S	S	S	S	S
Bath house																	
Battery manufacturing																	
Beauty shop										S	S	X	X	X		X	X
Bed and breakfast																	
Big box (anchor)										S			S	S	S	S	X
Boarding house																S	
Boat sales													S	S	S	S	
Boat storage, dry	S													S	S	S	
Book bindery														S	S	X	
Use	A	SF-E	SF-1	SF-2	SF-3	SF-4	SFPH	MF	MH	TC	O	NS	R	C	I	PD	PDED
Bottling works														S	S		
Building material, inside													S	X	S	X	X
Building material,														S	S	S	

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outside																		
Building, public agency											S	X	X		X	X	X	X
Building, temporary																		
Bus stop											S	S	S	S	S	S	X	X
Business service												X	X	S	S		X	X
Cabinet shop/upholstery														S	S	S	X	
Camping sites																		
Carwash, automated													S	S	S		X	X
Carwash, manual													S	S	S		X	
Caretaker/guard quarters	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	X	X
Carnival, temporary														S	S	S	S	
Carport	X	X	X	X	S	S	S	X				S	S	S	S	S	S	S
Carting															S	S	X	
Cemetery, human																S	X	
Child care (in home)	S	S	S	S	S	S												
Church/rectory	S	S	S	S	S	S	S	S	S	S	S	S	S	X	X		X	X
Clothing/apparel store											S		X	X	X	S	X	X
Club, private											S	S	S	S	S	S	S	S
Club, country private													S	S	S	S	X	X
Club, fraternal											S	S	S	S	S	S	S	S
Club, night											S		S	S	S	S	S	X
College/university	S	S	S	S	S	S		S				S	S	S	S	S	X	
Common area	X	X	X	X	X	X	X	X	X	S	S	S	S	S	S	X	X	
Community center, priv	S	S	S	S	S	S		S		S		X	X	X	X	X		
Community center, publ										S	X	S	S	S		X	X	
Community home	X	X	X	X	X	X	X	X	X									
Construction yard, temp	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S		
Contractor’s shop														S	S	S	X	

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Convenience store											S	S	S	S	X		S	X
Credit access business														S	S			
Credit union											X	X	X	X	X	X	X	X
Cultural establishment	S	S	S	S	S	S		S			S	S	S	S	S	S	X	X
Dairy processing																S	X	
Dance hall											S		S	S	S	S	S	S
Day care, registered	S	S	S									S	S	S	S		S	
Dental clinic/office											S	X	X	X	X	X	X	X
Department store											S	S	S	X	X		X	X
Distribution ctr/warehs																S	X	
Drapery manufacturing															S	S	X	
Drapery sales											S	S	S	X	X	X	X	X
Drug/pharmaceutical mfg																S	X	
Dry cleaning plant comm															S	S	X S	
Dry cleaning shop sm											S	S	S	X	X	X	X	X
Easement/ROW	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Elderly husing, Retirement														S	S			
Elederly housing, Assistant living														S	S			
Electric products mfg																S	X	
Electrical substation	S	S	S	S	S	S	S	S	S		S	S	S	S	S	X		
Electric transmission line	S	S	S	S	S	S	S	S	S		S	S	S	S	S	S	S	
Electronic manufacturing																S	X	
Electronics store											S	S	X	X	X	X	X	X
Use	A	SF-E	SF-1	SF-2	SF-3	SF-4	SFPH	MF	MH	TC	O	NS	R	C	I	PD	PDED	
Engine/motor repair														S	S			
Excavation, sand/gravel																		
Express hauling														S	X S	X		

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Family home	X	X	X	X	X	X	X	X								S	
Farm equipt displ/storage													S	X	X	X	
Farm, ranch, garden or orchard	X																
Feed lot																	
Feed/grain store													S	X	X	X	S
Field const office temp	S	S	S	S	S	S	S	S			S	S	S	S	S	S	S
Fitness facility/personal										S	S	X	X	X		X	X
Flea market																	
Florist shop										S	X	X	X	X	X		X
Food product mfg										S					S	X	
Food/convenience store										S	S	S	S	S	S	S	X
Foundry casting, non-fer																	
Frozen food locker															X	X	
Funeral home/mortuary													S	X	X	X	
Fur goods mfg															S	X	
Furniture mfg															S	X	
Furniture, Home Furnishing and Equipment rental										S	S	S	S	S	S	X	X
Furniture, Home Furnishing and Equipment Store										S	S	S	S	X	S	X	X
Garage apartment	S	S	S														
Garage, com'l parking										S			S	S	S	X	X
Garage, detached	X	X	X	S X	S	S								S	S	X	
Garage, public										S	S	S	S	S	X	X	X

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Garden center, Nursery, Greenhouse /shop														S	X	S	X	X
Gasoline/petro drilling	S															S		
Gasoline/petro storage	S															S		
Gasoline/petro distrib	S															S		
Gift shop/novelty											S	S	X	X	X		S	S
Glass products mfg																X	X	
Golf course, miniature	S												S	S	X	S	X	
Golf course, municipal	S												S	X	X	X	X	
Golf course, private	S												S	S	S	S	S	
Golf course, putting	S												S	S	S	S	X	
Golf driving range	S												S	S	S	S	X	
Grocery store											S		S	S	S	S	S	X
Grooming shop, animal													S	S	S		X	X
Gymnastic/dance studio											S		X	X	X			
Hardware sales, inside											S		S	S	X		X	X
Hardware sales, outside															S			
Hauling/storage company															S	S		
Health center											S	X	X	X	X		X	
Heavy machinery sales															S	S	X	
Heavy machinery service															S	S	X	
Heliport/helistop	S											S		S	S	S	X	
Home improvement ctr														S	X	S	X	X
Home occupation	X	X	X	X	X	X	X	X	X								X	
Hospital												S		S	S	S	S	
Hospital, acute/chronic/rehab												S		S	S	S	S	
Hotel/motel												S		S	S	S	S	S

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Use	A	SF-E	SF-1	SF-2	SF-3	SF-4	SFPH	MF	MH	TC	O	NS	R	C	I	PD	PDED
Hotel/motel < 75 rooms																	
Hotel/motel residence														S			S
HUD-code manuf'd home									X							X	
HUD-code m'd home, sales																	
HUD-code m'd home subdivision									X								
Industrial park															S	X	
Industrial, general															S	X	
Indust/prefab housing									X						S		
Instrument/meter mfg															S	X	
Insurance agent office										S	X	X	X	X	S	X	X
Insurance estimator										S	X	X	X	X	S	X	X
Interior decorator office										S	X	X	X	X	S	X	X
Jail/prison/holding facility																X	
Kennels	S													S	S	X	
Key shop/locksmith												X	X	X	X	X	
Kiosk										S	S	S	S	S	S	S	S
Kiosk, recycling														S	S	S	
Laboratory, medical											X	X	X	X	X	X	
Laboratory, science/rese	S										S	S	S	S	S	S	
Laundromat												S	S	S	S		
Laundry, commercial														S	S	X	
Law office										S	X	X	X	X		X	X
Leather goods fabrication															S	X	
Leather goods shop										S		S	X	X			X
Library, public										X	S	X	X	X	X	X	X

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Light fabrication/assembly															S	X		
Light manufacturing															S	X		
Light sheetmetal products															S	X		
Lumber yard, inside														S	S	X	X	
Lumber yard, outside														S	S	S		
Machinery sales/service														S	S	X		
Manufacturing, general															S	X		
Massage establishment													S	S				
Mausoleum														S	S	X		
Medical clinic/office											S	X	X	X	X		X	
Medical supplies store											S	X	X	X	X		X	X
Model home	X	X	X	X	X	X	X											
Modular home									X									
Monopole												S	S	S	S	S		
Mortuary / Funeral Home														S	S	S	X	
Motor freight company																S		
Motorcycle sales/service															X		X	
Motor raceway/track																		
Multifamily bldg								X										
Multifamily residence								X										
Multi-use entertainment														S	S		X	
Municipal building											X	X	X	X	X	X	X	X
Municipal facility/use	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Museum private	S	S	S	S	S	S		S		S	S	S	S	S	S	X	X	
Music/art studio										S	X	S	X	S		X	X	
Musical instrument mfg															X	X		
NS use, < 5000 sf										S	S	X	S	S	S	S	S	

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Use	A	SF-E	SF-1	SF-2	SF-3	SF-4	SFPH	MF	MH	TC	O	NS	R	C	I	PD	PDED
Newspaper printing												S	S	S	S	X	
Novelty mfg															S	X	
Nusing Home													S	S			
Office center										S	X	X	X	X	S	X	X
Office showroom													S	X	S	X	
Office warehouse														S	S	X	
Office, business general										S	X	X	X	X	S	X	X
Office, field construction	S	S	S	S	S	S	S	S		S	S	S	S	X	S	X	X
Office, professional										S	X	X	X	X		X	X
Oilfield equipment storage															S	X	
Open space	X	X	X	X	X	X	X	X	X	S	X	X	X	X	X	X	X
Optical goods mfg														S	S	X	
Optician/optometrist										S	X	X	X	X	X	X	X
Osteopathic clinic/office										S	X	X	X	X	X	X	X
Paint shop														S	S	X	
Paper products mfg															S	X	
Park and ride														X	X	X	
Park/playground	X	X	X	X	X	X	X	X	X	S	X	X	X	X		X	X
Parking lot, off-street							X	X	X	X	X	X	X	X	S	X	X
Parking lot, permit'd use											X	X	X	X	S	X	
Parking lot, commercial										X	X	X	X	X		X	X
Parking lot, truck														S	S		
Patio home							X									X	X
Pawnshop													S	S			
Pet shop										S		S	X	X		X	X
Petroleum extraction															S		
Pharmacy/drugstore										S		X	X	X		S	X

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Philanthropic institution											S	X	X	X	X	S	X	X
Photographer studio											S	X	X	X	X	X	X	X
Plant, commercial general																S	X	
Plastic products, mfg																S	X	
Portable building, sales															S	S	X	
Print shop											S	S	S	X	X	S	X	X
Produce stand	X												S		S	S		
Produce stand, temp	X												S	S	S	S	X	
Professional service											S	X	X	X	X	S	X	X
Propane sales														S	X	S		
Psychologist/psychiatrist											S	S	S	S	X	S	X	X
Public agency bldg/facil											S	S	S	S	S	S	S	S
Quarry, rock																		
Radio broadcasting/twr	S	S	S	S	S	S	S	S	S		S	S	S	S	S	S		
Real estate sales office											S	X	X	X	X	S	X	X
Recreation center	S	S	S	S	S	S		S			S	S	X	X	X	S	X	
Recreation facility, private	S	S	S	S	S	S		S				S	S	X	X	S	X	
Recreation facility, public	X	X	X	X	X	X		X				X	X	X	X	S	X	
RV/campers sale/lease															S	S	X	
Rehabilitation care / Halfway House								S									S	
Rental, tool/machinery														S	X	S	X	
Rental, trailer														S	X	S	X	
Rental, truck/bus														S	X	S	X	
Rental/sales, trailers														S	X	S	X	
Repair shop, truck/bus																S		
Residential, MF dwelling								X									X	X

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(Code 1996, ch. 14, exh. 14A, art. X, § 2; Ordinance O-03-09, adopted 4/20/09)

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ARTICLE XI. PERMITTED USES

Sec. 1. USE CHARTS.

The use of land or buildings shall be in accordance with those listed in the following use charts. No land or building shall hereafter be used and no building or structure shall be erected, altered, or converted other than for those uses specified in the zoning district in which it is located. The following legend indicates the status of each land use in a corresponding district.

X Permitted

Not Permitted

S specific use permit

For clarification and understanding of each use set out below, see Definitions Article XIX.

If a use is not listed or if the designation remains blank, it is not allowed in the zoning district or districts. (see the legend above)

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Use	A	SF-E	SF-1	SF-2	SF-3	SF-4	SFPH	MF	MH	TC	O	NS	R	C	I	PD	PDED
Resort														S		X	X
Restaurant, dine-in										S	S	S	X	X	S	S	X
Restaurant, drive-in										S	S	S	S	S	S	S	X
Restaurant with drive-thru										S	S	S	S	S	S	S	X
Restaurant without drive-thru										S	S	S	X	X	S	S	X
Restaurant, accessory										S	S	S	S	S	S	S	X
Retail service, accessory										S	X	X	X	X	S	X	X
Retail stores, general										S	S	S	S	S	S	S	S
Retail stores and shops										S	X	X	X	X	S	X	X
Salvage/reclamation														S	S		
Salvage/junkyard														S	S		
Sand/gravel extraction														S	S		
Sanitarium											S			S		X	
Sanitary landfill																	
Savings and loan										S	S	S	X	X	X	X	X
School, boarding private													S	S		X	
School, business													S	S	S	x	
School, commercial/trade														S	S	S	
School, parochial	S	S	S	S	S	S		S			S	S	S	X		X	
School, private										S				S		X	
School, public	X	X	X	X	X	X	X	X	X		X	X	X	X	X	X	X
Sexually oriented business																	
Shoe manufacturing															S	X	
Shopping center										S	S	S	S	S	S	S	X
Single-family residence	X	X	X	X	X	X	X		X							X	X
Skating rink, ice/roller													S	S		S	S
Skating rink, roller													S	S	S	X	S
Sporting goods										S		X	X	X		X	X
Sporting goods mfg															S	X	

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Stable, commercial	X													S	S	X	
Stable, private	X															X	
Stadium/playfield, private														S	S	X	
Station, train, RR, bus														S		X	
Storage yard (outside storage)														S	S	X	
Storage/wholesale wrh														X	S	X	
Studio, radio/television										S	S			X	S	X	S
Swimming pool, comm														X	S	X	
Swimming pool, private	X	X	X	X	X	X	X	X	X				X	X			
Swimming Instruction as a Home Occupation	S	S	S	S	S	S	S	S	S								
Telemarketing center											X	X		S	S	X	
Telephone exch/switching											S	S	S	S	S	X	
Tennis court, private	X	X	X													X	
Terminal, bus													S	X	S	X	
Terminal, freight															S	X	
Terminal, truck															S	X	
Terminal, baggage														X	S	X	
Terminal/transfer stor'g														X	S	X	
Theater, drive-in													S	S	S	X	
Theater, indoor										S			X	X	S	X	X
Tire dealer, inside													S	S	S		
Tire dealer, outside																	
Tire retreading/capping															S	X	

Use	A	SF-E	SF-1	SF-2	SF-3	SF-4	SFPH	MF	MH	TC	O	NS	R	C	I	PD	PDED
Tire sales/service													S	S	S	X	
Trailer court																	
Trailer park/RV park																	
Transit station/turnaround															S	X	

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Transmission lines	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Transportation structure														S	S	X	
Truck/bus repair														S	S	X	
Truck sales, heavy															S	X	
Utilities, municipal	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Utility distribution	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Utility service yard, publ															S	X	
Utility structure														S	S	X	
Utility, other than listed	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	X	X
Utility, private	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
Vapor shop													S	S			
Vehicle service, for hire														S			
Veterinarian clinic										S	X	X	X	X	S	X	
Warehouse, freight															S	X	
Warehouse, Air Conditioned													S	S	S	X	
Warehouse, self storage / Mini													S	S	S	X	
Warehouse, wholesale hvy														S	S	X	
Warehouse, wholesale lt														S	S	X	
Washateria/self-serve												S	S	S	S	X	
WWTP	S	S	S	S	S	S		S	S		S	S	S	S	S	X	
Wholesale distribution ctr															S	X	
Wind system, small	S	S	S														
Wrecking yard																	
Zero lot line residence							X									X	X

(Code 1996, ch. 14, exh. 14A, art. XI, § 1; Ordinance O-03-09 adopted 4/20/09 ; Ordinance O-14-15, sec. 1, adopted 10/20/15 ; Ordinance O-13-15, sec. 1, adopted 11/16/15 ; Ordinance O-15-15, sec. 1, adopted 12/1/15; Ord. No. O-16-24, exh. A, 9-3-2024)

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Sec. 2. CLASSIFICATION OF NEW AND UNLISTED USES.

It is recognized that new types of land use will develop and arise in the future, and forms of land use not anticipated may seek to locate in the city and the possible change in intensity of use for a listed use may occur. In order to provide for such changes and contingencies, a determination as to the appropriate classification of any new or unlisted form of land use, or modification for listing of a use of land, shall be made as follows:

A. Initiation

1. A person, city department, the commission or the city council may propose zoning amendments to regulate new and previously unlisted uses.

2. A person requesting the addition of a new or unlisted use shall submit to the city manager or his/her designee, all information necessary for the classification of the use, including but not limited to:

a. The nature of the use and whether the use involves dwelling activity, sales, services or processing;

b. The type of product sold or produced under the use;

c. Whether the use has enclosed or open storage and the amount and nature of the storage;

d. Anticipated employment typically associated with the use;

e. Transportation requirements;

f. The nature and time of occupancy and operation of the premises;

g. The off-street parking and loading requirements;

h. The amount of noise, odor, fumes, dust, toxic materials and vibration likely to be generated;

i. The requirements for public utilities such as sanitary sewer and water and any special public services that may be required; and

j. Impervious surface coverage.

B. The city manager or his/her designee shall refer the question concerning any new or unlisted use to the commission requesting an interpretation as to whether a new use shall be permitted or into which zoning district a new use may be placed. The referral of the use interpretation question shall be accompanied by a statement of facts from the applicant, if requested by a city department, from the city manager or his/her designee. This statement of facts shall be directed by items delineated in section 2.A.2 above. An amendment to this chapter shall be required as set forth in section IV.1.

C. The planning and zoning commission shall consider the nature and described performance of the proposed use and its compatibility with the uses permitted in the various districts and

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determine the zoning district or districts within which such use is most similar and should be permitted, whether by right or by SUP.

D. The planning and zoning commission shall transmit its findings and recommendations to the city council as to the classification proposed for any new or unlisted use. The city council shall, by zoning amendment, approve or deny the recommendation of the planning and zoning commission or make such determination concerning the proper placement of such use as is determined appropriate based upon its findings. If approved, the new or unlisted use shall be amended in the use charts of this chapter according to Article IV after notification and public hearing as required.

E. Standards for new and unlisted uses may be interpreted by the city manager or his/her designee as those of a similar use. When determination of the appropriate zoning district and minimum requirements cannot be readily ascertained, the same process outlined in paragraphs A, B, and C of this section shall be followed for determination of the new standards. The decision of the city manager or his/her designee may be appealed according to the process outlined in subsections B, C and D above.
(Code 1996, ch. 14, exh. 14A, art. XI, §2)

Sec. 3. SPECIAL RESIDENTIAL USES.

XI.3.1 Home Occupation Regulations

A. Purpose. Standards for controlling home occupations are set forth to minimize annoyance and inconvenience to neighboring property owners within residential areas. These standards are intended to allow reasonable and comfortable enjoyment of adjacent and nearby property by their owners and by occupants of neighboring residential dwellings, while providing opportunities for the pursuit of home-based businesses.

B. Special Provisions for Home Occupations

1. Home occupations shall be permitted as accessory use in single-family residential zoning districts Agriculture “A”, Single-Family-E “SF-E”, Single-Family-1 “SF-1” provided that they comply with all restrictions herein;

2. The occupation shall produce no alteration or change in the character or exterior appearance of the principal building from that of a residential dwelling, and performance of the occupation activity shall not be visible from the street;

3. The use shall be incidental and secondary to the use of the premises for residential purposes, and shall not utilize floor area exceeding twenty percent (20%) of the combined gross floor area of dwelling unit and any accessory buildings that are used for the home occupation (in no case shall the combined floor area utilized for a home occupation exceed 500 square feet);

4. The occupation shall not employ more than one person who is not a member of the household in which the home occupation occurs;

5. Not more than two patron or business-related vehicles shall be present at one time, and the proprietor shall provide adequate off-street parking on the property where the use is located;

6. The operation of such an occupation shall be between the hours of 8:00 a.m. and 6:00 p.m. for outdoor

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activities, and between 7:00 a.m. and 10:00 p.m. for indoor activities;

7. One commercial vehicle, capacity of one ton or less (according to the manufacturer's classification), may be used or parked (behind the front building line) on the property in connection with the home occupation, but the vehicle may not be parked in the street or within the front yard setback;

8. The occupation activity shall not increase vehicular traffic flow beyond what normally occurs within a residential district, and shall not require regular and frequent deliveries by large delivery trucks or vehicles with a rated capacity in excess of 1.5 tons, according to the manufacturer's classification;

9. There shall be no outside storage, including trailers, or outside display related to the home occupation use;

10. No mechanical or electrical equipment shall be employed on the premises other than that which is customarily found in a home environment, and that which is customarily associated with a hobby or a vocation which is conducted solely for pleasure and not for profit or financial gain;

11. The home occupation shall not generate noise, vibration, glare, fumes/odors, heat or electrical interference beyond what normally occurs within a residential district;

12. The occupation shall not require the use of chemicals on the property that are noxious or hazardous to the welfare of the neighborhood;

13. The home occupation shall not involve the use of advertising signs or window displays, or any other device that calls attention to the business use of the premises through audio or visual means;

14. Inventory for the home occupation of any commodity for sale located on the premise shall not occupy or utilize floor area exceeding the allowed twenty percent (20%) (and not to exceed 500 square feet) as identified in subsection C [3.] above; and

15. The occupation shall not be harmful or detrimental to the health, welfare and safety of the neighborhood, nor shall it interfere with the comfortable enjoyment of life, property and recreation by residents of the area.

XI.3.2 Applicability of Other Regulations. Home occupations shall also be subject to any and all other provisions of local, state or federal regulations and laws that govern such uses.

XI.3.3 Uses Allowed As Home Occupations. Subject to the provisions of section XI.3.1(B) above, home occupations may be limited in the use charts but can include the following uses:

A. Office facility of an accountant, architect, landscape architect, attorney, engineer, consultant, insurance agent, realtor, broker, or similar profession;

B. Author, artist or sculptor;

C. Dressmaker, seamstress or tailor;

D. Music/dance teacher, or similar types of instruction, provided that instruction shall be limited to no more than one pupil at a time;

E. Individual tutoring and home schooling;

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F. Millinery;

G. Office facility of a minister, rabbi, priest or other clergyman;

H. Home crafts, such as rug weaving, model making, etc.;

I. Office facility of a salesman, sales or manufacturer's representative, etc., provided that no retail or wholesale transactions or provisions of services are personally and physically made on the premises;

J. Repair shop for small electrical appliances, cameras, watches/clocks, and other small items, provided that the items can be carried by one person without using special equipment, provided that there are no items stored or displayed outside and provided that the items are not equipped with an internal combustion engine;

K. Food preparation establishments such as cake making/decorating and catering, provided that there is no on-premises consumption by customers, and provided that all aspects of the business comply with all State and local health regulations;

L. Registered Family Homes (see definition in section XIX), in compliance with applicable State laws, which are incorporated herein by reference, with no more than four children;

M. Swimming lessons and water safety instruction, provided that such instruction involves no more than six pupils at any one time; and

N. Bed and Breakfast Facility (see definition in section XIX), provided that no more than five guests are accommodated/served at a time.

XI.3.4 Uses Prohibited As Home Occupations. Home occupations shall not, in any event, be deemed to include the following uses:

A. Animal hospitals or clinics, commercial stables, or kennels;

B. Schooling or instruction, except swimming/water safety classes and home schooling, with no more than one pupil at a time;

C. Restaurants or on-premises food or beverage (including private clubs) consumption of any kind, except for limited food/meal consumption associated with the operation of a licensed registered family home or a bed and breakfast facility;

D. Automobile, boat or trailer paint or repair shop; small engine or motorcycle repair shop; welding shop; large household appliance repair shop; or other similar type of business;

E. Office facility for a doctor, dentist, veterinarian or other medical-related profession;

F. On-premises retail or wholesale sales of any kind, except for items that are produced entirely on the premises in conformance with this chapter, and except for occasional garage sales (see section XI.3.3(I));

G. Commercial clothing laundering or cleaning;

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H. Mortuaries or funeral homes;

I. Trailer, vehicle, tool or equipment rentals;

J. Repair shops or services, except as specifically provided in section XI.3.3(J);

K. Drapery or furniture upholstery shops;

L. Antique, gift or specialty shops;

M. Repair shops for any items having internal combustion engines; and

N. Any use that would be defined by the building code as an assembly, factory/industrial, hazardous, institutional or mercantile occupancy.

XI.3.5 Home Occupation Uses Not Classified. Any use that is not either expressly allowed nor expressly prohibited in sections XI.3.3 and XI.3.4, respectively, is considered prohibited, unless and until such use is classified by amendment to this chapter, upon recommendation by the planning and zoning commission, and approval by the city council as required for any zoning amendment.

XI.3.6 Effective to this section Upon Existing Home Occupations

A. Any home occupation that was legally in existence as of the effective date of this chapter and that is not in full conformity with the provisions herein shall be deemed a legal nonconforming use, and is subject to the provisions of section VI.2.1 provided that the owner/proprietor of such home occupation register his/her business with the city within 90 days of the effective date of this chapter, and provided that the home occupation use was not in violation of any other local, state or federal law or regulation on that date. Proof of the existence of such home occupation use prior to the effective date of this chapter shall be required upon registration.

B. Any home occupation that was legally in existence as of the effective date of this chapter and that conforms with (i.e., is not in violation of) the provisions herein shall be authorized to continue, provided that the home occupation use is registered with the city as described in subsection A above.

§ 4. MODULAR OR INDUSTRIALIZED HOUSING.

XI.4.1 A modular home may be permitted in the Manufactured Home “MH” Residential Zoning District only provided that the following requirements are met:

A. The dwelling meets or exceeds all building code requirements that apply to other dwelling units concerning on-site construction.

B. Conforms to all applicable zoning standards for the respective zoning district.

C. Is affixed to a permanent foundation.

D. The building official is so notified in writing for the purpose of establishing procedures for the inspection, issuing of building permits, and compliance with the V.T.C.A., Occupations Code, ch. 1202.
(Code 1996, ch. 14, exh. 14A, art. XI, § 3)

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ARTICLE XII. PROVISIONAL DISTRICT SPECIAL REQUIREMENTS

Sec. 1. RECREATIONAL FACILITIES.

Each Provisional District shall provide recreational facilities designed for use by the residents and guests of residents of the project.

A. Recreational facilities shall consist of swimming pools for projects with 30 or more dwelling units and a swimming pool for each additional 100 dwelling units or fraction thereof.

B. One playground area shall be provided for each 50 dwelling units, or fraction thereof. The playground shall contain a minimum of five pieces of play equipment. The playground equipment shall be of heavy-duty and weather-resistant construction, such as is normally used in public parks or on public school playgrounds.
(Code 1996, ch. 14, exh. 14A, art. XIII, § 1)

Sec. 2. COMMUNITY BUILDING.

Each complex or subdivision shall have a community building that meets all required exterior construction standards and is available for use by all residents and guests of residents of the project.
(Code 1996, ch. 14, exh. 14A, art. XIII, § 2)

Sec. 3. SWIMMING POOLS.[200]

Swimming pools, spas and hot tubs shall comply with the standards set forth in the ICC International Swimming Pool and Spa Code, adopted in § 3.14.001 of this Code, ~~Standard Swimming Pool Code and the Uniform Swimming Pool, Spa and Hot Tub Code, as adopted,~~ and other provisions of this Code pertaining to same. All swimming pools shall be enclosed behind the main structure.
(Code 1996, ch. 14, exh. 14A, art. XIII, § 3)

Sec. 4. USABLE OPEN SPACE.[201]

Each lot or parcel of land, which is within a provisional district, shall provide, within the same project, usable open space (as defined below) in accordance with the following requirements:

Number of Bedrooms or Sleeping	*Amount of Open Space for Each Sleeping Room*
Rooms 1 **or Less**	600 square feet
Each Additional Bedroom over 1	300 square feet

An area of common usable open space shall have a slope not exceeding ten percent shall have no dimension of less than ten feet and may include landscaping, walkways, recreational facilities, water features, playgrounds and decorative objects such as artwork or water fountains. Usable open space shall not include: rooftops, accessory buildings, parking areas, driveways, turnaround areas, or the right-of-way or easement for streets or alleys.

A. At the time of site plan approval, the planning and zoning commission may recommend and the city

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[200] **Sec. 3. Swimming pools.** Changed to refer to the adopted pool and spa code as indicated.

[201] **Sec. 4. Usable open space**. Since less than one bedroom is zero, there would be nothing to regulate in that class. Should “Rooms 1 or less” be changed to something like “For the first bedroom” (600) and then “for each additional bedroom” (300).

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council may approve credit for usable open space requirements under the following conditions:

1. Up to three square feet for each one square foot of area provided for the following recreational facilities:

a. Swimming pools, tennis courts, racquetball courts, or similar facilities.

b. Decks, patios, or lounge area adjacent to or within ten feet of swimming pools.

c. Children's play areas developed with play equipment as identified in section XIII.1.B above.

d. Portions of recreational buildings dedicated to the use of residents and guests of residents of the complex or subdivision.

2. Partial or full credit may be given for on-site open space that exceeds the minimum slope (as defined in this section, above), if it is determined that such areas are environmentally or aesthetically significant and their preservation would enhance the development and community. In determining environmental and aesthetic significance, the planning and zoning commission will consider:

a. Preservation of significant trees or other natural vegetation.

b. Contribution to on-site retention of stormwater or natural control of drainage.

c. Presentation of vistas and other qualities.

d. Buffer or transition between the multifamily use and other uses.

3. Within usable open space areas, there shall be at least one large shade tree for every one thousand (1,000) square feet of space. New trees planted to meet this requirement shall be a minimum three-inch (3") caliper, and at least twenty-five percent (25%) of the trees shall be nondeciduous.

4. Available off-site open space may be credited for up to one third (1/3) of the usable open space requirement if:

a. Fifteen percent (15%) or more of the project boundary is adjacent to and has direct access to park land.

b. There are defined pedestrian connections between the project and park land.

c. Permanent usable open space is within one hundred feet (100') of the development that is available for use by the general public.

d. The design of the development provides a significant visual and pedestrian connection to public park land.

5. The combined credit for areas calculated at a three-to-one basis and off-site parks or usable open space shall not exceed fifty percent (50%) of the total usable open space requirement for each development within a Provisional District.
(Code 1996, ch. 14, exh. 14A, art. XIII, § 4)

ARTICLE XIII. SUPPLEMENTAL DEVELOPMENT REGULATIONS

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Sec. 1. SUPPLEMENTAL DEVELOPMENT REGULATIONS

XV.1.1 Public and semi-public institutional uses such as hospitals, churches, and schools located in any District shall have a minimum site area of one acre.

XV.1.2 Only one main building for single-family and two-family use, with permitted accessory buildings, may be located upon a lot or unplatted tract.

XV.1.3 When two or more main buildings or portions thereof, are placed upon a single lot or tract and such buildings do not face upon a public street, the same may be permitted when the site plan for such development is approved by the planning and zoning commission so as to comply with the city subdivision regulations requirements for platting. No parking area, storage area, or required open space for one building shall be computed as being the open space, yard, or area requirements for any other dwelling or other use.

XV.1.4 Measurement

A. Measuring Setbacks - All setback measurements shall be measured from the property line.

B. Configuration of Lots - Flag lots (i.e., lots with minimal, or panhandle-type, frontage) and through (i.e., double-frontage) lots (particularly within residential zoning districts) shall be prohibited.

C. Building Setbacks - All setbacks established on a recorded plat shall be enforced, even if they are less than or they exceed the required setbacks in this chapter. Setbacks established on a recorded plat shall only be changed through Replat proceedings as set out in the city’s subdivision regulations.

XV.1.5 Front Yard

A. On corner lots, the front yard setback shall be observed along the frontage of both intersecting streets, unless approved specifically otherwise on a Final Plat. When single-family and duplex lots have double frontage, extending from one street to another, or are on a corner, a required front yard shall be provided on both streets unless a side or rear yard building line has been established along one frontage on the Plat, in which event only one required front yard need be observed. The side or rear yards in the case of single-family and duplex uses shall be identified and the front of the structure shall not face the side or rear yard.

B. When the frontage on one side of a street between two intersecting streets is divided by two or more zoning districts, the front yard shall comply with the requirements of the most restrictive district for the entire frontage.

C. When a building line has been established by a plat approved by the city council or by ordinance, and such line required a greater or lesser front yard setback than is prescribed by this chapter for the district in which the building line is located, the required front yard shall comply with the building line so established by such authorizing ordinance or Plat provided no such building line shall be less than twenty feet (20').

D. The front yard shall be measured from the property line to the front face of the building, to the nearest supporting member of a covered porch or covered terrace, or to any attached accessory building. Eaves and roof extensions or a porch without posts or columns may project into the required front yard setback for a distance not to exceed four feet (4'), and subsurface structures, platforms or slabs may not project into the front yard setback to a height greater than thirty inches (30") above the average grade of the yard. Open porches extending into the

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front yard setback shall not be enclosed. Fireplaces, bay windows and other similar construction not exceeding seven feet (7') in width may extend two feet (2') into a required setback; provided the total length of all such projections into a setback shall not exceed one third (1/3) the length of the exterior wall.

E. Minimum lot widths for lots with predominate frontage on the curved radius of a street (e.g., cul-de-sac or “eyebrow” portion of a street.) shall be measured as the linear distance of the curved front building line, and shall be shown on the subdivision Plat. The same shall be enforced on a street curvilinear in design. (The term “curvilinear in design” shall refer to any street segment which is designed with a degree of curvature not less than 3° 30' and not greater than 22° 55', and which shall offset a minimum distance of thirty feet (30'), the offset being measured perpendicular to the initial tangent line of the curve. Computation of percentage of curvilinear streets shall utilize the centerline of all interior streets.) Lot widths for all lots shall be as set forth in the respective zoning district for each lot.

F. The minimum front yard setback requirements may be reduced by five feet (5') in all single- family districts provided that at least fifty percent (50%) of the structures on a given block are set back an additional five feet (5') from the original setback. The average setback would equal the original setback requirements. The purpose of this requirement is to encourage a variety of front yard setbacks along a street creating a more pleasing appearance of houses in the subdivision. In no case shall the setback be less than twenty feet (20'). The desired setbacks for each lot shall be designated on the approved final plat.

G. Gasoline service station pump islands that parallel a public street may not be located less than eighteen feet (18') to the front property line adjacent to a public street. For pump islands that are perpendicular or diagonal to a public street, the setback shall be thirty feet (30') in order to prevent vehicles stacking out into the street while waiting for a pump position. Pump islands may extend beyond the front building line as described above (provided that all other requirements of this chapter are met) but shall not be closer than fifteen feet (15') to any property line that is not adjacent to a public street. An unenclosed canopy for a gasoline filling station pump island may extend beyond the front building line but shall never be closer than ten feet (10') to any property line or street right-of-way line.

H. Where a future right-of-way line has been established for future widening or opening of a street or thoroughfare, upon which a lot abuts, then the front, side or rear yard shall be measured from the future right-of-way line.

XV.1.6 Front Yard Accessory Building Setbacks Attached front accessory buildings shall have a front yard not less than the main building and as specified in the particular district. Detached accessory buildings shall be located in the area defined as the rear yard (setback), with a minimum setback of sixty feet (60') from the front property line.

XV.1.7 Side and Rear Yards

A. In the planned development district, the minimum rear yard for residential uses shall be in accordance with the defining base district unless the site plan approval requires a greater depth.

B. On a corner lot used for one- or two-family dwellings, both street exposures shall be treated as front yards on all lots platted after the effective date of this chapter, except that where one street exposure is designated as a side yard for both adjacent lots or where the two lots are separated by an alley, street right-of-way, creek/floodplain area, or other similar phenomenon. In such case, a building line may be designated by the city manager or his/ her designee with a minimum side yard of fifteen feet (15') or more (as determined by the applicable zoning district standards). On lots which were official lots of record prior to the effective date of this

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chapter, the minimum side yard adjacent to a side street shall comply with the minimum required side yard for the respective district unless otherwise established on the filed Plat (in which case replatting is necessary to change the setback lines, per the subdivision regulations).

C. Every part of a required side and rear yard setback shall be open and unobstructed except for the ordinary projections of window sills, belt courses, cornices, and roof eaves and other architectural features not to exceed twelve inches (12") into the required side or rear yard setbacks. Air-conditioning compressors and similar equipment are not permitted in the side yard setbacks. Open porches and patios (on ground floor only) extending into a side or rear yard setbacks shall not be enclosed, but upper story balconies may not encroach into a side or rear yard setback. A canopy may project into a required side or rear yard setback provided that it is not enclosed, and provided that it is at least five feet (5') from the property line. No obstruction of setbacks, as discussed herein, shall be permitted in the SF-PH district.

D. Where a future right-of-way line has been established for future widening or opening of a street or thoroughfare, upon which a lot abuts, then the front, side, or rear yard shall be measured from the future right-of-way line.

XV.1.8 Conforming Lot Coverage or Floor Area Ratio Any existing building at the effective date of this chapter, having a greater percentage of lot coverage or a higher floor area ratio than herein prescribed, shall be considered conforming.

XV.1.9 Special Height Regulations In the districts where the height of buildings is restricted to two or more stories or thirty-five feet (35') or less, cooling towers, roof gables, chimneys and vent stacks may extend an additional height and not to exceed forty feet (40') above the average grade line of the building. Water stand pipes and tanks, church steeples, domes, and spires, ornamental cupolas, city and school buildings, and institutional buildings may be erected to exceed the particular zoning district, provided that one additional foot shall be added to the width and depth of front, side, and rear yards for each foot that such structures exceed the district height limit.

XV.1.10 Communications, Antennas and Support Structures/Towers

A. Applicability

1. These regulations apply to all commercial and amateur antennae and support structures, unless exempted in subsections 2 and 3 below.

2. Direct broadcast satellite reception, multi-channel multi-point distribution (as defined by the FCC), television reception antennae, and amateur radio antennae meeting the following requirements do not require a permit unless mounted on a pole or mast that is twenty feet (20') or more in height:

a. In any zoning district, antennae that are one meter (i.e., 39 inches) or less in diameter;

b. In a nonresidential zoning district, antennae that are two meters or less in diameter;

c. In any zoning district, antennae designed to only receive television broadcasts;

d. In any zoning district, amateur radio antennae concealed behind or located upon or within attics, eaves, gutters or roofing components of the building; and

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e. In any zoning district, amateur radio ground-mounted whips and wire antennae, unless mounted upon a pole or mast over twenty feet (20') in height.

3. Antennas mounted on existing city water towers shall be exempt from the requirements of this chapter, provided a license or lease authorizing such antennas has been approved by the city council. All other antennas or towers, located on property owned, leased or otherwise controlled by the city shall be subject to the requirements herein.

4. Support structures or antennae legally installed before the effective date of this chapter are not required to comply with this chapter, but must meet all applicable State, Federal and local requirements, building codes and safety standards.

B. SPECIAL DEFINITIONS - For the purpose of this section, the following special definitions shall apply:

1. Antenna, microwave reflector and antenna support structure - An antenna is the arrangement of wires or metal rods used in transmission, retransmission or reception of radio, television, electromagnetic or microwave signals (includes microwave reflectors/antennae). A microwave reflector is an apparatus constructed of solid, open mesh, bar-configured, or perforated materials of any shape/configuration that is used to receive or transmit microwave signals from a terrestrial or orbitally located transmitter or transmitter relay. Microwave reflectors are also commonly referred to as satellite receive only earth stations (T.V.R.O.S.), or satellite dishes. An antenna support structure is any tower, mast, pole, tripod, box frame, or other structure utilized for the purpose of supporting one or more antennae or microwave reflectors.

2. Antenna (Noncommercial/Amateur) - An antenna or antenna support structure used for the purpose of transmission, retransmission, or reception of radio, television, electromagnetic, or microwave signals for private or personal use and not for the purpose of operating a business or for financial gain. A satellite dish antenna not exceeding six feet (6') in diameter shall also be considered as a noncommercial antenna.

3. Antenna (Commercial) - An antenna or antenna support structure used for the purpose of transmission, retransmission, or reception of radio, television, electromagnetic, or microwave signals primarily for the purpose of operating a business or for financial gain (e.g., commercial broadcasting, cellular/wireless telecommunications, etc.). A satellite dish antenna that exceeds six feet (6') in diameter shall also be considered as a commercial antenna.

4. Collocation - The use of a single support structure or site by more than one communications provider.

5. Communications Operations (Noncommercial/Amateur) - The transmission, retransmission or reception of radio, television, electromagnetic, or microwave signals for private or personal use, and not for the purpose of operating a business and/ or for financial gain.

6. Communications Operations (Commercial) - The transmission, retransmission, or reception of radio, television, electromagnetic, or microwave signals primarily for the purpose of operating a business or for financial gain.

7. Height - The distance measured from the finished grade of the lot/parcel to the highest point on the support structure or other structure, including the base pad and any antennae.

8. Radio, Television or Microwave Tower - See “antenna, microwave reflector and antenna support structure.”

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9. Telecommunications Tower or Structure - See “microwave reflector and antenna support structure.”

10. Temporary/Mobile Antenna - An antenna and any associated support structure/ equipment (including, but not limited to, a support pole, a vehicle, etc.) that is placed or used on a temporary basis only (i.e., not intended to be permanent), usually in conjunction with a special event, news coverage or emergency situation, or in case of equipment failure or temporary augmentation of permanent communications equipment.

11. Wireless Communication Tower or Structure - See “antenna, microwave reflector and antenna support structure.”

C. General Requirements

1. Antennae and support structures may be considered either principal or accessory uses.

2. Antenna installations shall comply with all other requirements of this Code with the exception of those specifically cited within these regulations.

3. No commercial antenna support structure shall be closer to any residential district boundary line or residential dwelling than a distance equal to twice the height of the support structure. The setback/distance shall be measured as the shortest possible distance in a straight line from the structure to the closest point of a residential district boundary line or residential dwelling. Setbacks from residentially zoned property do not apply to antennae attached to utility structures that exceed fifty feet (50') in height, or to antennae placed wholly within or mounted upon a building.

4. No amateur or commercial antenna, antenna support structure, microwave reflector/ antenna, or associated foundations or support wires or appurtenances shall be located within any required setback area for the front, side or rear yards.

5. All antennae and support structures must meet or exceed the current standards and regulations of the Federal Communications Commission (FCC), the Federal Aviation Administration (FAA), or all other applicable Federal, State and local authorities. If those standards change, then the owner/user of an antenna or support structure must bring the antenna/structure into compliance within six months (i.e., 180 calendar days) or as may otherwise be required by the applicable regulating authority.

6. A building permit is required to erect or install an antenna, antenna support structure and related structures/equipment, unless the particular antenna is exempt from these regulations. All installations shall comply with applicable federal, state and local building codes and the standards published by the Electronic Industries Association. Owners/users shall have 30 days after receiving notice that an installation is in violation of applicable Codes in order to bring it into full compliance.

7. Antennae (amateur or commercial) shall not create electromagnetic or other interference with the city, county, or any other government agency radio frequencies and public safety operations, as required by the FCC. Antennae also shall not interfere with radio or television reception of nearby property owners. In no manner shall the use of such equipment infringe upon adjoining property owners.

8. No antenna or support structure shall be located so as to create a visual obstruction within critical visibility areas (such as at street intersections or where a private driveway enters a roadway) or a traffic safety problem.

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9. Safeguards shall be utilized to prevent unauthorized access to an antenna installation (e.g., on a water tower or utility structure, a freestanding installation, etc.). Safeguards include certain devices identified/recommended by the manufacturer of the antenna or support structure, a fence, a climbing guard, or other commercially available safety devices. Climbing spikes or other similar climbing device, if utilized, shall be removed immediately following use.

10. Temporary antennae shall only be allowed in the following instances:

a. In conjunction with a festival, carnival, rodeo or other special event/activity;

b. In case of an emergency (e.g., severe weather, etc.) or a news coverage event;

c. When needed to restore service on a temporary basis after failure of an antenna installation. The city must be notified prior to the placement of a temporary antenna. If the temporary antenna is to be needed for more than seven days, then the owner/user must apply for and acquire a permit for the temporary installation on or before the eighth day following initial placement of the antenna.

11. Collocation is greatly encouraged by the city.

a. All new support structures over fifty feet (50') in height shall be constructed to support antennae for at least two carriers, unless the structure is an alternative or stealth design, or the support structure is replacing an existing utility structure or light standard. Sufficient area for associated structures and equipment shall also be provided.

b. A support structure which is modified or reconstructed in order to accommodate collocation shall be of the same type, design and height as the existing structure, and it may be moved on the same property within fifty feet (50') of its original location provided that it is not moved any closer to residentially zoned or use of property (if the structure was allowed by SUP, then its new location shall be within the physical/land boundaries of the SUP). The original (i.e., former) support structure shall be removed from the property within 90 days following completion of the new structure.

c. Where an additional antenna is to be attached to an existing support structure that already has an antenna mounted upon it, the new antenna shall comply with and be compatible with the design of the existing antenna on the collocated structure.

12. Support buildings and equipment storage areas/buildings shall be screened from public view if mounted on a rooftop. When ground mounted, they shall meet all applicable front, side and rear yard setback requirements of the applicable base zoning district. They shall also be of a neutral color and shall use exterior finish colors and materials that are compatible with nearby structures. A six-foot (6') solid masonry wall may be used to screen the area provided exterior finish materials are compatible with nearby structures. The use of a wood fence for screening is prohibited; however, a wrought iron fence with masonry columns may be used in conjunction with a dense, opaque evergreen landscaped screen with an initial planting height of three feet (3'), and which will attain an ultimate height of six feet (6') within two years.

13. Satellite dishes and other similar antennae shall be permitted on the roof of a building, as long as satellite dishes do not exceed one meter (39") in diameter and antennae do not extend over ten feet (10') above the roof of the building. A letter certifying the roof's/building's structural stability shall be written and sealed by a registered architect or engineer, and shall be submitted to the city manager or his/her designee prior to any approval of a

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roof-mounted antenna. Roof-mounted antennas that comply with the provisions of these regulations do not require additional yard setbacks or setbacks from residential areas or dwellings.

14. Only one amateur antenna/support structure shall be permitted per residential lot, except that a maximum of two satellite dishes may be allowed if both units are no larger than one meter (39") in diameter (only one allowed if over one meter in diameter). Satellite dishes in any residential district shall not exceed twelve feet (12') in diameter and must be approved by the city prior to installation. A written request shall be submitted to the city manager or his/her designee prior to applying for a permit. The city manager or his/her designee may require additional information to ensure the safety of the structure. The city manager or his/her designee may or may not approve the request. In the event the request is approved, installation of the satellite dish shall be screened, behind the main building and meet all other requirements of this and other applicable provisions of this Code.

15. All commercial signs, flags, lights and attachments other than those required for emergency identification, communications operations, structural stability, or as required for flight visibility by the FAA or FCC shall be prohibited on any antenna or antenna support structure. However, lights may remain or be placed upon light standards that are altered or replaced in order for them to serve as antenna support structures provided that the lights are not commercial (i.e., for-profit) in nature, and provided that the lights are placed/replaced as the same size, configuration, number of bulbs, degree of luminance, etc. as they previously existed prior to support structure modification/replacement.

16. Any publicly owned antennae or antenna support structures shall be permitted in any zoning district (e.g., public safety communications, etc.).

17. In all residential zoning districts (including Agricultural, SF-E, SF-1, SF-2, SF-3, SF-4, SF-PH, SF-PH, MF and MH), commercial antennae and antenna support structures are prohibited, except as specified within this section.

a. A commercial antenna may be attached to a utility structure (e.g., electrical transmission/distribution tower, elevated water storage tank, etc.) provided that the utility structure exceeds fifty feet (50') in height, and provided that the antenna does not extend more than ten feet (10') above the height of the utility structure.

b. A commercial antenna may be placed wholly within any building permitted in the zoning district. A commercial antenna may also be mounted flush to the exterior of a building/structure if it is painted or disguised to integrate into the overall architectural design and it is not readily visible/identifiable as an antenna from public roadways or from neighboring residential properties.

18. In nonresidential zoning districts (including O, NS, R, TC, C, and I), commercial antennae and antenna support structures are allowed as follows:

a. Commercial antenna support structures are allowed by right if they do not exceed the maximum building height allowed for the zoning district in which they are located. Structures in excess of the height allowed in the zoning district may be allowed by specific use permit (SUP) provided the structure conforms in all other aspects of the base zoning district’s regulations, and provided that all applicable setback requirements are satisfied. In all nonresidential zoning districts, antenna support structures must meet all setback requirements, particularly from residential zoning districts.

b. A commercial antenna may be attached to a utility structure (e.g., electrical transmission/distribution tower, elevated water storage tank, etc.) provided that the utility structure exceeds fifty feet (50') in height, and provided that the antenna does not extend more than ten feet (10') above the height of the utility structure.

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c. A commercial antenna may be placed wholly within any building permitted in the zoning district. A commercial antenna may also be mounted flush to the exterior of a building/structure if it is painted or disguised to integrate into the overall architectural design, and it is not readily visible/identifiable as an antenna from public roadways or from neighboring residential properties.

XV.1.11 Minimum Dwelling Unit Area. Minimum dwelling unit areas specified in this chapter shall be computed exclusive of breezeways, garages, open porches, carports and accessory buildings.

XV.1.12 Open Storage Areas. Open storage of materials, commodities or equipment (where allowed in the specific zoning district) shall be located behind the front building line and observe all setback requirements for the main structure or building. This standard does not apply to outside display.

XV.1.13 Sight Visibility

A. Visual clearance shall be provided in all zoning districts so that no fence, wall, architectural screen, earth mounding, landscaping or other feature obstructs the vision of a motor vehicle driver approaching any street, alley, or driveway intersection. When an intersection of a streets, alley, or driveway occurs, a triangular visibility area shall be created. Landscaping, fences, signs, walls, earthen berms and other features within the triangular visibility area shall be designed so as to provide unobstructed cross-visibility at a level between thirty inches (30") and eight feet (8') above the ground. The triangular areas are defined as follows:

1. Alley intersects a public street right-of-way - The areas on both sides of the intersection of an alley and a public street shall have a triangular visibility area with two sides of each triangle being a minimum of ten feet (10') in length from the point of intersection, and the third side being a line connecting the ends of the other two sides.

2. Street intersection or intersection of private driveway onto a public street - These areas shall have a triangular visibility area with two sides of each triangle being a minimum of twenty-five feet (25') in length along the right-of-way lines (or along the driveway curbline and the street right-of-way line) from the point of the intersection, and the third side being a line connecting the ends of the other two sides.

B. Shrubs and plant materials that are typically less than thirty inches (30") in height at maturity may be located within sight visibility areas provided that they are kept maintained at a maximum height of thirty inches (30").

C. A limited number of single-trunked trees having a clear trunk (i.e., no branching) height of at least eight feet (8') may be located within sight visibility areas provided that they are trimmed in such a manner that no limbs or foliage extend into the cross-visibility area defined above, and provided that they are spaced and positioned such that their trunks will not produce a visibility inhibiting, “picket-fence” effect when they attain mature size.

XV.1.14 Nonresidential Structures in Residential Districts. Nonresidential structures (e.g., churches, schools, day care centers, etc.) which are permitted in residential zoning districts (A, SF-E, SF-1, SF-2, SF-3, SF-4, SF-PH, MF and MH) shall be designed and constructed such that they conform to the development standards set forth in the Neighborhood Service (NS) zoning district (i.e., with respect to maximum height, minimum lot size, minimum front/side/rear setbacks, screening, exterior building construction, etc.) unless otherwise stated in this chapter or in an ordinance establishing a PD.
(Code 1996, ch. 14, exh. 14A, art. XV, § 1)

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ARTICLE XIV. OFF-STREET PARKING AND LOADING REQUIREMENTS

Sec. 1. PURPOSE.

XVI.1.1 Special Off-Street Parking Provisions - Residential Districts

A. All required enclosed off-street parking spaces within Single-Family residential districts shall be located behind all front building lines. A minimum of two spaces shall be enclosed and two additional spaces on an approved paved driveway.

B. Additional parking spaces, in excess of those required in subsection A above, shall have a minimum paved surface of eight feet by twenty feet (8' x 20') and in no instance shall all development on the site/lot, including the “additional parking spaces,” occupy more than the maximum lot coverage as defined in the specific residential districts.

C. Required off-street parking shall be provided on the same lot/site as the use it is to serve.

D. No required parking shall be allowed except on a paved concrete or asphalt surface as defined and according to the city’s adopted standard construction details.

E. No required parking space, garage, carport, or other automobile storage space shall be used for the storage of any heavy load vehicle, as defined in this chapter.

XVI.1.2 Nonresidential and MF Districts - Special Off-Street Parking Provisions

A. To prevent nuisance situations, all parking area lighting shall be designed and operated so as not to reflect or shine on adjacent properties and in accordance with the standards established in section XVII.8 [Article 15.03].

B. For safety and firefighting purposes, free access through to adjacent nonresidential parking areas shall be provided as set forth in section XVI.1.11 (Fire Lanes).

C. In office, retail, town center, commercial and industrial zoning districts, all required parking, maneuvering, loading and storage areas shall be provided on paved concrete. Paved concrete shall be in accordance with the city’s standard construction details as adopted and as may be amended. All driveway approaches shall be of reinforced concrete as described above and shall be curbed to city standards. No paved parking space or area shall be designed such that a vehicle has to back up into a public street or across a public sidewalk, except for single-family dwellings, which are only allowed to egress onto a local (50' right-of-way) or residential collector (60' right-of-way) street but not onto any larger or more heavily traveled street. All parking spaces shall be permanently and clearly identified by stripes, buttons, tiles, curbs, barriers, or other approved methods. Non-permanent type marking, such as paint, shall be regularly maintained to ensure continuous clear identification of the space.

D. Each standard off-street surface parking space shall be in accordance with the design standards for space size and design as set forth below. Concrete paving standards are as defined in subsection C above. Specific parking space sizes, exclusive of aisles, driveways and maneuvering areas shall be in accordance with the following minimum sizes:

1. Standard: Nine feet by twenty feet (9' x 20'), exclusive of access drives and aisles, shall have a wheel stops and shall be of usable shape and condition. Where it is possible for a vehicle to overhang the front of a

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parking space above a paved, stoned, mulched, or grassed area other than a sidewalk, street right-of-way or adjacent property the length of the standard space length may be reduced to eighteen feet (18').

2. Compact: Eight feet by sixteen feet (8' x 16'); must be clearly designated with appropriate signage and pavement markings. Compact parking spaces may only make up ten percent (10%) of the total required parking spaces.

3. Parallel: Eight feet by twenty-two feet (8' x 22'); must be clearly striped with appropriate pavement markings and shall only make up ten percent (10%) of the total required parking spaces.

E. All parking, loading spaces, and vehicle sales areas on private property shall have a vehicle stopping device (e.g., curb, wheel stop, etc.) installed so as to prevent parking of motor vehicles in any required landscaped areas, to prevent vehicles from hitting buildings, to protect public or private utility structures/facilities, and to prevent any parked vehicle from overhanging a public right-of-way line, public sidewalk or private property. An extra- wide sidewalk on private property may be permitted so as to allow encroachment of vehicle overhang while maintaining an unobstructed four-foot (4') minimum sidewalk width. This requirement shall apply only where spaces are adjacent to the walks, right-of-way, and landscaping on private property. Parking shall not be permitted to encroach upon the public right-of-way in any case. For new construction only, all vehicle maneuvering shall take place on-site. No public right-of-way shall be used for backing or maneuvering into or from a parking space or for circulation within the parking lot. All entrances into parking lots shall be at least fifty feet (50') from the beginning point of any street corner radius. All entrances into parking lots shall be at least twenty-four feet (24') in width, or a maximum of forty-five feet (45') in width or fifty feet (50') for a divided entrance. Divided entrances into parking lots shall have a minimum ingress lane of eighteen feet (18') in width, a minimum landscaped median width of five feet (5'), and a minimum egress lane of twenty-two feet (22').

F. In all nonresidential and multifamily zoned districts, the perimeter of all parking lots and driveways shall be provided with concrete curbs or other means to control traffic. Any driveway onto a State- or County-controlled roadway shall be reviewed and approved by the appropriate entities (i.e., TxDOT, Dallas County, Ellis County, etc.) and written evidence of such approval shall be submitted to the city prior to release for construction of the driveway or for improvements on the site.

G. Refuse storage facilities placed in a parking lot shall not be located in a designated parking or loading space. Each refuse facility shall be maintained so as to comply with all public health and sanitary regulations. Each refuse facility shall be located so as to facilitate pickup by refuse collection agencies and ease of egress from the site without having to back up further than twenty feet (20') and without having to go the wrong way in a traffic aisle. Masonry screening or city council approved landscape screening of all refuse storage facilities is required on three sides with gates concealing the fourth side.

H. Parking spaces for persons with disabilities and other associated provisions (e.g., clear and unobstructed pathways into building, crosswalks across parking lots, etc.) shall be provided according to current building codes, State laws, and requirements of the Americans with Disabilities Act (ADA). Parking spaces for persons with disabilities shall be as close as possible to the main entrance of the building, and shall be appropriately and clearly marked.

I. In all nonresidential and multifamily zoned districts, designated parking and loading areas shall not be used for the repair, storage, dismantling or servicing of vehicles or equipment, for the placement of signs or refuse facilities, or for the storage of materials or supplies, or for any other use in conflict with the designated parking and loading areas (i.e., advertising or open storage of raw materials).

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J. To ensure that all requirements set forth in this section are carried forward, it will be the responsibility of the owner of the parking area to adequately maintain the facility. All off- street parking areas shall be kept free of trash, debris, vehicle repair operation or display and advertising uses. At no time after initial approval of the parking area layout can changes be made in the location and number of provided spaces without approval of a revised site plan.

XVI.1.3 Off-Street Stacking Requirements for Drive-Through Facilities

A. A stacking space shall be an area on a site measuring eight feet by twenty feet (8' x 20') with direct forward access to a service window or station of a drive-through facility which does not constitute space for any other circulation driveway, parking space, or maneuvering area. An escape lane, of at least eight feet (8') in width and with negotiable geometric design, must be provided to allow vehicles to get out of stacking lane in the event of a stalled vehicle, emergency, accidental entry, etc.

B. For financial institutions with drive-through facilities, each teller window or station, human or mechanical, shall be provided with a minimum of five stacking spaces. One escape lane shall be provided.

C. For each service window of a drive-through restaurant, a minimum of five spaces shall be provided for the first vehicle stop (usually the menu/order board), and two spaces shall be provided for each additional vehicle stop (order/pickup windows, etc.). One escape lane shall be provided from the beginning of the stacking lane to the first stop (e.g., menu-order board).

D. For retail operations (other than restaurants, banks, etc.) and kiosks that provide drive-up service (e.g., pharmacy, dry cleaners, etc.), a minimum of three stacking spaces for each service window shall be provided.

E. For a full-service carwash, each vacuum or gas pump lane shall be provided with a minimum of four stacking spaces. For the finish/drying area, adequate vehicle stacking and storage space must be provided to keep finished vehicles out of circulation aisles, access easements, fire lanes, streets, etc.

F. For each automated self-service (drive-through/rollover) carwash bay, a minimum of three stacking spaces, in addition to the wash bay itself, shall be provided. One stacking space shall be provided at the exit end of each wash bay for window-drying and other detailing.

G. For each wand-type self-service (open) carwash bay, a minimum of two stacking spaces, in addition to the wash bay itself, shall be provided. One stacking space shall be provided at the exit end of each wash bay for window-drying and other detailing, unless a separate area/ shade structure is provided (outside of circulation aisles) for these activities.

H. For automobile quick-lube type facilities, a minimum of three stacking spaces shall be provided for each service bay in addition to the service bay itself.

I. Dead-end parking areas shall be avoided if possible. If dead-end parking is necessary, then it shall be designed such that it is no more than three parking spaces deep unless adequate turnaround space is provided. A minimum five-foot (5') deep hammerhead backup space shall be provided at the end of any dead-end parking area.

J. All parking structures must conform to the construction and design standards of the Zoning District in which they are located.

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K. For multifamily uses (i.e., apartment complexes), all parking spaces shall be located behind the required front setback line on all street frontages.

XVI.1.4 Off-Street Loading Space - All Districts

A. All retail and similar nonresidential structures shall provide and maintain off-street facilities for receiving and loading merchandise, supplies and materials within a building or on the lot or tract. All drives and approaches shall provide adequate space and clearances to allow for the maneuvering of trucks off-street. Each site shall provide a designated on-site maneuvering area for trucks. The off-street loading space may be adjacent to (but not any portion of) a public alley or private service drive, or it may consist of a truck berth within the structure. The minimum dimensions of a “regular” loading space shall be twelve feet by thirty feet (12' x 30'), and a “large” loading space shall be at least twelve feet by sixty-five feet (12' x 65'). Loading spaces or berths shall be provided in accordance with the following schedule:

1. Office uses, or portions of building devoted to office uses: 0 to 9,999 square feet: 0 spaces

   10,000 to 49,999 square feet: 1 regular space

   50,000 to 99,999 square feet: 1 regular space and 1 large space

   100,000 to 150,000 square feet: 2 regular spaces and 1 large space

   Each additional 50,000 square feet, or portion thereof, over 150,000 square feet: 1 additional regular space

2. Retail/commercial and restaurant uses, or portions of building devoted to retail/ commercial and restaurant uses:

   0 to 3,999 square feet: 0 spaces

   4,000 to 9,999 square feet: 1 regular space

   10,000 to 29,999 square feet: 1 regular space and 1 large space

   30,000 to 99,999 square feet: 2 regular spaces and 1 large space

   100,000 to 200,000 square feet: 2 regular spaces and 2 large spaces

   Each additional 100,000 square feet, or portion thereof, over 200,000 square feet:
   1 additional large space

3. Industrial or warehouse uses, or portions of building devoted to industrial or warehouse uses:

   0 to 10,000 square feet: 2 large spaces

   Each additional 15,000 square feet, or portion thereof, over 10,000 square feet: 1 additional large space

4. Schools: 1 large space per main school building on the campus

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B. In all nonresidential zoning districts, loading docks or service/delivery entrances shall not be constructed facing any public street (except for large industrial uses; see paragraph below), and shall not be visible from any public street. The loading areas shall be screened from view of any public street by the building itself, or by a masonry screening wing wall at least twelve feet (12') in height with large evergreen trees and shrubs planted in front of it such that limited portions of the wing wall will be visible when the trees and shrubs are mature. The masonry wing wall shall match the exterior construction materials and colors of the main building and shall be located no closer than one hundred feet (100') to any public street right-of-way line.

For large industrial or warehouse uses in the “I” zoning district only, the loading docks may face a public street, and shall not be required to provide a masonry screening wing wall, provided that a minimum thirty-foot (30') wide landscape buffer area is provided adjacent to the street right-of-way line. One large shade tree (minimum 3" caliper, and minimum 10' planted height) shall be provided within the landscape buffer area for every twenty feet (20') of street frontage, or one small ornamental tree (minimum 1.5" caliper, and minimum 7' planted height) shall be provided for every twelve feet (12') of street frontage (or some combination thereof). At least fifty percent (50%) of the required street buffer trees shall be large shade trees, and the rest of the trees may be small ornamental trees. In addition, a solid massing of large evergreen shrubs and three- to four-foot tall berms shall be provided to further screen loading area from view of the street.

C. Loading docks for any establishment which customarily receive[s] goods between the hours of 9:00 p.m. and 8:00 a.m. and is adjacent or within three hundred feet (300') to a residential use or district shall be designed and constructed so as to enclose the loading operation on at least three sides in order to reduce the effects of the noise of the operation on adjacent residences. Other screening/buffering alternatives may be required and approved on the site plan provided that the city council makes a finding that the alternative method of screening/buffering will be adequate to protect nearby residences.

D. Nonresidential districts with loading docks shall not design and construct parking and loading facilities in a manner that there is a dead-end loading dock area. Maneuvering space and clearances shall be provided. In no instance shall a loading facility allow for trucks backing into roadways or interfering with the flow of traffic due to ingress and egress of the parking and loading facility. Adequate clearances shall be designated on the site plan.

E. Kindergartens, elementary schools, day schools, and similar child training and care establishments shall provide one paved off-street pedestrian loading and unloading space for an automobile on a through or “circular” drive for each ten students cared for (excluding childcare in a residence). An additional lane shall also be required to allow pass- by or through traffic to move while automobiles waiting or parked to pick up children occupy loading/unloading areas.

F. For large shopping centers only, loading spaces that are adjacent and easily accessible to several buildings or uses, including buildings and uses on separate lots, shall be allowed to satisfy the loading requirements for the individual buildings or uses, provided that:

1. The number of spaces satisfies the requirements for the combined square footages for the buildings or uses in question, and

2. For loading spaces to be shared among separate lots, they must be in reasonably close proximity to all potential users and an agreement granting mutual use by the owners of each building shall be executed, filed of record in deed records of the county where the property is located, in conjunction with the filing of the final plat. The shared use agreement must be submitted and approved at the time of final plat, with a file- marked copy provided to the city.

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XVI.1.5 Parking Access from a Public Street - All Districts

A. In all districts (except all residential districts) the site plan and paving plans shall provide for entrance/exit drives appropriately designed and located to minimize traffic congestion or conflict within the site and with adjoining public streets as approved by the city manager or his/her designee. When requested, the applicant shall submit a traffic impact analysis, as defined in Article XIX of this chapter, performed by a certified professional traffic operations engineer (PTOE) for the purpose of determining how the impact of projected volumes of traffic entering or leaving the proposed development are likely to interfere with the projected peak traffic flow volumes on adjoining streets, additional right-of-way and paving in the form of a deceleration lane, a turn lane, or other roadway improvements may be required to be furnished by the developer in order to reduce such interference and to help ensure traffic safety and efficiency. The dedication of additional right-of-way or street paving may also be required, and shall be determined at the time of site plan and preliminary plat approval.

B. In the approval of a development plan (site plan), consideration shall be given to providing entrance/exit drives which extend into the site to provide adequate queuing of vehicles on the site. The drives shall have curbs or other barriers to prohibit access from parking areas and other drives.

C. The radius of all drive approaches shall be constructed so that the curb return shall not extend beyond any projection of the property line which the drive does not cross, except by platted easement or written agreement of both property owners filed for record with the county clerk with proof supplied to the city.

D. Vehicular access to nonresidential uses shall not be permitted from alleys serving residential areas, and shall not be configured as “head-in” parking spaces that are accessed directly from the street.

XVI.1.6 Parking requirements based on use.

In all districts, there shall be provided at the time any building or structure is erected or structurally altered, or change of use, off-street parking spaces in accordance with the following requirements, unless a shared agreement is approved by city council:

A. Automobile Carwash (full service) and detail shop: One space per 500 square feet of gross floor area

B. Automobile Parts Sales (indoor): One space per 500 square feet of gross floor area

C. Automobile Sales and Service: See Motor Vehicle Sales

D. Bank, Savings and Loan, or similar institution: One space per three hundred (300) square feet in addition to required queuing spaces

E. Bed and Breakfast facility: One space per guest room in addition to the requirements for a normal residential use

F. Bowling Alley or Center: Six parking spaces for each alley or lane

G. Business or Professional Office (general): One space per three hundred (300) square feet of gross floor area except as otherwise specified herein

H. Carwash (self-service): One space per washing bay or stall in addition to the washing areas/stalls themselves and required queuing spaces

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I. Church, Rectory, or other place of worship: One parking space for each three seats in the main auditorium/sanctuary

J. College, University or Technical School: One space for each three students, based upon maximum enrollment or design capacity, whichever is greater

K. Commercial Amusement (indoor): One space per 100 square feet of gross floor area, or as follows:

1. Racquetball or handball courts: Three spaces for each court

2. Indoor tennis courts: Six spaces for each court

3. Gymnasium, skating rinks, and martial arts schools: One space for each three seats at a maximum seating capacity (based upon maximum occupancy), plus one space for each two hundred (200) square feet

4. Swimming pool: One space for each 100 square feet of gross water surface and deck area

5. Weight lifting or exercise areas: One space for each 100 square feet

6. Indoor jogging or running tracks: One space for each 100 linear feet

7. Motion picture theaters (which do not include live performances): One space for each three seats for single-screen theaters or one space for each five seats for motion picture theaters with two or more screens

8. Amusement center: One space for each game table and one space for each amusement device

9. All areas for subsidiary uses not listed above or in other parts of this section (such as restaurant, office, etc.), shall be calculated in with the minimum specified for those individual uses

L. Commercial amusement (outdoor): Ten spaces plus one space for each 500 square feet over five thousand (5,000) square feet of building and recreational area

M. Commercial uses: One space per two hundred fifty (250) square feet of floor area

N. Community center, library, museum, or art gallery: Ten parking spaces plus one additional space for each three hundred (300) square feet of floor area in excess of two thousand (2,000) square feet. If an auditorium is included as a part of the building, its floor area shall be deducted from the total and additional parking provided on the basis of one space for each four seats that it contains

O. Convenience store (with gasoline pumps): One space per two hundred (200) square feet of floor area, plus one parking space for each side of a gasoline pump unit (a unit may have up to six nozzles for gasoline disbursement). Spaces within pump areas qualify as spaces for the parking requirement. If no gasoline sales are provided, then the parking requirements shall be the same as for a retail store. Adequate space shall be provided for waiting, stacking, and maneuvering automobiles for refueling.

P. Country club, golf club: One parking space for each one hundred, fifty (150) square feet of floor area or for every five members, whichever is greater

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Q. Dance hall, dance/aerobics studio, assembly or exhibition hall without fixed seats: One parking space for each 100 square feet of floor area thereof

R. Day Nursery, Day Care Center: One space per ten pupils (based upon maximum occupancy or licensing capacity), plus one space per teacher, plus one space for each bus or van stored on the property (and sized to accommodate the vehicle)

S. Dwelling units (all except MF): Two spaces for each unit

T. Dwelling units, Multifamily: Two spaces per one- and two-bedroom units and two and one-half (2-1/2) spaces per three-bedroom unit and one space for visitor parking for each five units

U. Fast-Food or Drive-In Restaurant: One parking space per 100 square feet of gross floor area (including indoor/outdoor play areas and patio dining areas), or one space for every three seats under maximum seating arrangement (i.e., occupancy), whichever is greater; required parking spaces are in addition to any stacking spaces that may be needed/provided for drive-through or drive-in facilities

V. Fraternity, Sorority, or Dormitory: One parking space for each two beds

W. Furniture or Appliance Store, Hardware Store, Wholesale Establishments, Machinery or Equipment Sales and Service, Clothing or Shoe Repair or Service: Two parking spaces plus one additional parking space for each three hundred (300) square feet of floor area over one thousand (1,000)

X. Gasoline Station: One space per two hundred (200) square feet of floor area, plus one space for each side of a gasoline pump unit (a unit may have up to six nozzles for gasoline disbursement). Spaces within pump areas qualify as spaces for the parking requirement. A minimum of six spaces for employees. Adequate space shall be provided for waiting, stacking, and maneuvering automobiles for refueling

Y. Golf Course: Three parking spaces per hole or green plus requirements for retail, office and clubhouse areas and one space per each two employees

Z. Golf Driving Range: One and one-half (1-1/2) spaces for each driving tee

AA. Health Club, Health Spa or Exercise Club - One space per one hundred fifty (150) square feet of floor area

BB. Hospital: One space per employee on the largest shift, plus one and one-half (1-1/2) spaces per each bed or examination room, whichever is applicable

CC. Hotel or Motel: One parking space for each sleeping room or suite or two spaces for any guest room provided with full kitchen facilities, plus one space for each four seats (based on maximum occupancy) of commercial area contained therein, plus one space per one hundred twenty-five (125) square feet of meeting/conference areas, plus one space for every two employees during peak (i.e., busiest) time periods when the hotel/motel is fully occupied

DD. Institutions of a Philanthropic Nature: Ten spaces plus one space for each employee

EE. Library or Museum: Ten spaces plus one space for every three hundred (300) square feet

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FF. Lodge or Fraternal Organization: One space per two hundred (200) square feet

GG. Lumber Yard/Home Improvement Center: One space per hour hundred (400) square feet display area, plus one space per one thousand (1,000) square feet of warehouse

HH. Manufactured/Mobile Home or Manufactured/Mobile Home Park: Two spaces for each manufactured/mobile home unit, plus one visitors/supplemental parking for each dwelling unit, plus additional spaces as required herein for accessory uses.

II. Manufacturing or Industrial Establishment, Research or Testing Laboratory, Creamery, Bottling Plant, Warehouse, Printing or Plumbing Shop, or Similar Establishment: One parking space for each employee on the maximum working shift, plus space to accommodate all trucks and other vehicles (in appropriate sizes) used in connection therewith, but not less than one parking space for each one thousand (1,000) square feet of floor area

JJ. Medical or Dental Office: One space per one hundred fifty (150) square feet of floor area; facilities over twenty thousand (20,000) square feet shall use the parking standards set forth for hospitals

KK. Mini-Warehouse: Four spaces per complex, plus one additional space per five thousand (5,000) square feet of storage area, plus two spaces for an on-site manager's residence (if applicable), plus one appropriately sized space for any type of vehicle to be stored on-site (e.g., rental trucks, boats, RVs, etc.)

LL. Mortuary or Funeral Home: One parking space for each 100 square feet of floor space in slumber rooms, parlors or individual funeral service rooms, or one space for each three seats in the auditorium/sanctuary, whichever is greater. Adequate on-site stacking spaces shall also be provided for the organization and forming of processions such that these activities do not cause excessive or extended traffic congestion/delays on a public roadway

MM. Motor Vehicle Salesroom and Used Car Lots: One parking space for each 500 square feet of sales floor/office or other indoor uses, or one parking space for each one thousand (1,000) square feet of lot area for outdoor storage, sales and parking areas, plus one parking space per repair bay in service areas (indoors or outdoors), plus one parking space per service/towing vehicle to be stored on-site (required parking spaces are in addition to those to be used for the storage/display of vehicles for sale/lease)

NN. Nursing Home, Convalescent Home, or Home for the Aged: One space per five beds, plus one parking space for each one thousand (1,000) square feet of lot area for outdoor uses, plus one parking space for each three hundred (300) square feet of floor area devoted to offices, cafeterias, exercise/therapeutic rooms and other similar ancillary uses, plus one space for every two employees at full occupancy

OO. Office (Administrative or Professional): One space for each three hundred (300) square feet of floor area

PP. Outdoor Display: One space for each six hundred (600) square feet of open sales/display area

RR. Pawnshop: One space for each two hundred (200) square feet of floor area

SS. Places of Public Assembly not listed: One space for each three seats provided

TT. Restaurant, Private Club, Nightclub, Cafe or Similar Recreation or Amusement Establishment: One parking space for each 100 square feet of gross floor area (including indoor/outdoor play areas and patio dining areas), or one space for every three seats under maximum seating arrangement (i.e., occupancy), whichever is

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greater; required parking spaces are in addition to any stacking spaces that may be needed/provided for drive-through or drive-in facilities

UU. Retail Store or Personal Service Establishment, except as otherwise specified herein: One

(1) space per two hundred (200) square feet of gross floor area in addition to any required stacking spaces for drive-through facilities

VV. Rooming/Boarding House or Group Quarters: One parking space for each sleeping room, plus one parking space for each host resident or employee during maximum (i.e., peak) shift

WW. School, Elementary (grades K-6): One parking space for each 15 students (design capacity)

XX. School, Secondary or Middle (grades 7-8): One parking space for each 12 students (design capacity)

YY. School, High School (grades 9-12): One space for each one and one-half (1.5) students, faculty and staff (design capacity)

ZZ. Storage or Warehousing and Light Manufacturing: One space for each two employees on duty at peak shifts, or one space for each one thousand (1,000) square feet of total floor area, whichever is greater

AAA. Telemarketing: One space for each two hundred and fifty (250) square feet for [of] floor space

BBB. Terminal facilities (truck, bus depot, or other): For warehouse and staging/loading areas, one space for each two employees on duty at peak shifts, or one space for each one thousand (1,000) square feet of floor area, whichever is greater; for bus depot or other human transportation use, one space per 100 square feet of passenger waiting area, plus parking spaces for any warehouse and staging/loading areas on the premises (as above)

CCC. Theater (indoor or outdoor), auditorium (except school), or sports arena, stadium: One

(1) parking space for each three seats or bench seating spaces (see section XVI.1.7(B)) DDD. Veterinarian Clinic: One space per three hundred (300) square feet of gross floor space

EEE. Warehouse, Wholesale, Manufacturing and Other Industrial Type Uses: One space for each two employees on duty at peak shifts, or one thousand (1,000) square feet of gross floor area, whichever is greater

XVI.1.7 Rules for computing number of parking spaces and miscellaneous off-street parking requirements. In computing the number of parking spaces required for each of the above uses, the following rules shall govern:

A. “Floor area” shall mean the gross floor area of the specific use.

B. “Seat” shall be interpreted as follows:

1. For fixed (e.g., church pews, grandstands, benches, etc.) seating, one seat equals 1.75 feet of length; and

2. For flexible (e.g., folding chairs, etc.) seating areas, one seat equals eight (8) square feet of floor area occupied by such seating area (including aisles).

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C. Where fractional spaces result, the parking spaces required shall be constructed to be the next higher whole number.

D. The parking space requirements for a new or unlisted use not specifically mentioned herein shall be the same as required for a use of similar nature. If the proposed use is not similar to any of the uses listed herein, a determination shall be made by the city manager or his/her designee, in accordance with the requirements for the most closely related use specified in this section. In the event the applicant disagrees with this determination, then he/she may submit a request for determination by the planning and zoning commission and the city council using the same process as provided in Article IV for classifying new and unlisted uses.

E. When a building or use is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need for an increase of ten percent (10%) or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change. When a building or use existing prior to the effective date of this chapter is enlarged to the extent of fifty percent (50%) or more in floor area, number of employees, number of dwelling units, seating capacity or otherwise, then the building or use shall be required to conform with the parking requirements herein for the entire building or use.

F. In the case of mixed uses in the same building or on the same premises (such as retail or office), the off-street parking spaces required shall equal the sum of the requirements of the various uses computed separately. No parking space for one particular use shall be allowed to count toward the parking requirement for some other use on the premises except in the case of a shared parking arrangement (see subsection G below).

G. Shared parking, with determination to be feasible, may be allowed in the case of mixed uses (different/separate buildings) under the following conditions:

1. Up to sixty percent (60%) of the parking spaces required for a theater or other place of evening entertainment (after 6:00 p.m.), or for a church, may be provided and used jointly by banks, offices, and similar uses not normally open, used, or operated during evening hours.

2. Shared parking must be on the same parking lot and specifically recommended by the planning and zoning commission and city council at the time of the site plan approval under the shared parking provisions. The approval may only be denied by the city council and additional parking obtained by the owners in the event that the city council determines that such joint use is resulting in a public nuisance by providing an inadequate number of parking spaces or otherwise adversely affecting the public health, safety, or welfare.

3. To assure retention of the shared parking spaces, each property owner shall properly draw and execute an irrevocable mutual parking agreement, approved by the city Attorney, expressing the same, shall file this agreement in the deed records of the County where the property is located, and shall provide a copy of the filed agreement to the city prior to the filing of the Final Plat and shall be a condition of Final Plat approval.

H. Compact Car and Parallel Parking Spaces - In the O, NS, R, C and IP districts only, and for nonresidential uses (e.g., school, church, day care facility, etc.) that are allowed in residential zoning districts, compact car or parallel parking spaces may be permitted when approved as part of a detailed site plan by the planning and zoning commission and the city council, providing at least one of the following conditions apply:

1. Where it is necessary to preserve the natural landscape and native trees, a maximum of ten percent (10%) of required parking may be designated for compact cars or parallel parking spaces (either one, or in combination).

2. For parking lots larger than 100 spaces involving a shopping center, a maximum of ten percent (10%) of

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the required parking may be for compact cars and/ or parallel parking spaces (either one, or in combination).

3. For parking lots larger than 100 spaces involving large single-tenant industrial or office buildings, a maximum of ten percent (10%) of the required parking may be for compact cars or parallel parking spaces (either one, or in combination).

The city shall not be responsible for policing the use of compact car or parallel parking spaces on private property, or for citing violations thereof.

XVI.1.8 Location of Parking Spaces. All residential parking spaces required herein shall be located on the same lot with the building or use served. In the case of nonresidential building/uses the required parking shall be within no more than two hundred feet (200'), except as follows:

A. Where an increase in the number of spaces is required by a change or enlargement of use, or where such spaces are provided collectively or used jointly by two or more buildings or establishments, the required additional spaces may be located not to exceed two hundred feet (200') from any nonresidential building served and as set forth in the mutual parking agreement.

B. In any case where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, approval by the planning and zoning commission and the city council is required, the parking spaces must be located on an immediately contiguous lot or tract or on a lot or tract within two hundred feet (200') of such building or structure, and shall be filed with the appropriate County and a file-marked copy shall be included with the application for a building permit according to either:

1. A permanent, irrevocable easement of the parking facilities in favor of the premises benefitted and shall be dedicated and recorded as a condition of such use; or

2. An irrevocable mutual parking agreement with the approval first of the city attorney and also by the city as a condition of such use. The agreement shall be recorded in the deed records of the county where the property is located.

XVI.1.9 Use of parking spaces - all districts. Required off-street parking and loading spaces shall be used only for these respective purposes and shall not be used for storage or permanent display of goods, materials, or products for sale/lease/rent, refuse containers, cart corrals, recycling kiosks, signs or sign support structures, telecommunications towers or support structures.

XVI.1.10 Handicap parking. Handicap parking spaces shall be provided according to State of Texas Program for the Elimination of Architectural Barriers and shall conform to the Americans Disability Act (ADA) of 1991, accessibility guidelines or the Uniform Federal Accessibility Standards.

XVI.1.11 Fire Lanes. Fire lanes shall be provided in all multifamily, single-family attached, manufactured (mobile) home and nonresidential developments, as required by the adopted Fire Code of the city (also see the subdivision regulations for certain fire lane regulations). Fire lanes shall be a minimum width of twenty-four feet (24') of paving, or as may be amended by the Fire Code or NCTCOG amendments. The fire lanes shall also have a minimum inside turning radius at curves of twenty feet (20'), or as required by the Fire Code or the Fire Chief of the city. The minimum overhead vertical clearance over fire lanes shall be fourteen feet (14') for a linear distance of fifty feet (50') on each side (i.e., in front of and behind, as a fire apparatus would traverse underneath) of any overhead structure (e.g., canopy, roof overhand [overhang], vertical height control device, etc.)

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XVI.1.12 Parking regulations for special motor vehicles

A. For purposes of these regulations, the term “special motor vehicles” is defined as including boats, boat trailers, travel trailers, pickup campers and coaches (designed to be mounted upon automotive vehicles), motorized dwellings (RVs), tent trailers and the like, as well as cases or boxes used for transporting such vehicles, whether occupied by such vehicles or not. No such vehicles shall be used for living, sleeping or housekeeping or similar purposes when parked or stored on a residential lot, or in any location not approved for such use, except as specified in this chapter.

B. No special motor vehicle, heavy load vehicle (as defined in this chapter) or recreational vehicle shall be left unattended or parked for more than 24 hours within any parking lot, parking spaces, drive aisle, vacant or unused property, or pervious/unpaved surface area (except an appropriately zoned and approved/paved parking lot for such vehicles).

C. No required parking space, garage, carport, or other automobile storage space shall be used for the storage of any special motor vehicle, limousine, RV, trailer, boat, wrecker, truck tractor rig or trailer, camper or camper shell, or other similar recreational, dwelling or business vehicle.

D. No heavy load vehicles are allowed to be stored or parked in residential areas on a regular or repetitive basis.
(Code 1996, ch. 14, exh. 14A, art. XVI, § 1)

ARTICLE XV. MINIMUM ZONING DESIGN CRITERIA

Sec. 3. UTILITIES.

All utility service lines shall be constructed underground.
(Code 1996, ch. 14, exh. 14A, art. XVII, § 3)

Sec. 4. ACCESSORY BUILDINGS AND DWELLING UNITS.

XVII.4.1 Accessory buildings in residential districts

A. In a residential or multifamily district, an accessory building is a subordinate or incidental building, attached to or detached from the main building without kitchen facilities but may include a separate bath, not used for commercial purposes and not rented or used as a dwelling unit. Accessory buildings shall be located toward the rear portion of the property, generally behind the main buildings, and accessory buildings that exceed two hundred fifty (250) square feet in floor area shall be “site built” (i.e., cannot be a pre-manufactured or “kit” building), and shall conform with applicable exterior construction requirements for accessory buildings and shall be designed and constructed so that they are in keeping with the general architecture of the adjoining residential development. Accessory buildings of any size shall conform to applicable setbacks for the appropriate zoning district and shall conform to all applicable city building codes.

B. Accessory buildings shall not be permitted without a main building or primary use being in existence. In the event the main or primary building becomes dilapidated, substandard or destroyed, or removed, and not replaced within six months of the destruction or removal, the accessory building must be removed, unless additional time for the construction of the main structure is granted by the board of adjustment after application, hearing and evidence of the financial ability and work plan for the construction of such main building.

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XVII.4.2 Accessory buildings in nonresidential districts

A. In any nonresidential district, an accessory building or incidental accessory use is a subordinate building or use, the use of which is incidental to and used only within or in conjunction with the main building. The accessory shall not have kitchen or bath facilities. Accessory buildings shall not be permitted without a main building or primary use being in existence. Accessory buildings shall be located toward the rear portion of the property, generally behind the main buildings, and accessory buildings that exceed two hundred fifty (250) square feet in floor area shall be "site built" (i.e., cannot be a pre-manufactured or "kit" building), and shall conform with applicable exterior construction requirements for accessory buildings and be designed and constructed so that they are in keeping with the general architecture of the adjoining residential development.

B. Accessory buildings of any size shall conform to the same setbacks as the main building and shall conform to all applicable city building codes.

C. Accessory buildings shall not be permitted without a main building or primary use being in existence. In the event the main or primary building becomes dilapidated, substandard or destroyed, or removed, and not replaced within six months of the destruction or removal, the accessory building must be removed, unless additional time for the construction of the main structure is granted by the board of adjustment after application, hearing and evidence of the financial ability and work plan for the construction of such main building.

XVII.4.3 Accessory dwelling units. Accessory dwelling units shall only be allowed in Agricultural "A", Single-Family Estate "SF-E" and Single-Family - One "SF-1" Districts and shall require a specific use permit. Accessory dwelling units are for guests on a temporary and intermittent residential use only and may be on the same lot as the main dwelling unit provided it meets the following standards:

A. Accessory dwelling buildings must be designed and constructed so that they are in keeping with the general architecture of the adjoining residential development.

B. As a separate dwelling unit, the accessory dwelling building shall only be occupied by a blood relative or guest of those in the main resident [residence] and an independent water meter shall be required.

C. Accessory building shall be constructed of similar and complementary material and color to main structure.

D. The accessory dwelling unit must be constructed to the rear of the main dwelling. Accessory dwelling units shall be allowed in the residential districts of "A", "SF-E" or "SF-1" only and shall comply with all required setbacks and total lot coverage.

E. An accessory dwelling unit shall not exceed six hundred fifty square feet (650 sq. ft.).

F. The accessory dwelling unit may be constructed only with the submission and approval of a specific use permit and site plan. Failure to comply with the requirements of the SUP shall render it null and void and the city may take all necessary action to render the accessory dwelling unit uninhabitable by removal of kitchen and plumbing facilities.

G. The accessory dwelling unit may not be sold separately from sale of the entire property, including the main dwelling unit, and shall not be rented or leased.

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XVII.4.4 Special regulations for accessory buildings and dwelling units

A. All detached accessory buildings shall in no instance be less than sixty feet (60') feet from the front building line or in front of the main building.

B. All side and rear yard setbacks shall be in accordance with the requirements for that zoning district.

C. Garages or carports, with required minimum exterior construction, located and arranged so as to be entered from an interior side yard shall have a minimum of twenty-five feet (25') from the side lot line. Carports or garages arranged to be entered from the side yard, facing a public street, or from a rear or side alley shall have a minimum distance equal to the required yard for the main building or twenty-five feet (25'), whichever is greater.

D. Carports, with required minimum exterior construction, shall be measured from the columns supporting the roof nearest to the street or alley.

E. Accessory buildings shall not exceed the height allowed in the specific zoning district, except taller accessory buildings may be allowed in nonresidential districts by specific use permit (SUP) only.
(Code 1996, ch. 14, exh. 14A, art. XVII, § 4)

Sec. 6. ALTERNATE BODIES OF WATER.

A. An alternate body of water shall be defined as any at- or below-grade pond, lake or open tank that is not constructed as a swimming pool (i.e., concrete- or gunite-lined pool, or a prefabricated masonry, plastic or plexiglass pool) and that contains water in any portion of it at a depth of one and one-half feet (1.5'), or a greater depth, at any given time.

B. No alternate body of water shall be constructed, maintained or operated in any zoning district except Agricultural (A) without issuance of a specific use permit (SUP) or without specific incorporation into the ordinance and development standards of an approved planned development (PD) district.

C. Construction of any approved alternate body of water shall require issuance of a grading permit from the city prior to any construction activity on the site, and shall be designed such that it facilitates, and will not hinder, stormwater drainage in the area.

D. Any approved alternate body of water (i.e., by SUP or in a PD district) shall be shown on the Plat (and on the site plan, if such is required for the development), and language shall be shown on the Plat and site plan (if applicable) that describes ownership and maintenance responsibility for such body of water.

E. Any approved alternate body of water (i.e., by SUP or in a PD district) shall comply with all city, county, state and federal laws pertaining to safety, and shall have the following safety features:

1. Shall be lighted at night for pedestrian and user safety (not required in the agricultural district) unless it is secured by fencing;

2. Shall include an adequate water circulation device (e.g., pump, fountain, aerator, etc.) that will minimize stagnation and the growth of algae and other undesirable aquatic growths; and

3. Shall be posted with visible signage that prohibits swimming and wading, and that warns users of

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potential dangers (i.e., no lifeguard on duty, the presence of aquatic wildlife, etc.).
(Code 1996, ch. 14, exh. 14A, art. XVII, § 6)

Sec. 7. PERFORMANCE STANDARDS - NOISE, SMOKE, LIGHTING, PARTICULATE MATTER, ETC.

XVII.7.1 All uses must conform. In all zoning districts, any use indicated in the permitted use list shall conform in operation, location, and construction to the performance standards as administered by county, state and federal agencies. All uses, including those which may be allowed by PD or SUP, shall conform in operation, location, and construction to appropriate performance standards for noise, smoke, and particulate matter, odorous matter, fire, or explosive hazard material, toxic and noxious matter, vibration, and glare.

XVII.7.2 Must comply with federal and state regulations. All federal and state pollution, noise, and requirements for toxic waste disposal shall be observed.

XVII.7.3 Noise. At no point at the bounding property line of any use shall the sound pressure level of any operation or land use 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**									
Octave Band	37 75	75 150	150 300	300 600	600 1200	1200 2400	2400 4800	4800 9600	A Scale
Decibel Band Limit (db re	86	76	70	65	63	58	55	53	65

Note - “A scale” levels are provided for monitoring purposes only and are not applicable to detailed sound analysis.

* “Daytime” shall refer to the hours between sunrise and sunset on any given day.

** “Bounding Property Line” shall be interpreted as being at the near side 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 interpreted as the bounding property line.

B. The following corrections shall be made to the table of octave band-decibel limits above in determining compliance with the noise level standards:

1. When noise is present at nighttime, subtract (-7 db.)

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2. When noise contains strong pure-tone components or is impulsive (i.e., when meter changes at 10 decibels or more per second), subtract (-7 db.)

3. When noise is present for not more than the following, add (+10 db):

a. 1/2 minute in any 1/2-hour period

b. 1 minute in any 1-hour period

c. 10 minutes in any 2-hour period d. 20 minutes in any 4-hour period

C. Measurement of noise shall be made with a sound level meter on octave band analyzer meeting the standards prescribed by the American Standards Association.

D. Exemptions - The following uses and activities shall be exempt from the noise level regulations herein specified.

1. Noises not directly under control of the property owner or user.

2. Noises emanating from construction and maintenance activities between the hours of 7:00 a.m. and 7:00 p.m. (i.e., daylight hours).

3. Noises of safety signals, warning devices and emergency pressure relief valves.

4. Transient noise of moving sources such as automobiles (i.e., not to include idling automobiles), trucks, and airplanes.

5. Events sanctioned by the city.

XVII.7.4 Smoke and particulate matter. No operation or use shall cause, create, or allow the emission for more than three minutes in any one hour of air contaminants that at the emission point or within the bounds of the property are:

A. Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke or contaminants in the standard prescribed by the ASTM except for when the presence of uncombined water is the only reason for failure to comply, or when such contaminants are emitted inside a building which prevents their escape into the atmosphere.

B. The emission of particulate matter from all sources shall not exceed 0.5 pounds per acre of property within the operation's site per any one hour.

C. Open storage and open processing operations, including on-site transportation movements which are the source of wind- or air-borne dust or other particulate matter; or which involves dust or other particulate air contaminants, generating equipment such as used in paint spraying, grain handling, sand or gravel processing or storage or sand blasting, shall be so conducted that dust and other particulate matter so generated are not transported across the boundary line of the tract on which the use is located in concentrations exceeding four grains per 1000 cubic feet of air.

XVII.7.5 Odorous Matter

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A. No use shall be located or operated which involves the emission of odorous matter from a source of operation where the odorous matter exceeds the odor threshold at the bounding property line or any point beyond the tract on which such use or operation is located.

B. The odor threshold as herein set forth shall be determined by observation by the city manager or his or her designee. In any case, where uncertainty may arise or where the operator or owner of an odor-emitting use may disagree with the enforcing officer or where specific measurement of odor concentration is required, the method and procedures specified by the American Society for Testing Materials (ASTMD) shall be followed.

XVII.7.6 Fire or Explosive Hazard Material

A. No use involving the manufacture or storage of compounds or products which decompose by detonation shall be permitted except that chlorates, nitrates, perchlorates, phosphorus, and similar substances and compounds in small quantities for use by industry, school laboratories, druggists or wholesalers may be permitted when approved by the city fire chief.

B. The storage and use of all flammable liquids and materials such as pyroxylin plastics, nitrocellulose film, solvents, and petroleum products shall be permitted only when such storage or use conforms to the standards and regulations of the city's adopted fire code or are approved by the fire chief.

C. Commercial fireworks displays shall be allowed in accordance with this Code.

XVII.7.7 Toxic and Noxious Matter. No operation or use shall 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 will exceed 10 percent of the concentration (exposure) considered as the threshold limit for an industrial worker as such standards are set forth by the state department of health in "Threshold Limit Values Occupational Health Regulation No. 3," a copy of which is incorporated by reference.

XVII.7.8 Vibration. No operation or use shall at any time create earth-borne vibrations which when measured at the bounding property line of the source operation exceed the limits of displacement set forth in the following table in the frequency ranges specified:

Frequency Cycles Per Second	Displacement in Inches
0 to 10	0.0010
10 to 20	0.0008
20 to 30	0.0005
30 to 40	0.0004
40 and over	0.0003

(Code 1996, ch. 14, exh. 14A, art. XVII, § 7)

Sec. 9. REQUIRED VISUAL SIGHT DISTANCE.

XVII.9.1 Visual clearance shall be provided in all zoning districts so that no fence, wall, architectural screen, earth mounding or landscaping, or other feature obstructs the vision of a motor vehicle driver approaching

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any street, alley, or driveway intersection. When an intersection of a streets, alley, or driveway occurs, a triangular visibility area shall be created. Landscaping, fences, signs, walls, earthen berms and other features within the triangular visibility area shall be designed so as to provide unobstructed cross-visibility at a level between thirty inches (30") and eight feet (8') above the ground. The triangular areas are defined as follows:

A. Street intersection or intersection of private driveway onto a public street - These areas shall have a triangular visibility area with two sides of each triangle being a minimum of twenty-five feet (25') in length along the right-of-way (or along the driveway curb line and the street right-of-way line) from the point of the intersection, and the third side being a line connecting the ends of the other two sides.

B. Alley intersects a public street right-of-way - The areas on both sides of the intersection of an alley and a public street shall have a triangular visibility area with two sides of each triangle being a minimum of ten feet in length from the point of intersection, and the third side being a line connecting the ends of the other two sides.

C. Fences, walls, and hedges three feet in height or less may be located in the visual clearance areas of all districts provided that they are kept maintained at a maximum height of three feet.

D. A limited number of single-trunked trees having no branching below the height of eight feet may be located within sight visibility areas provided that they are trimmed in such a manner that no limbs or foliage extend into the cross-visibility area defined above, and provided that they are spaced and positioned such that their trunks will not produce a visibility inhibiting, picket-fence effect when they attain mature size.

XVII.9.2 Nonresidential Structures in Residential Districts - Nonresidential structures (e.g., churches, schools, day care centers, etc.) which are permitted in residential zoning districts (A, SF-E, SF-1, SF-2, SF-3, SF-PH, PD) shall be designed and constructed such that they conform to the development standards set forth in the Neighborhood Service (NS) zoning district (i.e., with respect to maximum height, minimum lot size, minimum front/side/rear setbacks, screening, exterior building construction, etc.) unless otherwise stated in this chapter or in the ordinance establishing a PD.
(Code 1996, ch. 14, exh. 14A, art. XVII, § 9)

Sec. 10. SUPPLEMENTAL STANDARDS FOR USES SELLING ALCOHOLIC BEVERAGES.

XVII.10.1 Any use or business which sells alcoholic beverages shall be no closer than 300 feet to church or public hospital, or to a day care or child care facility, as defined in V.T.C.A., Human Resources Code, § 42.002, measured along property lines along public streets from front door to front door and in a direct line across intersections.

XVII.10.2 To the extent allowed by applicable law, as it exists and as it may be amended, any use or business which sells alcoholic beverages shall be no closer than 1,000 feet to a public school or private school as measured in a direct line from property line of the school to property line of the use or business, and in a direct line across intersections, if the board of trustees of the school district or the governing body of a private school requests such separation in writing. Otherwise, the distance shall be as provided in section X.11.1 [XVII.10.1].

XVII.10.3 The distance standards in section X.11.1 [XVII.10.1] do not apply to a day care or child care facility if the use or business selling alcoholic beverages and day care or child care facility are on different stories of a multi-story building, or are located in separate buildings and the use or business or the day care or child care facility is located on the second story or higher of a multi- story building.

XVII.10.4 The sale of beer and wine is expressly prohibited in residential areas.

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XVII.10.5 If the establishment derives seventy-five percent (75%) or more of its gross revenue from the on-premise sale of alcoholic beverages, the applicant must obtain a SUP for such use in accordance with the procedure set forth for SUPs in zoning districts that permit the use with an SUP.
(Code 1996, ch. 14, exh. 14A, art. XVII, § 10; Ordinance O-03-09 adopted 4/20/09)

Sec. 11. SUPPLEMENTARY STANDARDS FOR CREDIT ACCESS BUSINESSES.

XVII.11.1 A structure containing a credit access business shall be located at least 1,000 feet from another structure containing another credit access business, as measured in a straight line between the nearest points of one structure to the other structure.

XVII.11.2 A lot containing a credit access business shall be located at least 1,000 feet from any lot zoned or used for residential purposes, churches, schools and pawn shops, as measured in a straight line between the nearest points of one lot to the residential lot.

XVII.11.3 A lot containing a credit access business shall not be located on property fronting a street classified as a Major Arterial or greater.

XVII.11.4 A credit access business shall be situated only within a freestanding structure and shall not be collocated in the same structure as other uses.
(Code 1996, ch. 14, exh. 14A, art. XVII, § 1; Ordinance O-13-15, sec. 3, adopted 11/16/15)

Sec. 12. SUPPLEMENTARY STANDARDS FOR PAWNSHOPS.

XVII.12.1 A structure containing a pawnshop shall be located at least 1,000 feet from another structure containing another pawnshop or credit access business, as measured in a straight line between the nearest points of one structure to the other structure.

XVII.12.2 A lot containing a pawnshop shall be located at least 1,000 feet from any lot zoned or used for residential purposes, churches and schools, as measured in a straight line between the nearest points of one lot to the residential lot.

XVII.12.3 A lot containing a pawnshop shall not be located on property fronting a street classified as a major arterial or greater.

XVII.12.4 A pawnshop shall be situated only within a freestanding structure and shall not be co-located in the same structure as other uses.
(Code 1996, ch. 14, exh. 14A, art. XVII, § 12; Ordinance O-14-15, sec. 2, adopted 10/20/15)

Sec. 13. SUPPLEMENTARY STANDARDS FOR VAPOR SHOPS.

XVII.13.1 A structure containing a vapor shops shall be located at least 1,000 feet from another structure containing another credit access business, as measured in a straight line between the nearest points of one structure to the other structure.

XVII.13.2 A lot containing a vapor shops shall be located at least 1,000 feet from any lot zoned or used for residential purposes, churches and schools, as measured in a straight line between the nearest points of one lot to the residential lot.

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XVII.13.3 A lot containing a vapor shops shall not be located on property fronting a street classified as a Major Arterial or greater.

XVII.13.4 A credit access business shall be situated only within a freestanding structure and shall not be collocated in the same structure as other uses.
(Code 1996, ch. 14, exh. 14A, art. XVII, § 13; Ordinance O-15-15, sec. 4, adopted 12/1/15)

ARTICLE XVI. TEMPORARY USES AND PERMITS

Sec. 1. TEMPORARY USES AND PERMITS

XVIII.1.1 Temporary Uses. The temporary uses addressed in this section shall be permitted, as a temporary use permit "TUP", in all zoning district categories unless otherwise indicated in this chapter. The applicant for a temporary use permit must meet all of the conditions for such temporary use as set forth in this section. Temporary use permits may be issued by the city manager or his/her designee subject to the provisions of this section. An appeal to the city council may be made by an applicant whose temporary use permit was denied by the city manager. The appeal shall be submitted within 10 calendar days of the city manger's decision and be in writing and accompanied by the appropriate fee. Any exceptions to the terms and provisions of this section must be approved by the city council, which the council may authorize if it determines that an exception or waiver of the provisions of this section is warranted due to special conditions. All temporary use permits shall contain a specified time limit for the discontinuance of the temporary use.

XVIII.1.2 Asphalt or concrete batching plant. A temporary asphalt or concrete batching plant permit may be approved by the city manager, subject to the conditions of this section. Any exceptions to the following conditions shall require approval of the city council:

A. The batching plant site shall comply with all applicable provisions of city, state and federal laws.

B. The batch plant shall not be located within five hundred feet (500') of an inhabited residence.

C. Hours of operation and hauling shall be limited to Monday through Friday, 7:00 a.m. to 6:00 p.m. and Saturday, 9:00 a.m. to 5:00 p.m. Aggregate trucks shall be prohibited from hauling to or from the site on Sunday.

D. The batch plant permit shall be valid for a three-month period. No extensions will be allowed without approval of the city council.

E. No portion of the batch plant or its operation shall be located on a public or private street, or on land dedicated to the city for parks and open space.

F. The batch plant shall only furnish concrete, asphalt, or both, to the specific project for which the temporary permit is issued. The placement of a temporary batching plant for a private project is restricted to the site of the project.

G. The temporary plant shall be operated in a manner that eliminates unnecessary dust, noise and odor (as illustrated by, but not limited to, covering trucks, hoppers, chutes, loading and unloading devices and mixing operations, and maintaining driveways and parking areas free of dust).

H. A bond issued to the city, in the amount determined by the city manager or his or her designee, shall be

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required prior to the issuance of the TUP for the restoration of the site. The site must be clear of all equipment, material and debris as well as all contaminated soil, chemicals and hazardous waste within seven calendar days of completion of the project. In the event the site has been restored the bond will be returned to the applicant. In the event the site has not been restored to the satisfaction of the city manager, the city will make every attempt to have the repairs complete within a period of one hundred and eighty (180) days thereupon returning any dollar amount in excess of the bond.

I. A bond issued to the city, in an amount determined by the city manager or his or her designee, shall be required prior to the issuance of the TUP for the repair of all public improvements that are damaged by any and all equipment necessary for and during the operation of the temporary batching plant. The applicant may choose to make the necessary repairs or replacements within 30 calendar days of completion of the project for the return of the bond. In the event these repairs and replacements have not been made to the satisfaction of the city manager the city will make every attempt to have the repairs complete within a period of one hundred and eighty (180) days thereupon returning any dollar amount in excess of the bond.

J. Upon issuance and expiration of the temporary permit and cessation of activities, the city building official and permittee shall walk the site to verify compliance with these special conditions.

K. Every attempt should be made by the applicant to ensure that no residential street is utilized for ingress and egress to the batch plant.

XVIII.1.3 Sales Trailer

A. A temporary permit allowing sales from a modular trailer (mobile office) shall be valid until the issuance of a certificate of occupancy for a model home or for one hundred fifty (150) days, whichever comes first. There shall be no extensions of such temporary permit. A trailer shall not be used for living or sleeping purposes.

B. The trailer must be removed within 30 days after the issuance of a certificate of occupancy for a model home or one hundred fifty (150) days, whichever comes first.

C. The trailer must be single-wide with a maximum length of seventy (70) feet.

D. The trailer must have ground anchors for every ten feet (10') of the length of the trailer.

E. The trailer must have skirting around the trailer to conceal the undercarriage.

F. The trailer must be located in a platted subdivision on a lot which is owned by the applicant, builder, or developer and be located behind the front yard building lot line.

G. Location of the trailer and landscaping plans must be approved by the city manager or his/ her designee.

H. At a minimum, landscaping shall include foundation plantings for the front of the trailer to conceal the skirting, and the front yard (twenty-five feet (25') or building line whichever is greater) and side yards (four feet (4') minimum) must be grassed. Side yards must have a one to five (1-5) gallon shrubs every three feet (3') with seasonal flowers between.

I. A temporary three-foot (3') wide concrete sidewalk to the parking area is required from the trailer to the curb.

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J. Building permit fees for the temporary sales trailer will be required and assessed according to the fee schedule and any necessary utility connection fees shall be paid.

K. Temporary off-street parking of an approved all-weather surface shall be provided at a minimum rate of two spaces per proposed model home on the same side of the street as the models. Parking must also include at least one hard surface (i.e. concrete, asphalt etc.) parking space for handicap citizens.

L. Upon issuance and expiration of the temporary permit and cessation of activities, the city building official and permittee shall walk the site to verify compliance with these special conditions. Upon the expiration of the temporary permit or the completion of the model home, whichever comes first, the city building official and permittee shall walk the site and verify that all temporary facilities have been removed.

XVIII.1.4 Model Homes. The construction of model homes after approval of the final plat and prior to the acceptance of public improvements by the city shall be subject to the conditions of this section. Any exceptions to the following conditions shall require the approval of the city council:

A. No model home may be constructed prior to the approval of the final plat and issuance of a building permit by the city.

B. No model home shall be sold until a final certificate of occupancy has been issued for the structure.

C. The developer/owner shall file a hold harmless agreement, in a form acceptable to the city attorney, with the city agreeing to fully indemnify and release the city from all claims, suits, judgments and demands against the city which have accrued or which may accrue, and to hold the city harmless from all claims, suits, judgments and demands against the city, either severally or jointly, which have accrued or which may accrue as a result of the improvements, including sidewalks, streets, water and sewer lines, installations of electricity and other utilities, not having been fully inspected and approved by the city.

D. The hold harmless agreement shall also indicate that the city shall assume no liability for the development or construction of the development or the improvements. The city only grants permission for the construction and showing of the model homes and in no way shall be held liable for the development of the subdivision/project or for any injury or damages which may result from the improvements, including those mentioned in subsection C of this section, not having been fully inspected an accepted by the city.

E. Upon expiration of the temporary permit and cessation of activities, the city building official and permittee shall walk the site to verify compliance with these special conditions.

F. Failure to fully construct a model home within six months of the issuance of the building permit shall constitute a substandard structure and a public nuisance that may subject the structure to proceedings associated with the repair or demolition of substandard structures and to permit a lien to be placed upon the property.

XVIII.1.5 Seasonal Sales. A temporary use permit may be issued by the city manager or his or her designee for a seasonal sales use. The city manager or his or her designee shall consider each request independently and may or may not approve the request. Temporary use permits for seasonal sales shall be subject to the following conditions:

A. Temporary use permits shall be issued only for the seasonal sales merchandise such as Christmas trees, pumpkins, landscape vegetation and fresh produce.

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B. The outdoor display and sales of seasonal items such as mentioned in subsection A above shall only be allowed in nonresidential districts.

C. A temporary permit shall only be issued to any applicant and for any property twice per calendar year and only for 30 day periods.

D. The use shall not involve more than one tent or temporary building on a lot.

E. The applicant shall have written permission from the property owner.

F. No structure or activity relating to the temporary use shall be located within the required yard setbacks, easements, pedestrian walkways or rights-of-way.

G. All outdoor display shall be removed within two calendar days after the expiration of the permitted time.

H. Upon both the issuance and expiration of the temporary permit and cessation of activities, the city building official and permittee shall walk the site to verify compliance with these special conditions.

XVIII.1.6 Carnival, circus, tent revival or special event. A temporary use permit for a carnival, circus, tent revival or special event may be issued by the city manager or his or her designee, subject to the following conditions:

A. Coordination with the city manager or his or her designee shall begin a minimum of 90 days prior to submission of an application for TUP. Application for a permit shall be made no less than ten business days prior to the date such temporary carnival, circus, tent revival or special event shall commence operation.

B. The fee for such permit shall be charged according to the fee schedule. Nonprofit organizations shall be exempt from permit fees upon submission of evidence of the nonprofit status of the organization.

C. The application for a permit shall contain the following:

1. Name, address and telephone number of person, organization or company conducting the event.

2. Dates and time of operation of the carnival, circus, tent revival or special event.

3. A plan showing in detail the different component parts of the temporary carnival, circus, tent revival or special event, including all shows, concessions, amusements, businesses, and the locations of each on the property.

4. A written lease or agreement from the owner of such property stating permission to the applicant to operate a temporary carnival, circus, tent revival or special event on the property.

5. A written agreement with the city, signed by all parties, dictating all pertinent understanding regarding reimbursement to the city for expenses incurred relevant to this event.

6. Proposed location and size of parking area.

7. Location and quantity of sanitary facilities, including but not limited to toilets and hand washing stations.

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8. The approximate number of persons who are attending and, if applicable, the number and types of animals and vehicles that will constitute such event.

9. The location and orientation of loudspeakers or sound amplification devices, if any.

10. Proof of public liability insurance with minimum combined limits of five million dollars ($5,000,000). The city shall be named as an additional insured on the policy.

11. Any other information the city shall deem necessary under the standards for issuance.

D. Safe and orderly movement of normal vehicular and pedestrian traffic shall not be interrupted. However, street closures may be coordinated with and approved by the city manager or his or her designee.

E. The temporary use shall not impede the movement of firefighting equipment, police, ambulances or public works.

F. Police security (state certified police officer) must be provided at the applicant's expense. However, the city police chief shall have the discretionary authority to determine the number of officers and hours of operation when the police security shall be necessary.

G. Waste from animals shall be removed frequently but no less than daily from the premises. Reduction of odor and insurance of a sanitary environment shall determine the frequency of animal waste removal. Animals shall not be kept closer than three hundred feet (300') to any residence or commercial establishment during non-operating hours of such event. Should the event involve the use of wild animals as defined by state law and city ordinances, regulations associated with such animals shall apply and require compliance.

H. The application shall be reviewed by the building official and police and fire departments for security, fire and safety related issues.

I. The permit will be valid for a maximum period of ten consecutive days which time includes event set-up, take-down and clean-up.

J. The city will review the permit application in conjunction with the city's special event regulations.

K. Prior to the opening of the carnival, circus, tent revival or special event and upon expiration of the temporary permit and cessation of activities, the city building official and permittee shall walk the site to verify compliance with these special conditions.

XVIII.1.7 Refreshment Stands. A temporary use permit for a refreshment stand may be issued by the city manager or his or her designee, subject to compliance with the following conditions:

A. A portable building may be used on a temporary basis as a refreshment stand for a period not to exceed six months on the same lot or parcel within any consecutive 12-month period, measured from the date of the issuance of the temporary permit.

B. It shall be the responsibility of the applicant to comply with all provisions of this section.

C. A deposit in a sum according to the fee schedule shall be required at the time the temporary permit for the refreshment stand is obtained to ensure the removal of the stand if the use is discontinued and the stand is not

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removed from the site within ten calendar days of the expiration or abandonment of the permit. The deposit will be refunded once the stand has been removed, prior to ten calendar days after the permit expires, and all other requirements have been met. Failure to timely remove the stand and otherwise comply with these requirements shall cause the deposit to be forfeited and deposited into the city's general fund.

D. All other applicable permits relative to providing food service must be obtained and satisfy all applicable state and local regulations associated with food sanitation. Failure to so comply may render the permit null and void and require immediate cessation of food service.

E. A refreshment stand and all appurtenances thereto, shall comply with all applicable requirements of the zoning district in which it is located. The facility shall not be required, however, to meet the landscaping, exterior masonry or underground utility requirements of the applicable zoning district.

F. A refreshment stand may only be located on parking spaces of retail or commercial property, provided that such spaces are not necessary to meet the minimum parking requirements of the other uses on the lot or parcel.

G. A refreshment stand in a portable building shall not be located within, nor encroach upon, a fire lane, maneuvering aisle, vehicle stacking space or required landscaping areas of the lot or parcel upon which the facility is placed. The location of such facility shall comply with all visibility obstruction regulations of the city.

H. A site plan shall be submitted providing a well-delineated "safety" area to keep vehicles from entry into the stand and table area. The site plan shall be prepared to scale and reviewed and approved by the building official and the fire marshal.

I. The refreshment stand shall be located on an approved concrete surface.

J. The refreshment stand shall be no more than a maximum of eight feet by twelve feet (8' x 12') in size.

K. The refreshment stand shall obtain a health permit and meet all health requirements promulgated by the Dallas or Ellis County (whichever is applicable) health regulations and the state department of health and as set forth in the city's regulations governing same. Failure to so comply shall render the permit null and void and require the immediate cessation of food services.

L. Upon both the issuance and expiration of the temporary permit and cessation of activities, the city building official and permittee shall walk the site to verify compliance with these special conditions.
(Code 1996, ch. 14, exh. 14A, art. XVIII, § 1; Ordinance O-03-09 adopted 4/20/09 ; Ordinance O-06-21 adopted 7/20/21)

ARTICLE XVII. ENFORCEMENT AND REVIEW

Sec. 1. EFFECT OF INTERPRETATION.

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity or annul any easements, covenants or other agreements between parties, provided, however, that where this chapter imposes a greater restriction upon this use of buildings or premises or upon height of buildings, or requires larger open spaces than are imposed or required by agreements, the provisions of this chapter shall govern. This chapter is also not intended to abrogate or annul any lawfully obtained permit issued prior to the effective date of this chapter.

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(Code 1996, ch. 14, exh. 14A, art. XX, § 1)

Sec. 2. PRESERVING RIGHTS IN PENDING LITIGATION AND VIOLATIONS UNDER EXISTING ORDINANCES.

By the passage of this chapter, no presently illegal use shall be deemed to have been legalized unless such use specifically falls within a use district where the actual use is a conforming use. Otherwise, such uses shall remain nonconforming uses where recognized, or an illegal use, as the case may be. It is further the intent and declared purpose of this chapter that no offense committed, and no liability, penalty or forfeiture, either civil or criminal, incurred prior to the time the previous this chapter was repealed and this chapter adopted, shall be discharged or affected by such repeal and adoption of this chapter; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures may be instituted or causes presently pending proceeded with in all respects as if such prior ordinance had not been repealed.
(Code 1996, ch. 14, exh. 14A, art. XX, § 2)

Sec. 3. COMPLAINTS REGARDING VIOLATIONS; PARTIES LIABLE; PROCEDURES UPON DISCOVERY OF VIOLATIONS.

XX.3.1 Complaints Regarding Violations - When the city manager receives a written, signed complaint alleging a violation of this chapter, the city manager shall investigate the complaint, take whatever action is warranted, and inform the complainant in writing what actions have been or will be taken.

XX.3.2 Parties Liable - The owner, tenant, or occupant of any building or land or part thereof and any architect, building contractor, agent, or other person who participated in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this chapter, or has care, custody or control of the building, land or part thereof may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.

XX.3.3 Procedures Upon Discovery of Violations

A. If the city manager finds that any provision of this chapter is being violated, the city manager shall send a written notice to the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. Additional written notices may be sent at the city manager's discretion.

B. The final written notice (an initial written notice may be the final notice) shall state what action the city intends to take if the violation is not corrected and shall advise that the city manager's decision or order may be appealed to the board of adjustment in accordance with Article IV, section 3 if a zoning matter, or the city planning and zoning commission if a platting matter.

C. Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this chapter or pose a danger to the public health, safety, or welfare, the city manager may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in section 4 of this Article.
(Code 1996, ch. 14, exh. 14A, art. XX, § 3)

Sec. 4. PENALTIES AND REMEDIES FOR VIOLATIONS.

XX.4.1 Any person, firm, or corporation who shall intentionally or knowingly violate any of the provisions of this chapter or who shall fail to comply with any requirement or provision hereof within the territorial limits of the city, shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine not to exceed $2,000.00, and

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every day that such violation continues shall constitute a separate offense and shall be punishable accordingly. In addition to the penalty provided for, the right is conferred and extended upon any property owner owning property in any district, where such property owner may be affected or invaded, by a violation of the terms of this chapter, to bring suit in such court or courts having jurisdiction thereof and obtain such remedies as may be available at law and equity in the protection of the rights of such property owners.

XX.4.2 Any violation of this Code which occurs outside the territorial limits of the city and within the ETJ of the city shall not constitute a misdemeanor under this chapter; however, under this Code, the city shall have the right to institute an action in the district court to enjoin the violation of any provision of such code in such extraterritorial jurisdiction, and the district court shall have the power to grant any or all types of injunctive relief in such cases.

XX.4.3 Notwithstanding the potential criminal penalties outlined herein, nothing herein shall prevent or preclude the city from taking all appropriate legal actions and seeking such legal redress as permitted by law including civil, administrative and injunctive relief.
(Code 1996, ch. 14, exh. 14A, art. XX, § 4)

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Appendix A[202]

FEE SCHEDULE

ARTICLE A1.000 GENERAL PROVISIONS
§ A1.001. City manager authority to amend fee schedule.

ARTICLE A2.000 PLANNING DEPARTMENT
§ A2.001. Planning Department.

ARTICLE A3.000 BUILDING INSPECTION DEPARTMENT
§ A3.001. General fees.
§ A3.002. Building permit fee schedule.
§ A3.003. Rental registration and inspection fees.

ARTICLE A4.000 FOOD SERVICE FEES
§ A4.001. Food service fees.
§ A4.002. Food service inspection fees.

ARTICLE A5.000 UTILITIES
§ A5.001. Water rates and charges.
§ A5.002. Wastewater rates and charges.
§ A5.003. Irrigation rates and charges.
§ A5.004. Utility billing.
§ A5.005. Tap fees.
§ A5.006. Backflow device inspection.
§ A5.007. Solid waste collection.
§ A5.008. Smart water meter fees.

ARTICLE A6.000 CODE ENFORCEMENT
§ A6.001. Code enforcement.

ARTICLE A7.000 COIN-OPERATED MACHINES
§ A7.001. Coin-operated machines.

ARTICLE A8.000 ANIMAL CONTROL
§ A8.001. Animal control.

ARTICLE A9.000 CITY SECRETARY
§ A9.001. Business-related fees.

ARTICLE A10.000 MISCELLANEOUS FEES
§ A10.001. Credit card service charge and returned check fee.
§ A10.002. Garage sales.

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[202] **Appendix A. Fee Schedule.** I suggest that the fee schedule not be included in the code but instead be posted on the city's website. The chapter should also be reduced to table format.

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ARTICLE A11.000 MUNICIPAL COURT
§ A11.001. Warrant fee.

ARTICLE A12.000 PARKS AND RECREATION
§ A12.001. Parks and recreation.

ARTICLE A13.000 POLICE DEPARTMENT
§ A13.001. Police Department.

ARTICLE A14.000 FIRE DEPARTMENT
§ A14.001. Annual inspection fees.
§ A14.002. Ambulance service.
§ A14.003. Plan review and acceptance testing fees.
§ A14.004. EMS fees.
§ A14.005. Report fees.

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ARTICLE A1.000 GENERAL PROVISIONS

§ A1.001. City manager authority to amend fee schedule.

The city manager shall have authority to propose new fees and amendments to the following fee schedule as he or she deems appropriate or necessary. Said proposed or amended fees shall become effective after being placed on a city council meeting agenda and approved by the council.

(Ordinance O-13-11 adopted 9/19/11 ; Ordinance O-13-17 adopted 9/12/17 ; Ordinance O-14-17 adopted 9/12/17 ; Ordinance O-12-23 adopted 10/3/2023)

ARTICLE A2.000 PLANNING DEPARTMENT

§ A2.001. Planning Department.

(a) Zoning ordinance: $25.00.

(b) Subdivision regulations: $15.00.

(c) Annexation: $500.00.

(d) Zoning:

(1) Zoning change other than SUP or planned development:

(A) $1,000.00: (1–10 acres).

(B) $1,500.00: (11–29 acres).

(C) $1,500.00 + $15.00/acre: (30 + acres).

* A total of $2,800.00 is the maximum amount for zoning change under this subsection.

(2) Zoning change: SUP:

(A) Commercial: $950.00 + $15.00/acre.

(B) Residential: $500.00 + $5.00/acre.

(3) Zoning change: Planned development: $1,500.00 plus $10.00/acre plus actual cost of third- party review fee(s).

(4) Temporary use permit or renewal: $150.00.

(5) Zoning verification letter: $60.00.

(6) Appeal/variance: $250.00 + notification fees (at cost).

(7) Site plan review: $350.00 + $20.00/acre plus actual cost of third-party review fee(s).

(8) In-house plan review: $60.00 hourly.

(9) Plan review by third party: Actual cost.

*All acreage will be rounded up to the nearest whole acre.

(e) Platting (fees below do not include recordation fee and third-party review cost):

(1) Preliminary plat:

(A) 25 acres or less: $400.00 + $20.00/lot.

(B) Over 25 acres: $450.00 plus $25.00/lot.

(2) Final plat:

(A) 25 lots or less: $325.00 + $50.00/lot.

(B) Over 25 lots: $500.00 plus $25.00/lot.

(3) Replat/amending/vacating plat: $575.00 + $35.00/acre.

(4) In-house plat review: $60.00 hourly.

(5) Plat review by third party: Actual cost.

(6) Refiling: Expiration of a final plat caused by nonconstruction of public improvements will require applicant to begin platting process again, including payment of above noted fees.

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(f) Preapplication meeting fee: Free.

(Ordinance O-13-11 adopted 9/19/11 ; Ordinance O-13-17 adopted 9/12/17 ; Ordinance O-14-17 adopted 9/12/17 ; Ordinance O-14-22 adopted 11/22/2022 ; Ordinance O-12-23 adopted 10/3/2023)

ARTICLE A3.000 BUILDING INSPECTION DEPARTMENT

§ A3.001. General fees.

(a) General contractor/license registration: $100.00 annually. (Does not apply to mechanical, electrical and plumbing contractor.)

(b) Impact fee and park fee: Per current impact fee and park land dedication ordinance.

(c) Building permit: See section A3.002.

(d) Electrical: $105.00.

(e) Plumbing: $105.00.

(f) Mechanical: $105.00.

(g) Remodel, move, demolition:

(1) Building addition: $0.72/SF under the roof plus plan review fee.

(2) Remodel/alteration: $350.00.

(h) Minor building repair: $105.00

(i) Demolition: $120.00.

(j) Reinspection fees (for any/all inspections):

(1) Initial inspection: $0.00 (included in permit fee).

(2) First reinspection: $50.00.

(3) Second reinspection: $75.00.

(4) Third and each subsequent reinspection: $100.00 per inspection.

(k) After hours inspection: $60.00 hour (minimum 2 hours including travel time). Subject to availability.

(l) Engineering and plan review:

(1) Third party: Actual cost.

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(2) In-house: $60.00 hourly.

(m) Energy code review and inspection: Actual cost of third-party inspection.

(n) Miscellaneous fees:

(1) Certificate of occupancy: $100.00.

(2) Permit fee not specified: $105.00 + number of inspections need x $50.00.

(3) Grading: $100.00.

(o) Infrastructure inspection fee:

(1) Infrastructure plan review fee: Actual cost of third-party review.

(2) Infrastructure inspection fee: Actual cost of third-party inspection.

(p) Concrete, flatwork, driveway: $150.00.

(q) Roofing: $125.00.

(r) Fence:

(1) Residential: $100.00.

(2) Commercial: See section A3.002.

(3) Screening wall (plus eng. review): See section A3.002.

(4) Retaining wall (plus eng. review): See section A3.002.

(s) Moving structure:

(1) Into city limits (including inspections): $500.00.

(2) Through city limits (including escort): $150.00 first hour plus $100.00 each additional 30 minutes.

(3) Mileage: Current IRS rate.

(t) Accessory structures:

(1) Accessory structure/carport: See section A3.002.

(2) Detached garage (residential): See section A3.002.

(u) Pools and spas:

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(1) In-ground, site-built pool: $250.00 plus plan review fee.

(2) Above-ground pool: $150.00 and trade permit (per need). (Pool less height than 36" does not require permit if no plumbing or electrical changes needed.)

(3) Site-built spa: $250.00 plus plan review fee.

*Electrical and plumbing require separate permits.

(v) HUD-code manufactured home - move in and setup: $150.00 + any trade permit (e.g. MEP).

(w) Industrialized home: $200.00 + any trade permit (e.g. MEP).

(x) Signs: Sign contractor must be registered. Requires any trade permits plus actual cost of plan review fee by third party or, at city's option, permit fee in the amount of $150.00 permit fee or, as applicable, the following amount:

(1) On-premises project: $100.00.

(2) Grand opening/coming soon: N/A.

(3) Special event (except exempted): $25.00.
(4) Change of ownership: N/A.
(5) Builder directional (annually): $30.00.
(6) Real estate sign (> 6 sq. ft.): $50.00.
(7) Portable sign: $75.00.
(8) Model home: $50.00.
(9) Development/project sign (6 months): $150.00.
(10) Awning/canopy sign: $75.00.
(11) Neon light sign: $50.00.
(12) Banners, flags and pennants: $25.00.
(13) Renewal (on- and off-premises): $50.00.
(14) Sign repair: $25.00.

(y) Annual donation box permit: $50.00.

(z) Solar permit: $175.00.

*All permit fees double if construction or work is performed without the required permit.

(Ordinance O-13-11 adopted 9/19/11 ; Ordinance O-13-17 adopted 9/12/17 ; Ordinance O-14-17 adopted 9/12/17 ; Ordinance O-12-23 adopted 10/3/2023)

§ A3.002. Building permit fee schedule.

(a) Building permit fee for other than residential one- and two-family new construction, additions, alterations and remodels shall be as set forth in table 1-A in this section.

(b) Building permit fee for residential one- and two-family new construction, additions, alterations, remodels,

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repairs and other improvements shall be as set forth in table 2-A in this section.

(c) Plan review fees:

(1) When submittal documents are required by IBC section 107 or IRC section R106, a plan review fee shall be paid at the time of submitting the submittal documents for plan review. Said plan review fee shall be 65-percent of the building permit fee as shown in table 1-A or, as applicable, table 2-A.

(2) The plan review fees specified in this section are separate fees from the permit fees and are in addition to the building permit fees.

(d) Building permit valuation: For other than residential new construction, additions, alterations, remodels, repairs and other improvements, the building official may require the applicant to provide satisfactory verification of the declared value.

Table 1-A

Building Permit Fees for Other than Residential One- and Two-Family New Construction, Additions, Alternations, Remodels, Repairs and Other Improvements.

Valuation	*Fee*
$1.00 to $10,000.00	$107.69
$10,001.00 to $25,000.00	107.69 for the first $10,000.00 plus $14.00 for each additional $1,000.00, or fraction thereof, to and including $25,000.00
$25,001.00 to $50,000.00	$391.25 for the first $25,000.00 plus $10.10 for each additional $1,000.00, or fraction thereof, to and including $50,000.00
$50,001.00 to $100,000.00	$643.75 for the first $50,000.00 plus $7.00 for each additional $1,000.00, or fraction thereof, to and including $100,000.00
$100,001.00 to $500,000.00	$993.75 for the first $100,000.00 plus $5.60 for each additional $1,000.00, or fraction thereof, to and including $500,000.00
$500,001.00 to $1,000,000.00	$3,233.75 for the first $500,000.00 plus $4.75 for each additional $1,000.00, or fraction thereof, to and including $1,000,000.00

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$1,000,001.00 and up	$5,608.75 for the first $1,000,000.00 plus $3.15 for each additional $1,000.00, or fraction thereof

Table 2-A
Residential Building Permit Fees for One- and Two-family dwellings and Garage New Construction, Additions, Alterations, Remodels, Repairs and Other Improvements.

New building (including detached garage), additions, alterations, remodels, repairs and other improvements	$0.72 per sf
Plus	
MEP trades (each)	$105.00
Accessory storage building </= 200 sf	$0.00
Accessory storage building > 200 sf	$0.54 per sf
Roof covering replacement	$105.00

(e) Other inspections and fees (hourly charge).

(1) Inspections outside of normal business hours: $60.00 per hour* (minimum charge - two hours). Subject to availability.

(2) Reinspection fees assessed under provisions of section 1.01.009: $50.00 per hour.*

(3) Inspections for which no fee is specifically indicated: $50.00 per hour* (minimum charge - one-half hour).

(4) Additional plan review required by changes, additions or revisions to plans: $60.00 per hour* (minimum charge - one-half hour).

(5) For use of outside consultants for plan checking and inspections, or both: Actual costs.**

* Or the total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of the employees involved.

** Actual costs include administrative and overhead costs.

(Ordinance O-05-19 adopted 10/1/19 ; Ordinance O-12-23 adopted 10/3/2023)

§ A3.003. Rental registration and inspection fees.

(a) Residential rental dwelling unit registration fees:

(1) Registration fee (per rental unit): $55.00.

(2) Late registration fee (per rental unit): $75.00.

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(b) Residential property inspection fees:

(1) Single-family and two-family rental units: $50.00.

(2) Multifamily rental units containing 3–25 dwelling units: $75.00.

(3) Multifamily rental units containing 26–100 dwelling units: $90.00 base fee + a multi-unit fee of $12.50 x (total number of rental units multiplied by $0.30).

(4) Multifamily rental units containing 101+ dwelling units: $115.00 base fee + a multi-unit fee of $12.50 x (total number of rental units multiplied by $0.30).

(5) Reinspection fee: $75.00.

(Ordinance O-04-16 adopted 3/1/16 ; Ordinance O-12-23 adopted 10/3/2023)

ARTICLE A4.000 FOOD SERVICE FEES

§ A4.001. Food service fees.

(a) Food service (annually or seasonally):

(1) Any business engaged in the sale of consumables (except seasonal business): $400.00.

(2) Snow cone/concession stand (season): $50.00.

(3) Public school: $0.00.

(4) City: $0.00.

(5) Mobile food vendor: $250.00

(6) Food service inspection:

(A) Annual fee covering two yearly inspections: $210.00.

(B) Each subsequent inspection in a calendar year: $105.00.

These fees do not include state-required health inspections. No annual or seasonal permit will be issued without a valid and current health inspection report and certificate.

(Ordinance O-13-11 adopted 9/19/11 ; Ordinance O-12-23 adopted 10/3/2023; Ord. No. O-14-24, att.(A4.001), 6-18-2024)

§ A4.002. Food service inspection fees.

(a) Annual fee covering two yearly inspections: $210.00.

(b) Subsequent inspections in calendar year: $105.00.

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(Ordinance O-11-23 adopted 9/19/2023)

ARTICLE A5.000 UTILITIES

§ A5.001. Water rates and charges.

The monthly water rates to be charged and collected by the city from all customers within the city limits and in the city's certificate of convenience and necessity (CCN) obtaining city services for water shall be hereby fixed as follows:

	FY 2024	FY 2025	FY 2026
Residential Inside Minimum Charge			
3/4" or less	$20.83	$23.02	$25.44
1"	$52.08	$57.56	$63.61
1.5"	$104.16	$115.11	$127.21
2"	$166.65	$184.17	$203.53
3"	$312.48	$345.33	$381.63
4"	$520.75	$575.50	$636.00
Volumetric Charge			
0 — 5,000	$2.24	$2.24	$2.24
5,001 — 15,000	$3.36	$3.36	$3.36
15,001 +	$5.04	$5.04	$5.04
Residential Outside Minimum Charge			
3/4" or less	$28.40	$31.38	$34.67
1"	$70.99	$78.44	$86.66
1.5"	$141.99	$156.89	$173.34
2"	$227.17	$251.01	$277.33
3"	$425.93	$470.62	$519.96
4"	$710.00	$784.50	$866.75
Volumetric Charge			
0 — 5,000	$3.15	$3.15	$3.15
5,001 — 15,000	$4.73	$4.73	$4.73

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15,001+	$7.10	$7.10	$7.10
Commercial Inside			
Minimum Charge 3/4" or less	$20.83	$23.02	$25.44
1"	$52.08	$57.56	$63.61
1.5"	$104.16	$115.11	$127.21
2"	$166.65	$184.17	$203.53
3"	$312.48	$345.33	$381.63
4"	$520.75	$575.50	$636.00
Volumetric Charge			
0 — 5,000	$2.24	$2.24	$2.24
5,001—15,000	$3.36	$3.36	$3.36
15,001+	$5.04	$5.04	$5.04
Commercial Outside Minimum Charge			
3/4" or less	$28.40	$31.38	$34.67
1"	$70.99	$78.44	$86.66
1.5"	$141.99	$156.89	$173.34
2"	$227.17	$251.01	$277.33
3"	$425.93	$470.62	$519.96
4"	$710.00	$784.50	$866.75
Volumetric Charge			
0 — 5,000	$3.15	$3.15	$3.15
5,001 — 15,000	$4.73	$4.73	$4.73
15,001+	$7.10	$7.10	$7.10
RV Park			
Minimum Charge			
3/4" or less	$20.83	$23.02	$25.44
1"	$52.08	$57.56	$63.61
1.5"	$104.16	$115.11	$127.21
2"	$166.65	$184.17	$203.53
3"	$312.48	$345.33	$381.63
4"	$520.75	$575.50	$636.00
Volumetric Charge			

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0—5,000	$2.24	$2.24	$2.24
5,001—15,000	$3.36	$3.36	$3.36
15,001+	$5.04	$5.04	$5.04
City Water			
Minimum Charge			
3/4" or less	$ —	$ —	$ —
1"	$ —	$ —	$ —
1.5"	$ —	$ —	$ —
2"	$ —	$ —	$ —
3"	$ —	$ —	$ —
4"	$ —	$ —	$ —
Volumetric Charge			
All	$ —	$ —	$ —
Residential Irrigation			
Minimum Charge			
3/4" or less	$10.42	$11.51	$12.72
1"	$26.02	$28.74	$31.76
1.5"	$52.07	$57.52	$63.57
2"	$83.29	$92.00	$101.67
3"	$156.19	$172.53	$190.67
4"	$260.50	$287.75	$318.00
Volumetric Charge			
0 — 5,000	$3.67	$3.67	$3.67
5,001 — 15,000	$5.51	$5.51	$5.51
15,001+	$8.27	$8.27	$8.27
Commercial Irrigation			
Minimum Charge			
3/4" or less	$10.42	$11.51	$12.72
1"	$26.02	$28.74	$31.76
1.5"	$52.07	$57.52	$63.57
2"	$83.29	$92.00	$101.67
3"	$156.19	$172.53	$190.67
4"	$260.50	$287.75	$318.00
Volumetric Charge			

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0 — 5,000	$3.67	$3.67	$3.67
5,001 — 15,000	$5.51	$5.51	$5.51
15,001+	$8.27	$8.27	$8.27
City Irrigation			
Minimum Charge			
3/4" or less	$ —	$ —	$ —
1"	$ —	$ —	$ —
1.5"	$ —	$ —	$ —
2"	$ —	$ —	$ —
3"	$ —	$ —	$ —
4"	$ —	$ —	$ —
Volumetric Charge			
All	$ —	$ —	$ —

(Ordinance O-15-21 adopted 11/16/21 ; Ordinance O-02-23 adopted 5/2/2023 ; Ordinance O-12-23 adopted 10/3/2023)

§ A5.002. Wastewater rates and charges.

The monthly wastewater rates to be charged and collected by the city from all customers within the city limits or in the city's certificate of convenience and necessity (CCN) obtaining city services for wastewater shall be hereby fixed as follows:

	FY 2024	FY 2025	FY 2026
Residential Inside			
Minimum Charge			
3/4" or less	$39.06	$45.31	$52.56
1"	$97.63	$113.25	$131.37
1.5"	$195.27	$226.52	$262.77
2"	$312.43	$362.42	$420.41
3"	$585.81	$679.55	$788.28
4"	$976.50	$1,132.75	$1,314.00
Volumetric Charge			
All	$7.24	$8.40	$9.74

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Commercial Inside			
Minimum Charge			
3/4" or less	$39.06	$45.31	$52.56
1"	$97.63	$113.25	$131.37
1.5"	$195.27	$226.52	$262.77
2"	$312.43	$362.42	$420.41
3"	$585.81	$679.55	$788.28
4"	$976.50	$1,132.75	$1,314.00
Volumetric Charge			
All	$7.24	$8.40	$9.74
Outside			
Minimum Charge			
3/4" or less	$44.92	$52.11	$60.45
1"	$112.28	$130.25	$151.10
1.5"	$224.55	$260.49	$302.18
2"	$359.29	$416.80	$483.51
3"	$673.65	$781.48	$906.55
4"	$1,122.63	$1,302.32	$1,510.75
Volumetric Charge			
All	$8.32	$9.65	$11.19
RV Park			
Minimum Charge			
3/4" or less	$ —	$ —	$ —
1"	$ —	$ —	$ —
1.5"	$ —	$ —	$ —
2"	$227.31	$263.68	$305.87
3"	$ —	$ —	$ —
4"	$ —	$ —	$ —
Volumetric Charge			
All	$5.27	$6.11	$7.09
2 Mtr			
Minimum Charge			
3/4" or less	$39.06	$45.31	$52.56

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1"	$97.63	$113.25	$131.37
1.5"	$195.27	$226.52	$262.77
2"	$312.43	$362.42	$420.41
3"	$585.81	$679.55	$788.28
4"	$976.50	$1,132.75	$1,314.00
Volumetric Charge			
All	$7.24	$8.40	$9.74
City			
Minimum Charge			
Base	$ —	$ —	$ —
Volumetric Charge			
All	$ —	$ —	$ —

(Ordinance O-20-10 adopted 9/7/10 ; Ordinance O-12-23 adopted 10/3/2023)

§ A5.003. Irrigation rates and charges.

The monthly irrigation rates to be charged and collected by the city from all customers obtaining city services for irrigation water shall be hereby fixed as follows:

Meter Charge	
3/4 inch	$6.31
1 inch	$15.76
1 1/2 inch	$31.53
2 inch	$50.44
3 inch	$94.58
4 inch	$157.75
Volumetric Charge per 1,000 Gallons	
0–6,000	$3.67
6,001–12,000	$4.59
12,001–18,000	$5.74
18,001 and over	$7.17

(Ordinance O-20-10 adopted 9/7/10 ; Ordinance O-12-23 adopted 10/3/2023)

§ A5.004. Utility billing.

(a) Utility deposit:

(1) Homeowner: $100.00.

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(2) Renter: $150.00.

(3) Clean up deposit, one week (7 calendar days): $30.00.

(4) Clean up deposit, two weeks (14 calendar days): $60.00.

(b) Late fee: $25.00 or 15% of total due, whichever is greater.

(c) Reconnection for nonpayment: $35.00.

(d) Meter pull: $150.00.

(e) Meter reset: $50.00.

(f) Irrigation meter removal (customer): $35.00.

(g) Irrigation meter reinstall (customer): $50.00.

(h) Irrigation meter lock-out (noncompliance): $50.00.

(i) Leak check: $35.00.

(j) Test meter: $35.00 plus cost of test.

(k) Re-read meter (after first re-read): $35.00.

(l) Temporary meter: $50.00 for processing and setting meter for up to 48 hours plus water use.

(m) Transfer service: $35.00 for processing and field work.

*All monthly water, sewer and solid waste rates are adopted by separate city ordinance.

(Ordinance O-13-11 adopted 9/19/11 ; Ordinance O-14-22 adopted 11/22/2022 ; Ordinance O-12-23 adopted 10/3/2023)

§ A5.005. Tap fees.

(a) As of October 3, 2023, the city generally will not conduct any water and sewer tap. General contractors desiring to perform a water and/or sewer tap must request inspection in advance. In specific cases, the director of public works may determine that a tap shall be performed by the city and in such case, the fees for these taps are as follows:

(1) Water tap fee:

5/8"–3/4"	$900.00
1"	$975.00
1-1/4"–1-1/2"	$1,100.00
2"	Actual cost plus $500.00

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Over 2	Actual cost plus $900.00

*Installation means connection of meter where a service is existing.

(2) Sewer tap fee:

3"	$500.00
4"	$600.00
6" or larger	$700.00

*Additional costs may be added to the tap fee depending on construction required.

(b) Additional cost above tap fee:

(1) Street cuts and/or road bores: Actual cost plus $100.00 admin.

(2) All taps exceeding 4' depth: Actual cost plus $100.00 admin.

(Ordinance O-13-11 adopted 9/19/11 ; Ordinance O-12-23 adopted 10/3/2023)

§ A5.006. Backflow device inspection.

Installation or replacement: $25.00.

(Ordinance O-13-11 adopted 9/19/11 ; Ordinance O-12-23 adopted 10/3/2023)

§ A5.007. Solid waste collection.

Actual cost charged by third-party collection service plus 10% per contract.

(Ordinance O-13-11 adopted 9/19/11 ; Ordinance O-12-23 adopted 10/3/2023)

§ A5.008. Smart water meter fees.

The smart water meter fee shall be based upon the size and type of the smart water meter as follows:

Size	*Type*	*Price*
3/4" X 5/8"	ALO	At Cost
3/4" X 5/8"	AMI	At Cost
1" X 1"	ALO	At Cost
1 ½" X 1 ½"	AMI	At Cost
2" X 2"	ALO	At Cost
3" X3"	AMI	At Cost
4" X4"	AMI	At Cost

(Ordinance O-08-21 adopted 8/3/21 ; Ordinance O-12-23 adopted 10/3/2023; Ord. No. O-02-274, § 1, 2-27-2024)

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ARTICLE A6.000 CODE ENFORCEMENT

§ A6.001. Code enforcement.

(a) Code violation abatement admin. fee: $250.00.

(b) Code violation abatement: Actual costs.

(c) Substandard/dangerous structure: 20% of value of property but not less than $250.00.

*Delinquency in payment of these costs and fees shall result in addition of interest at the rate of 10% and filing a lien against the property. Also, the city reserves the right to take appropriate steps to foreclose on the lien as provided by law.

(d) Peddler/solicitor: $25.00 per solicitor per occurrence.

(Ordinance O-13-11 adopted 9/19/11 ; Ordinance O-02-16 adopted 1/11/16 ; Ordinance O-14-22 adopted 11/22/2022 ; Ordinance O-12-23 adopted 10/3/2023)

ARTICLE A7.000. COIN-OPERATED MACHINES

§ A7.001. Coin-operated machines.

(a) Coin-operated machine operator (annually): $250.00.

(b) Machines each (annually): $15.00.

(Ordinance O-13-11 adopted 9/19/11 ; Ordinance O-02-16 adopted 1/11/16 ; Ordinance O-12-23 adopted 10/3/2023)

ARTICLE A8.000. ANIMAL CONTROL

§ A8.001. Animal control.

(a) Animal registration fee:

(1) Spayed or neutered animal: $10.00.

(2) Intact animal: $50.00.

(b) Dangerous dog registration fee: $200.00.

(c) Owner surrender fee:

(1) Adult animal: $50.00.

(2) Litter (under 12 weeks with mother): $10.00 plus $50.00 for mother.

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(3) Litter without mother: $50.00.

(d) Impounded domestic animal:

(1) First impound within one year: $40.00.

(2) Second impound within one year: $50.00.

(3) Third impound within one year: $75.00.

(4) Fourth impound within one year: $85.00.

(5) Additional impound within one year: $100.00.

(e) Daily boarding charge:

(1) Not quarantined: $15.00 or cost plus 20%, whichever is greater.

(2) Quarantined: $20.00 or cost plus 20%, whichever is greater.

(f) Impounded livestock: $35.00 plus boarding of third party.

*Boarding will be handled and paid directly by the third party. Owner will still owe the city impound fee.

(g) Identification tag: $10.00.

(h) Wild or exotic animal permit: $200.00.

(i) Pickup and disposal of dead animal: $50.00.

(j) Residential breeder/foster license: $35.00.

(k) Euthanasia, shipping and testing sample: $110.00.

(l) Rabies vaccination: N/A.

(Ordinance O-13-11 adopted 9/19/11 ; Ordinance O-02-16 adopted 1/11/16 ; Ordinance O-14-22 adopted 11/22/2022 ; Ordinance O-12-23 adopted 10/3/2023)

ARTICLE A9.000. CITY SECRETARY

§ A9.001. Business-related fees.

(a) Licensing inspection (Ord. O-04-09): $475.00.

(b) License renewal (Ord. O-04-09) (initial and renewal): 1/2 TABC licensing and renewal fee.

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(c) Filing fee (county): Actual cost plus $60.00 per hour.

(Ordinance O-13-11 adopted 9/19/11 ; Ordinance O-02-16 adopted 1/11/16 ; Ordinance O-12-23 adopted 10/3/2023)

ARTICLE A10.000. MISCELLANEOUS FEES

§ A10.001. Credit card service charge and returned check fee.

Relevant to all departments:

(1) Convenience fee (use of credit card): No charge unless it is a pass-through to a third-party collection agency.

(2) Service charge (denied credit card transaction): $35.00.

(3) Returned check fee: $35.00.

(Ordinance O-13-11 adopted 9/19/11 ; Ordinance O-02-16 adopted 1/11/16 ; Ordinance O-14-22 adopted 11/22/2022 ; Ordinance O-12-23 adopted 10/3/2023)

§ A10.002. Garage sales.

Garage sale: $5.00.

(Ordinance O-13-11 adopted 9/19/11 ; Ordinance O-02-16 adopted 1/11/16 ; Ordinance O-12-23 adopted 10/3/2023)

ARTICLE A11.000. MUNICIPAL COURT

§ A11.001. Warrant fee.

As adopted in the Code of Criminal Procedure.

(Ordinance O-13-11 adopted 9/19/11 ; Ordinance O-02-16 adopted 1/11/16 ; Ordinance O-12-23 adopted 10/3/2023)

ARTICLE A12.000 PARKS AND RECREATION

§ A12.001. Parks and recreation.

(a) Park pavilion rental (minimum 4-hour rental):

(1) Heritage Park: $25.00 hour resident $40.00 hour nonresident.

(2) All Abilities Park: $45.00 hour resident $55.00 hour nonresident.

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(b) Ballfield rental (minimum 2-hour rental):
(1) Resident: $25.00 hour.
(2) Nonresident: $35.00 hour.
(3) Concession Deposit: $100.00 resident $150.00 nonresident.
(4) Concession rental: $25.00 hour resident $35.00 hour nonresident.

(c) Community Center membership fees:

(1) Monthly membership resident senior (age 55+), active military, or veteran: $15.00.

(2) Monthly Membership nonresident senior (age 55+), active military, or veteran: $30.00

(3) Monthly membership single adult – resident: $20.00.

(4) Monthly membership – single adult nonresident: $40.00.

(5) Monthly membership family – resident: $40.00.

(6) Monthly membership family – nonresident: $80.00.

(7) Annual membership resident senior (age 55+), active military, or veteran: $150.00

(8) Annual membership nonresident senior (age 55+), active military, or veteran:

$300.00

(9) Annual membership single adult – resident: $200.00.

(10) Annual membership single adult – nonresident: $400.00.

(11) Annual membership family – resident: $400.00.

(12) Annual membership family – nonresident: $800.00.

(13) Youth room fee: $3.00.

The monthly membership fee will be waived for any currently employed, full-time or part- time employee of the City of Glenn Heights, as well as any council member serving an active term. Family members of current full-time and part-time employees will be allowed to pay a resident's rate for memberships and daily use fees. Family members of any council member serving an active term will have the monthly membership fee waived.

For purposes of this subsection (c), 'family' means persons who live in the same household and who are related by blood or marriage, such that they may be claimed as a spouse, domestic partner, or dependent.

(d) Community center daily use:

(1) Youth (age 5–15) or adult (age 16 and older) – resident: $5.00.

(2) Adult (16 years and older) – nonresident: $10.00.

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(e) Parks and recreation facility rentals:

(1) Family center: 1932 S. Hampton Rd. rental block includes set-up time:

(A) Deposit - (resident/nonresident): $150.00.

(B) Set-up fee (optional): $100.00.

(C) Rental – 2 hours (resident): $150.00.

(D) Rental – 2 hours (nonresident): $250.00.

(E) Hourly rental (resident): $75.00/hour.

(F) Hourly rental (nonresident): $125.00/hour.

(G) Kitchen rental (resident/nonresident): $30.00 flat fee.

(H) Audio/video usage (resident/nonresident): $30.00 flat fee.

(2) Community center banquet room (rooms A and B): 1938 S. Hampton Rd.:

(A) Deposit - (resident/nonresident): $250.00.

(B) Set-up fee (optional): $100.00.

(C) Rooms A and B - 4 hours (resident) (capacity 150): $600.00.

(D) Rooms A and B - 4 hours (nonresident): $700.00.

(E) Each additional hour (resident): $150.00/hour.

(F) Each additional hour (nonresident): $175.00/hour.

(G) Kitchen rental (resident/nonresident): $75.00 flat fee.

(H) Audio/video usage (resident/nonresident): $30.00 flat fee.

(I) 5-ft. linen tablecloths: $10.00 each.

(J) 18 x 18 dance floor rental (resident/nonresident): $400.00.

(K) LED uplighting (resident/nonresident): $30.00

(3) Room A – Community center banquet room:

(A) Deposit - (resident/nonresident): $250.00.

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(B) Room A – 2 hours (resident): $200.00.

(C) Room A – 2 hours (nonresident): $250.00.

(D) Each additional hour (resident): $100.00/hour.

(E) Each additional hour (nonresident): $125.00/hour.

(F) Kitchen rental (resident/nonresident): $75.00 flat fee.

(G) Audio/video usage (resident/nonresident): $30.00 flat fee.

(H) 5-ft. linen tablecloths: $10.00 each.

(4) Room B – Community center banquet room:

(A) Deposit - (resident/nonresident): $250.00.

(B) Room B – 2 hours (resident): $100.00.

(C) Room B – 2 hours (nonresident): $150.00.

(D) Each additional hour (resident): $50.00/hour.

(E) Each additional hour (nonresident): $75.00/hour.

(F) Audio/video usage (resident/nonresident): $30.00 flat fee.

(G) 5-ft. linen tablecloths: $10.00 each.

(5) Community center gymnasium (available for rental for training or practice for basketball, pickleball, or volleyball):

(A) Deposit - (resident/nonresident): $250.00.

(B) Half court rental (resident): $50.00/hour.

(C) Half court rental (nonresident): $60.00/hour.

(D) Full court rental (resident): $100.00/hour.

(E) Full court rental (nonresident): $120.00/hour.

(6) Youth room rental (max capacity 25):

(A) Deposit - (resident/nonresident): $50.00.

(B) Set up fee (optional): $20.00.

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(C) Youth room - 2 hours (resident): $50.00.

(D) Youth room - 2 hours (nonresident): $60.00.

(E) Each additional hour (resident): $25.00.

(F) Each additional hour (nonresident): $30.00.

(G) Projector fee (resident/nonresident): $10.00.

(7) Heritage Park special events (excluding ballfields) (minimum 4-hour rental).
(A) Deposit: $250.00 resident $450.00 nonresident.
(B) Park rental: $250.00 hour resident $400.00 hour nonresident.

(f) Recreation programs:

(1) Individual recreation classes - range from $5.00–$50.00 per class/day.

(2) Recreation programs (recreation programs will vary by week or by month) - range from

$20.00–$200.00 per week/month/session.

(3) Recreation team sports – range from $100.00–$500.00 per team/season.
(g) Special Event Permits (for any organization sponsoring or participating in the event):
(1) Any vendor engaged in information distribution: $50.00 per event.
(2) Any vendor engaged in sale of consumables: $100.00 per event.
(3) Any nonprofit organization: $50.00 per event.
(4) Mobile Food Vendor Permit: $100.00 per event.
(5) Optional Fee for 1 table + a max of 4 chairs: $100.00 per event in addition to items (1) through (4)
(6) Optional Permit to sell alcoholic beverages: $200.00 per event in addition to items (1) through (4)

For purposes of this subsection (g) ‘alcoholic beverage’ means any beverage containing more than one-half of one percent of alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted.

(h) The city manager shall have the authority to waive special event permit fees (under (e)(7) or (g) above) as s/he deems appropriate or necessary for the scheduled event.

(g) For purposes of subsections (a), (b), and (c) of this section, “resident” includes residents of the City and persons whose residence is serviced by Glenn Heights water and/or wastewater utilities.

(Ordinance O-13-11 adopted 9/19/11 ; Ordinance O-02-16 adopted 1/11/16 ; Ordinance O-14-22 adopted 11/22/2022; Ordinance O-01-23 adopted 5/16/2023; Ordinance O-12-23 adopted 10/3/2023; Ord. No. O-04-24, § 1, 1-23-2024; Ord. No. O-14-24, att.(A12.001), 6-18-2024; Ord. No. O-23-24, exh. A, 1-21-2025)

ARTICLE A13.000 POLICE DEPARTMENT

§ A13.001. Police Department.

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(a) Sexually oriented business (annually): $2,500.00.

(b) Dance hall (annually): $1,000.00. Late hour: $1,000.00.

(c) Peddler/solicitor: $25.00 per solicitor per occurrence.

(d) Alarm registration fee (biennial, no transfer):

(1) Residential permit: $35.00.

(2) Business: $100.00.

(e) False alarm fees (per occurrence after fifth false alarm within 12 months):

(1) Residential: $50.00.

(2) Business: $100.00.

(3) False robbery alarm notification: $50.00.

(f) Alarm company service fee (for incorrect permit number relayed): $50.00.

(g) Response to false alarm (for person excluded from receiving an alarm signal pursuant to section 4.08.011 of chapter 4): $150.00.

(h) Noise ordinance relief permit: $30.00.

(Ordinance O-13-11 adopted 9/19/11 ; Ordinance O-02-16 adopted 1/11/16 ; Ordinance O-12-23 adopted 10/3/2023)

ARTICLE A14.000 FIRE DEPARTMENT

§ A14.001. Annual inspection fees.

(a) Commercial < 5,000 sq. ft.: $25.00.

(1) Charge for additional inspections: $50.00.

(b) Commercial > 5,000 sq. ft.: $50.00.

(1) Charge for additional inspections: $50.00.

(c) High rise structure mixed use: $1,000.00.

(d) New construction of all hotels or SRO facilities with exterior corridor rooms only: $2,000.00.

(e) New construction of all hotels or SRO facilities with exterior and interior corridor rooms only: $3,000.00.

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(f) New construction of all hotels or SRO facilities with interior corridor rooms and places of assembly, such as restaurants, lounge, banquet facilities and so on: $4,000.00.

(g) Public schools K-12: $25.00/hr.

(h) Licensed day-care: $75.00/hr.

(i) Foster home: $50.00.

(j) Licensed nursing home: $200.00.

(k) Fire watch/standby: $50.00/hr.

(l) Special event site inspection: $25.00.

(Ordinance O-03-17, sec. 1, adopted 3/21/17 ; Ordinance O-12-23 adopted 10/3/2023)

§ A14.002. Ambulance service.

(a) Advanced life support I:

(1) Resident: $780.00.

(2) Nonresident: $855.00.

(b) Advanced life support II:

(1) Resident: $825.00.

(2) Nonresident: $900.00.

(c) Basic life support:

(1) Resident: $712.00.

(2) Nonresident: $787.00.

(d) Treatment/no transport: $175.00.

(e) Emergency "loaded" mileage/mile: $15.00.

(f) Oxygen, administration and supplies/hour: $119.00.

(g) I.V. administration, drug therapy, equipment and supplies/hour: $119.00.

(h) *Definitions:

ALS1 (advanced life support). Paramedic skills available but no advanced skills used. ALS2 (advanced life

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support). Paramedic skills available and advanced skills used.

Basic life support emergency services. Paramedic skills are not available. Care provided by basic level emergency medical technician.

Mileage. From the scene to final destination of delivery. Nonresident. Not a resident of the City of Glenn Heights. Resident. A resident of the City of Glenn Heights.

(i) Any resident or nonresident delivered to a location for helicopter transportation shall be charged the fees accumulated as if delivered to a medical facility. This cost is in addition to those accrued for the helicopter transport.

(j) The ambulance service charges set forth herein may be adjusted by the city manager or designee to reflect changes in the cost of supplies and/or equipment and to add new items that have been added to medical protocol.

(Ordinance O-13-11 adopted 9/19/11 ; Ordinance O-12-23 adopted 10/3/2023)

§ A14.003. Plan review and acceptance testing fees.

(a) Plan review <10,000 sq. ft: $150.00.

(b) Plan review > 10,000 sq. ft: $200.00.

(c) Underground fire main hydro: $50.00.

(d) Fire alarm acceptance testing: $25.00/hour.

(e) Fire protection sprinkler acceptance testing: $25.00/hour.

(f) Hydrant flow test: $50.00.

(Ordinance O-03-17, sec. 2–4, adopted 3/21/17 ; Ordinance O-12-23 adopted 10/3/2023)

§ A14.004. EMS fees.

(a) CPR class: $50.00.

(b) First-aid class: $50.00.

(Ordinance O-03-17, sec. 2–4, adopted 3/21/17 ; Ordinance O-12-23 adopted 10/3/2023)

§ A14.005. Report fees.

(a) Copy of EMS report: $10.00.

(b) Copy of fire report: $10.00.

(Ordinance O-03-17, sec. 2–4, adopted 3/21/17 ; Ordinance O-12-23 adopted 10/3/2023)

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AGENDA SUMMARY SHEET
July 7, 2026

CONSENT AGENDA, ITEM 3

Discussion and take action to approve the Maplewood South Final Plat request, submitted by CCM Engineering on behalf of Bloomfield Homes, LP, an addition to the City of Glenn Heights, Texas, consisting of approximately 24.128 acres of land situated in the William Rawlings Survey, Abstract No. 1205, within Dallas County, Texas. (Bester Munyaradzi, Director of Planning and Development Services)

Motion	
Second	
For	Brown, Bruton, Mosley, Allen, Hobbs, Lightfoot, Washington
Against	Brown, Bruton, Mosley, Allen, Hobbs, Lightfoot, Washington
Abstain	
Approve/ Deny/ Table	

CITY OF GLENN HEIGHTS
CITY COUNCIL REPORT

Date: July 7, 2026

SUBJECT

Case FP-02-26: Discuss and consider making a recommendation to the City Council regarding the Maple South Final Plat request, submitted by CCM Engineering on behalf of Bloomfield Homes, LP, an addition to the City of Glenn Heights, Texas, consisting of approximately 24.128 acres of land situated in the William Rawlings Survey, Abstract No. 1205, within Dallas County, Texas.

DISCUSSION / BACKGROUND

a. Location and Size: The proposed Maplewood South subdivision is generally located on the east side of S. Westmoreland Road and south side of Shady Meadow Lane. The property is approximately 24.128 acres in size.

b. Current Zoning: The subject property is currently zoned Planned Development-28 with Single Family-3 (SF-3) as the base zoning.

c. Adjacent Properties:

North: Planned Development-19/Single Family-3 (SF-3) – Single Family Homes.
South: Single Family-1 (SF-1) – Vacant.
East: Planned Development-22/Single Family-3 (SF-3) and Neighborhood
n
Services (NS) – Single Family Homes.
West: Single Family-1 (SF-1) – Vacant and Single Family Homes.

d. Review and Analysis**:**
This is a request for an approval of a final plat creating 79 single-family

residential lots, 5 Home Owner Association (HOA) and the associated rights-of-way. The subject property has access from Pearly Top Drive.

All required public infrastructure have be installed by the developer and accepted by the City. This final plat is in compliance with the preliminary plat and the subdivision regulations.

PRIOR COUNCIL OR BOARD ACTION

The zoning change from Single Family-1 (SF-1) to Planned Development-28 with Single Family-3 (SF-3) as the base zoning for Maplewood South was approved by the City Council in June 2024. The preliminary plat for Maplewood South was approved in August 2024.

PUBLIC CONTACT

The item is being considered at a Regular Meeting of the Planning and Zoning Commission noticed in accordance with the Texas Open Meetings Act.

FINANCIAL IMPACT

Not applicable.

RECOMMENDATION / ALTERNATIVES

At the June 8, 2026, Meeting, the Planning and Zoning Commission recommended approval of Maplewood South Final Plat as presented.

Staff concur with the Commission’s recommendation.

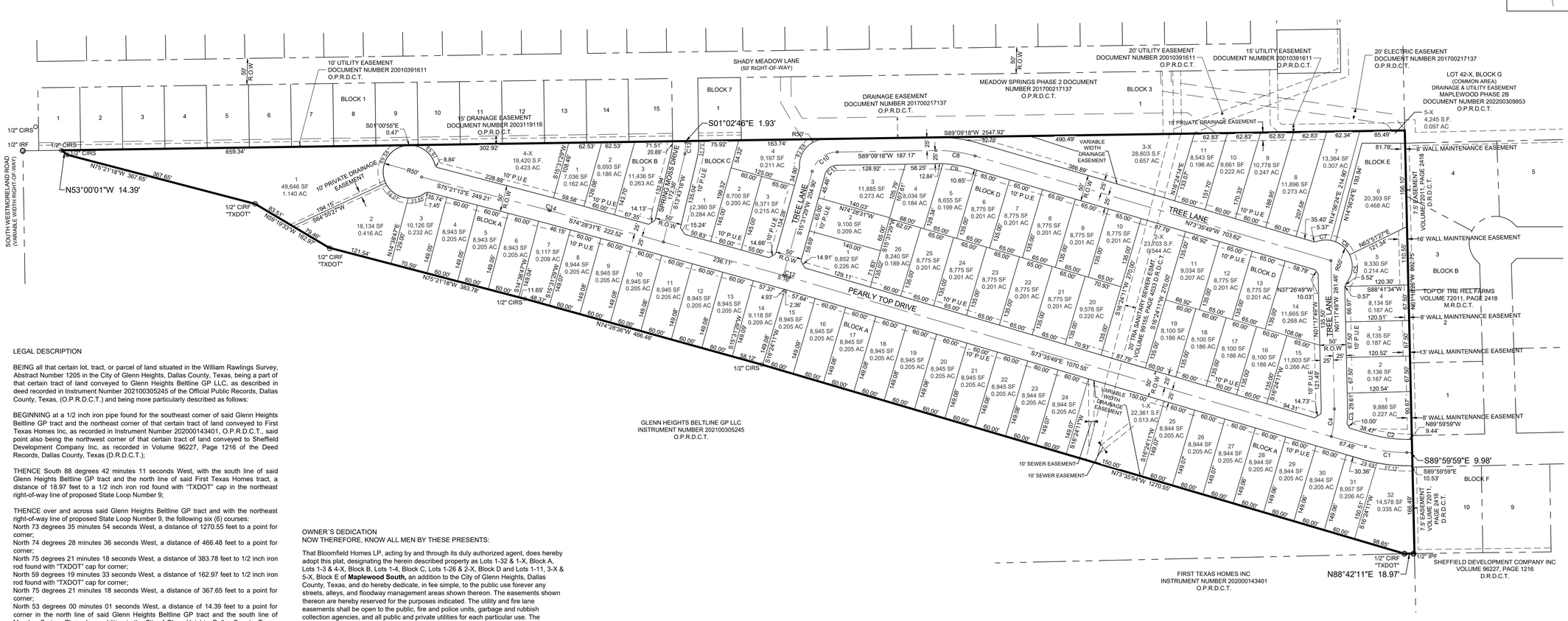
ATTACHMENTS

1. Final Plat - Maplewood South

PREPARED BY

Bester Munyaradzi, Director of Planning and Development Services

REVIEWED BY

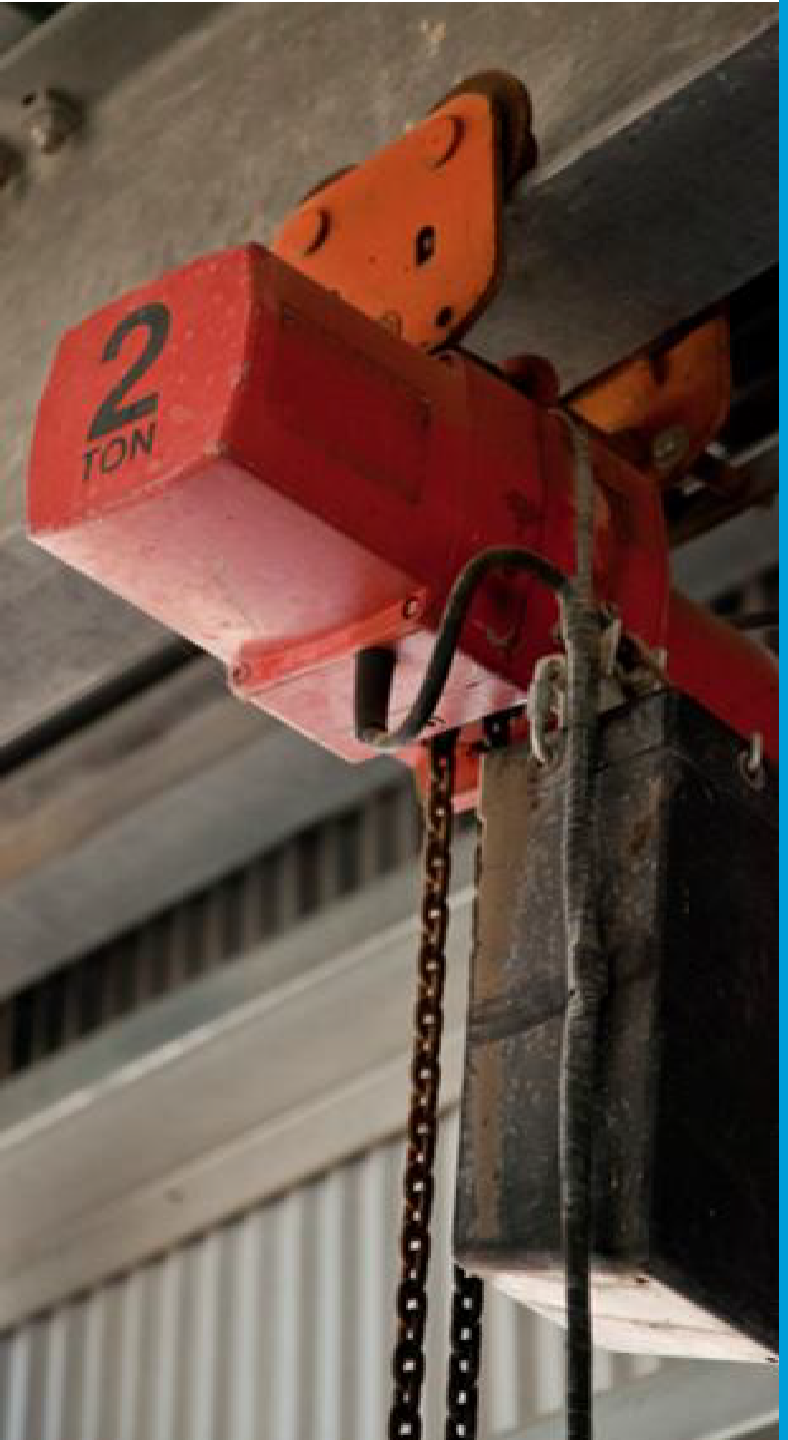

SCALE: 1" = 100'
0 50 100 200
N
S
E
W
SOUTH WESTMORELAND ROAD
(VARIABLE WIDTH HIGH-OF-WAY)
SHADY MEADOW LANE
(50' RIGHT-OF-WAY)
10' UTILITY EASEMENT
DOCUMENT NUMBER 20010391611
O.P.R.D.C.T.
15' DRAINAGE EASEMENT
DOCUMENT NUMBER 2003119116
O.P.R.D.C.T.
DRAINAGE EASEMENT
DOCUMENT NUMBER 201700217137
O.P.R.D.C.T.
MEADOW SPRINGS PHASE 2 DOCUMENT
NUMBER 201700217137
O.P.R.D.C.T.
20' UTILITY EASEMENT
DOCUMENT NUMBER 20010391611
O.P.R.D.C.T.
15' UTILITY EASEMENT
DOCUMENT NUMBER 20010391611
O.P.R.D.C.T.
20' ELECTRIC EASEMENT
DOCUMENT NUMBER 201700217137
O.P.R.D.C.T.
LOT 42-X, BLOCK G
(COMMON AREA)
DRAINAGE & UTILITY EASEMENT
MAPLEWOOD PHASE 2B
DOCUMENT NUMBER 202200309853
O.P.R.D.C.T.
15' PRIVATE DRAINAGE EASEMENT
10' PRIVATE DRAINAGE EASEMENT
VARIABLE WIDTH DRAINAGE EASEMENT
TREE LANE
PEARLY TOP DRIVE
SPRING MOSS DRIVE
BLOCK A
BLOCK B
BLOCK C
BLOCK D
BLOCK E
BLOCK F
1/2" CIRS
1/2" IRF
1/2" CIRF "TXDOT"
1/2" CIRF
1/2" IPF
N53°00'01"W 14.39'
S01°02'46"E 1.93'
S89°09'18"W 2547.92'
N75°21'18"W 367.65'
N75°21'18"W 383.78'
N74°28'36"W 468.48'
S73°35'49"E 1070.55'
N73°35'54"W 1270.55'
N88°42'11"E 18.97'
S89°59'59"E 9.98'
N89°59'59"W 9.44'
S89°59'59"E 10.53'
N75°21'13"E 249.21'
S74°28'31"E 222.52'
N74°28'31"W 204.00'
S73°35'49"E 703.62'
N73°35'49"W 703.62'
S16°24'11"W 270.00'
N16°24'11"E 135.07'
S16°24'11"W 135.00'
S16°24'11"W 149.07'
S16°24'11"W 149.08'
S16°24'11"W 149.09'
S16°24'11"W 149.10'
S16°24'11"W 150.00'
S16°24'11"W 121.48'
N01°17'49"W 135.00'
N01°17'49"W 150.00'
N01°17'49"W 281.46'
N14°56'24"E 214.46'
N14°56'24"E 193.94'
N14°56'24"E 207.55'
N14°56'24"E 188.95'
N14°56'24"E 170.33'
N14°56'24"E 151.70'
N14°56'24"E 135.07'
N65°51'27"E 124.34'
N01°08'26"W 662.75'
N01°08'26"W 660.75'
S88°41'34"W 120.30'
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S88°41'34"W 120.52'
S88°41'34"W 120.54'
N37°26'49"W 58.79'
N37°26'49"W 10.03'
N37°26'49"W 108.06'
N37°26'49"W 108.07'
S16°24'11"W 84.31'
S16°24'11"W 96.65'
S16°24'11"W 98.12'
S16°24'11"W 149.06'
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S15°31'29"W 108.46'
S15°31'29"W 204.00'
S13°43'18"W 129.94'
S13°43'18"W 135.04'
S13°43'18"W 135.05'
S13°43'18"W 135.06'
S13°43'18"W 135.07'
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S13°43'18"W 135.21'
S13°43'18"W 135.22'
S13°43'18"W 135.23'
S13°43'18"W

AGENDA SUMMARY SHEET
July 7, 2026

AGENDA, ITEM 1

Presentation and discussion regarding updates to the Red Oak Creek Regional Wastewater System (ROCRWS) Expansion and associated Capital Improvement Plan (CIP), including impacts to participating customer cities and considerations for funding, infrastructure needs, and long-term system capacity. (Clifford Blackwell, City Manager)

Motion	
Second	
For	Brown, Bruton, Mosley, Allen, Hobbs, Lightfoot, Washington
Against	Brown, Bruton, Mosley, Allen, Hobbs, Lightfoot, Washington
Abstain	
Approve/ Deny/ Table	



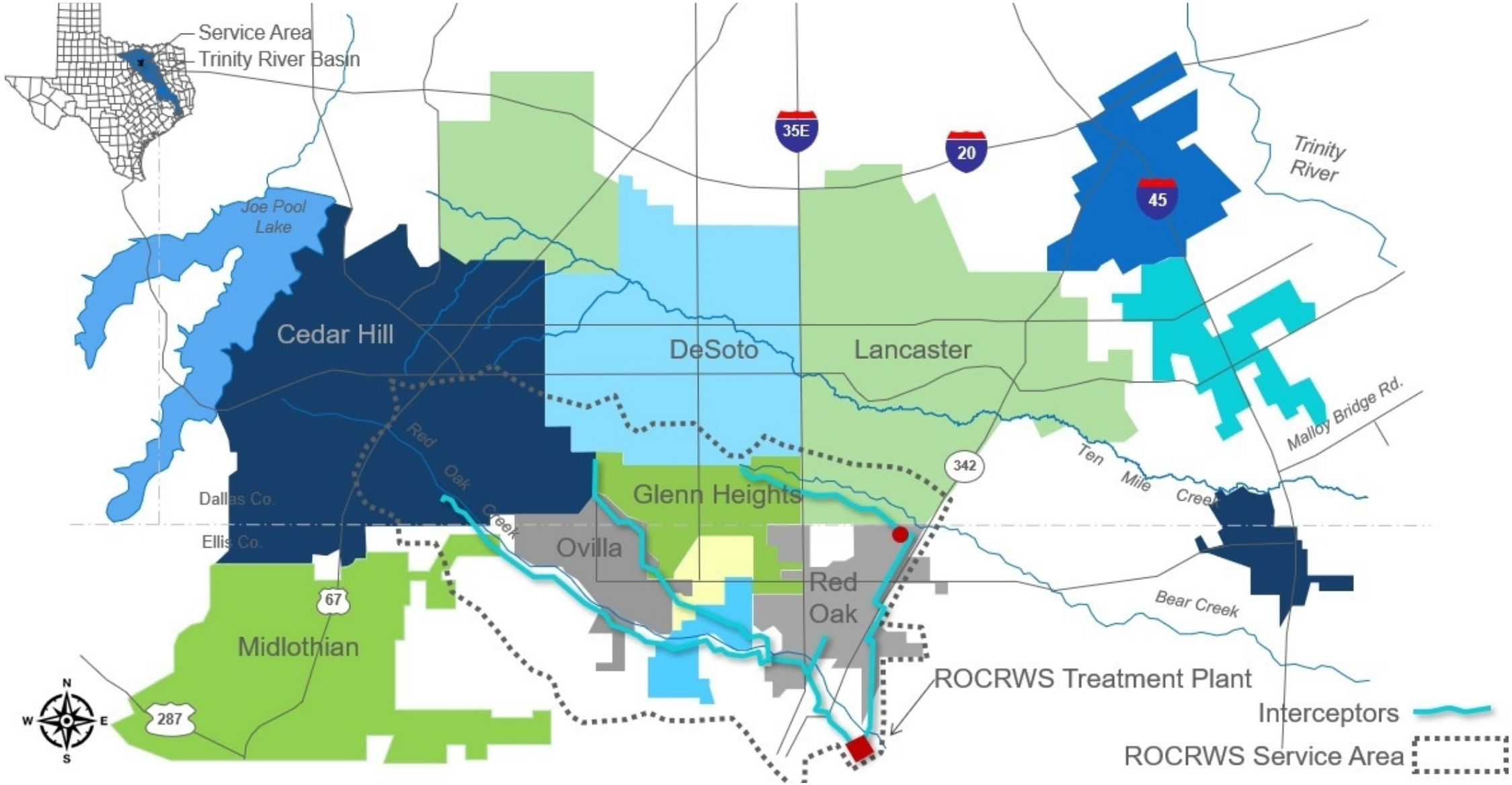
Red Oak Creek Regional Wastewater System

City of Glenn Heights Council Meeting

July 7, 2026



Red Oak Creek Regional Wastewater System

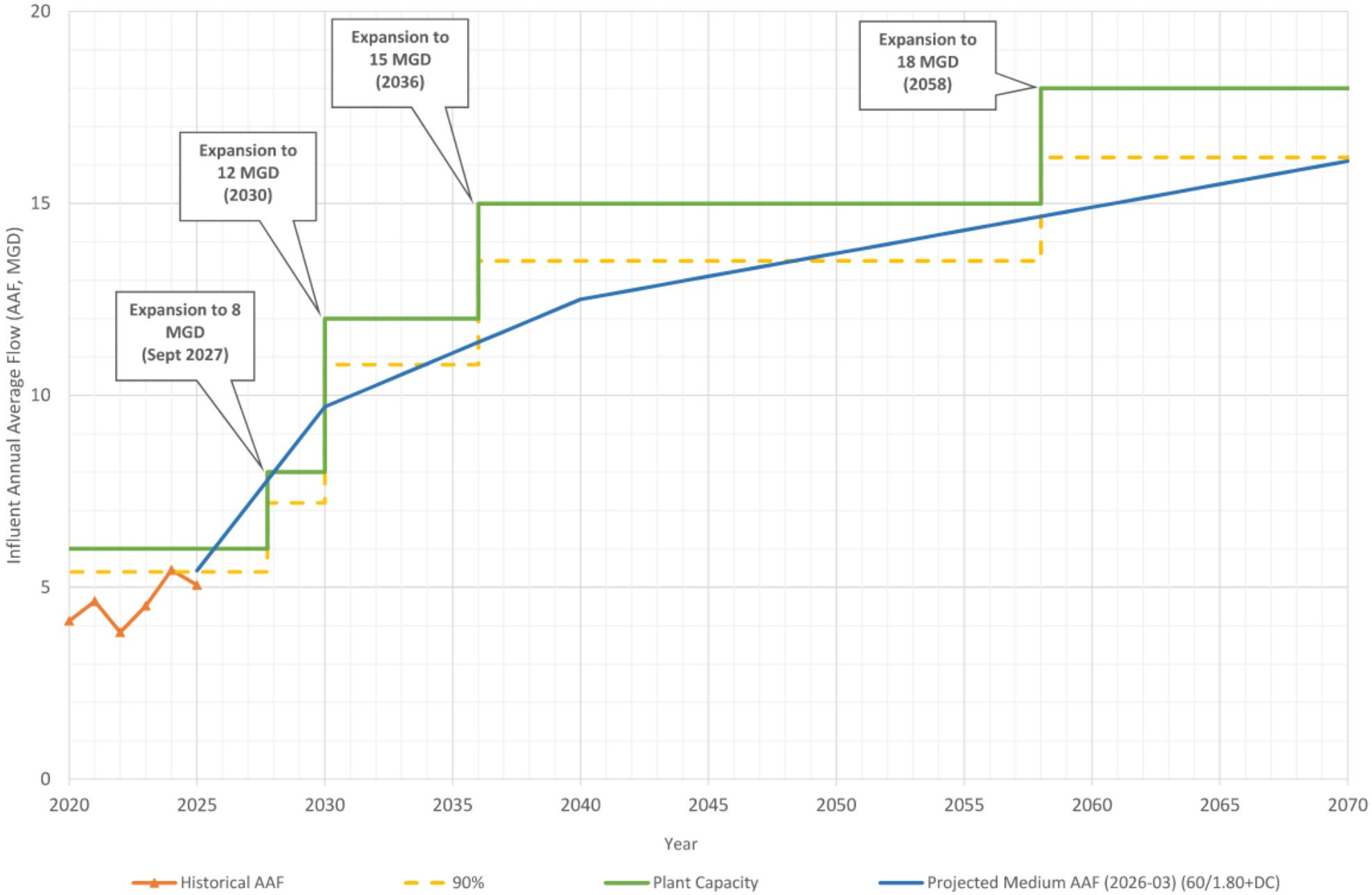


Red Oak Creek Regional Wastewater System Treatment Plant

- 28 miles of pipeline
- 10- to 48-inch
- 11 meter stations
- 2 lift stations
- Average Flow
  - 6.0 MGD
- 2-Hour Peak Flow
  - 15 MGD



ROCRWS Average Annual Flow Projections

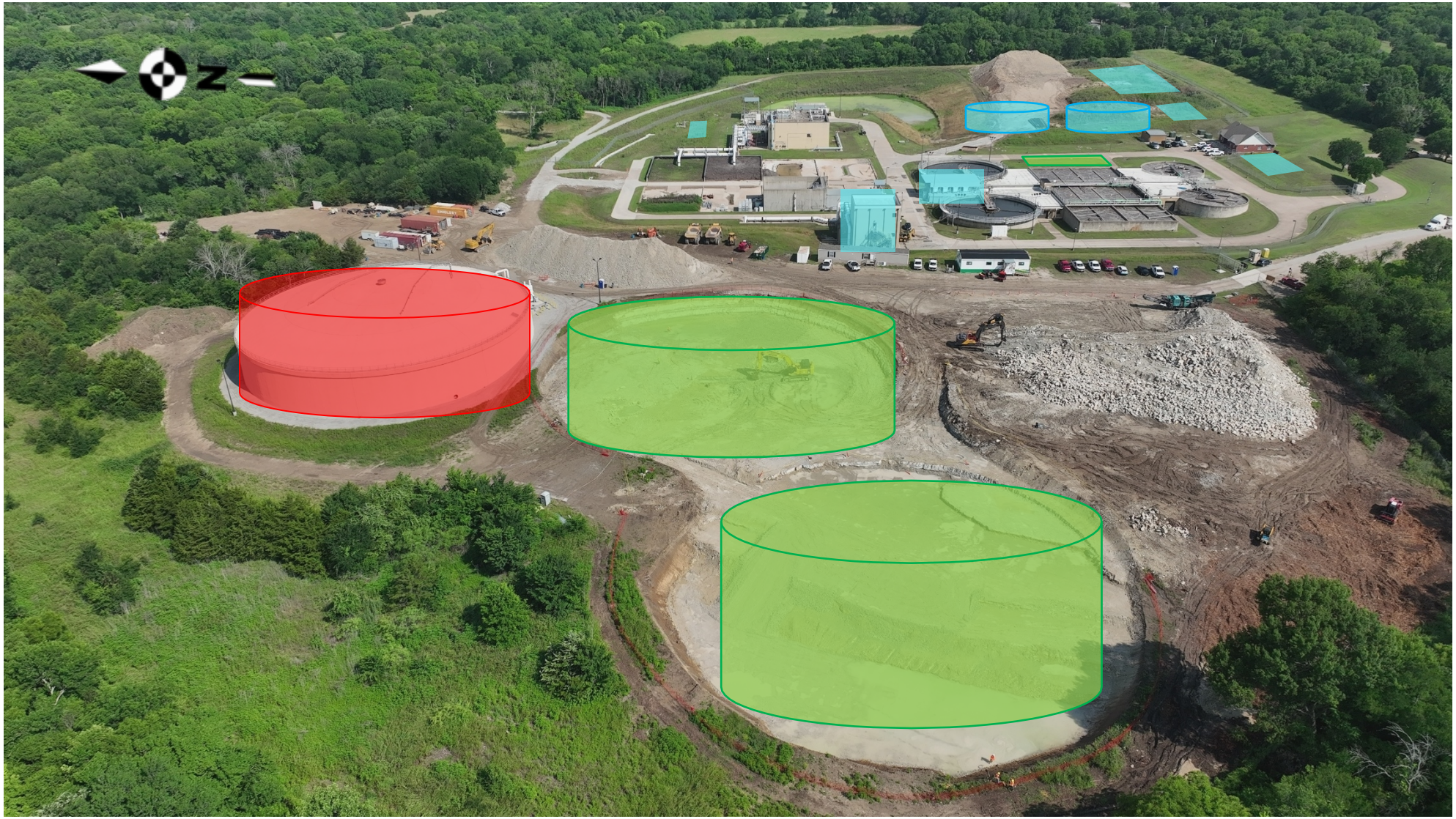


Trinity River Authority of Texas

Current Planning and Capital Improvement Status Reports



Red Oak Creek Regional Wastewater System Treatment Plant – Active CIP



Peak Flow Storage and Flood Improvements (In Construction)

Plant Expansion from 6 to 8 MGD (CMAR)

Plant Expansion from 8 to 12 MGD (CMAR)

Trinity River Authority of Texas

Plant Expansion from 6.0 MGD to 12.0 MGD Construction Manager at Risk (CMAR)

- Project Driver: Capacity
- Expansion to be completed in two phases:

Phase 1 – 6.0 to 8.0 MGD (smaller expedited package)
Expansion of existing Aeration Basin No. 1
Additional peak flow storage tanks (2)
Additional pump in Influent Pump Station

Phase 2 – 8.0 to 12.0 MGD
New coarse screen facility and additional fine screen
Additional aeration basin trains
Additional final clarifiers (2)
New UV disinfection facility
Additional cloth filter
Rehabilitate dewatering facility

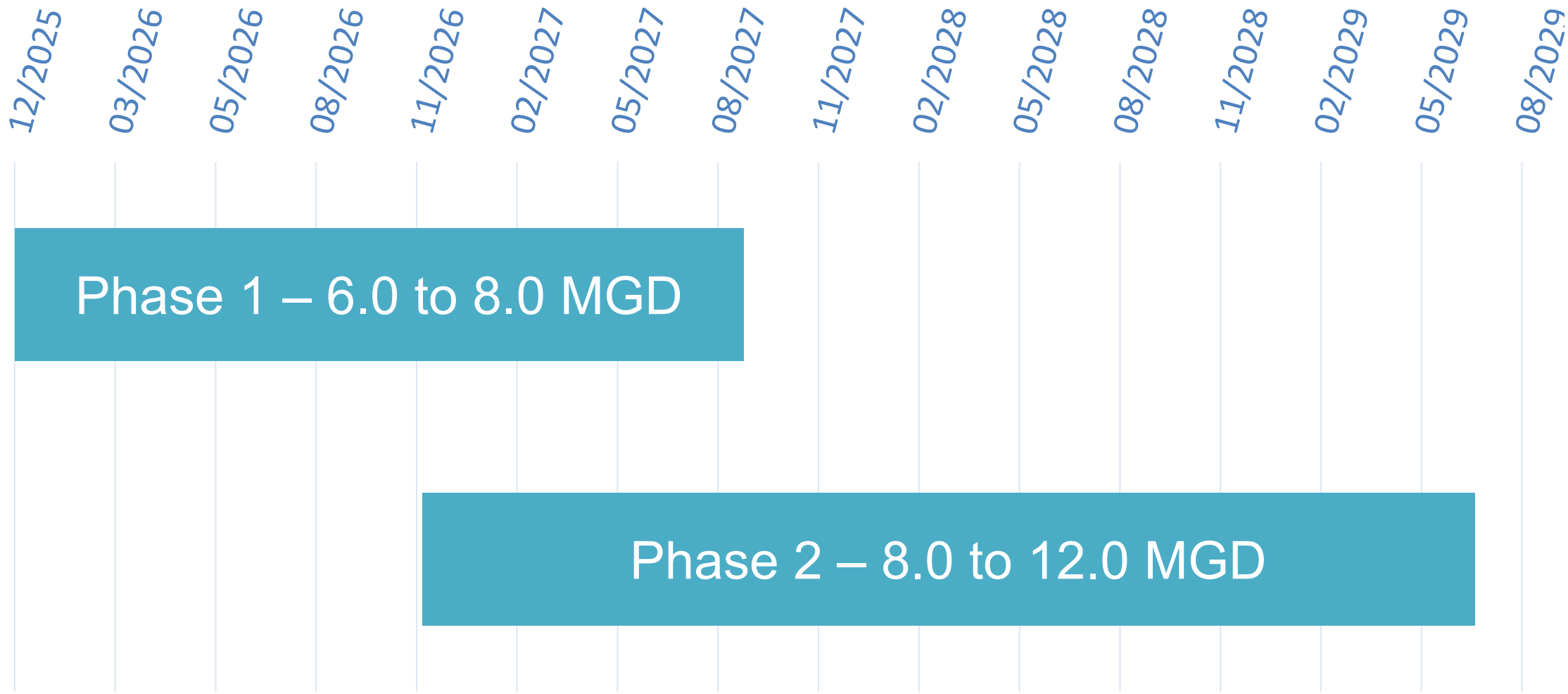
Plant Expansion from 6.0 MGD to 12.0 MGD Construction Manager at Risk (CMAR) (cont'd)

- Project Status
  - August 2025: Archer Western awarded CMAR contract for treatment plant expansion from 6.0 MGD to 12.0 MGD
  - December 2025: Work Package #1 awarded:
    - Two additional 7 million gallon (MG) prestressed concrete storage tanks
    - Corrosion resistant coatings for peak flow storage tanks (2 new and 1 existing)

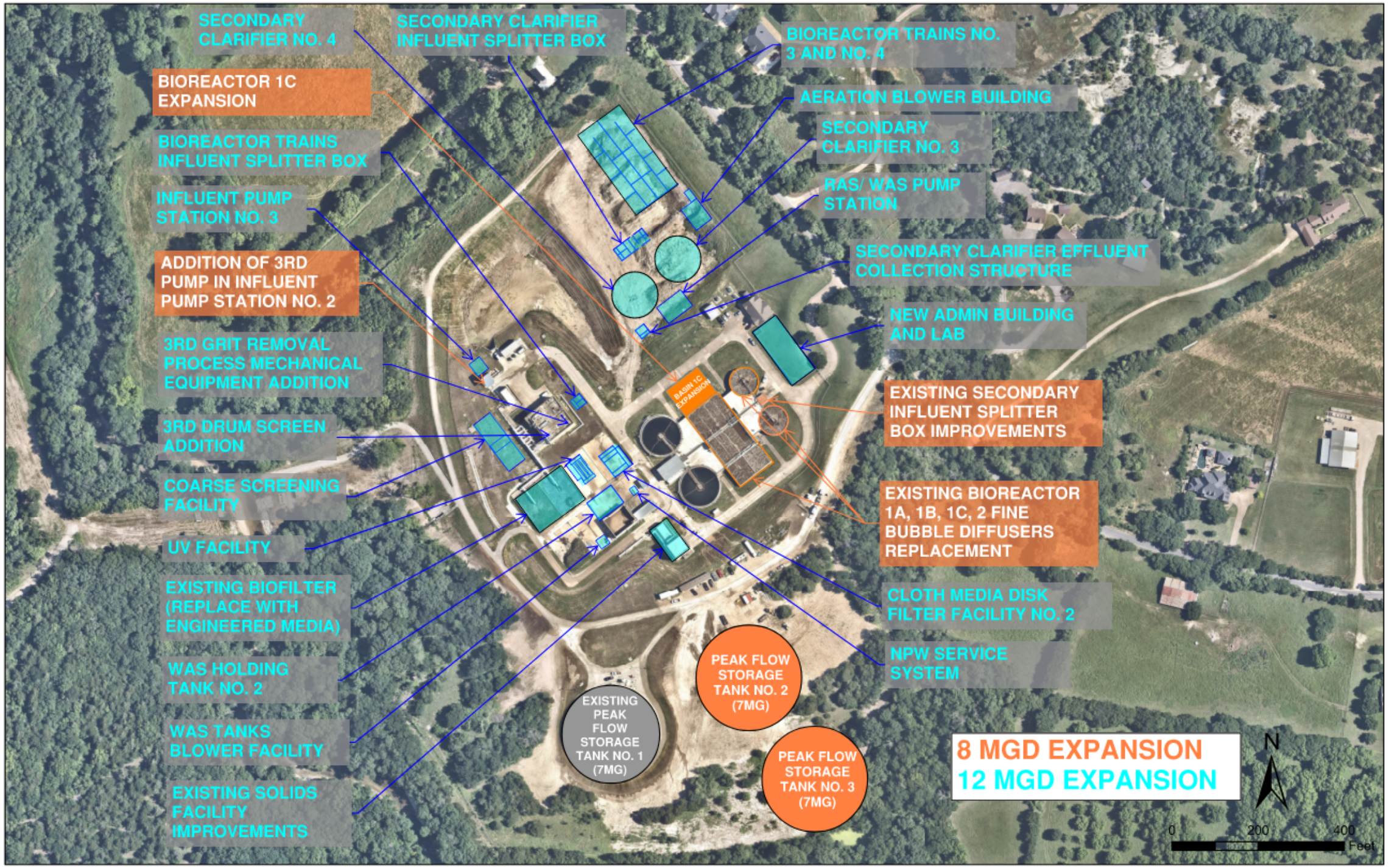
Plant Expansion from 6.0 MGD to 12.0 MGD Construction Manager at Risk (CMAR) (cont'd)

- April 2026:
  - Work Package GMP #2 awarded to complete treatment plant expansion from 6.0 to 8.0 MGD:
    - Complete yard piping, odor control, electrical, and controls associated with peak flow tanks
    - Expand existing Aeration Basin (AB) 1C to match AB2
    - Add a 7.5 MGD pump at Lift Station No. 2
  - Final Design ESA awarded to Jacobs for 8.0 MGD to 12.0 MGD
  - Construction Administration ESA awarded to Jacobs for services associated with 6.0 MGD to 8.0 MGD

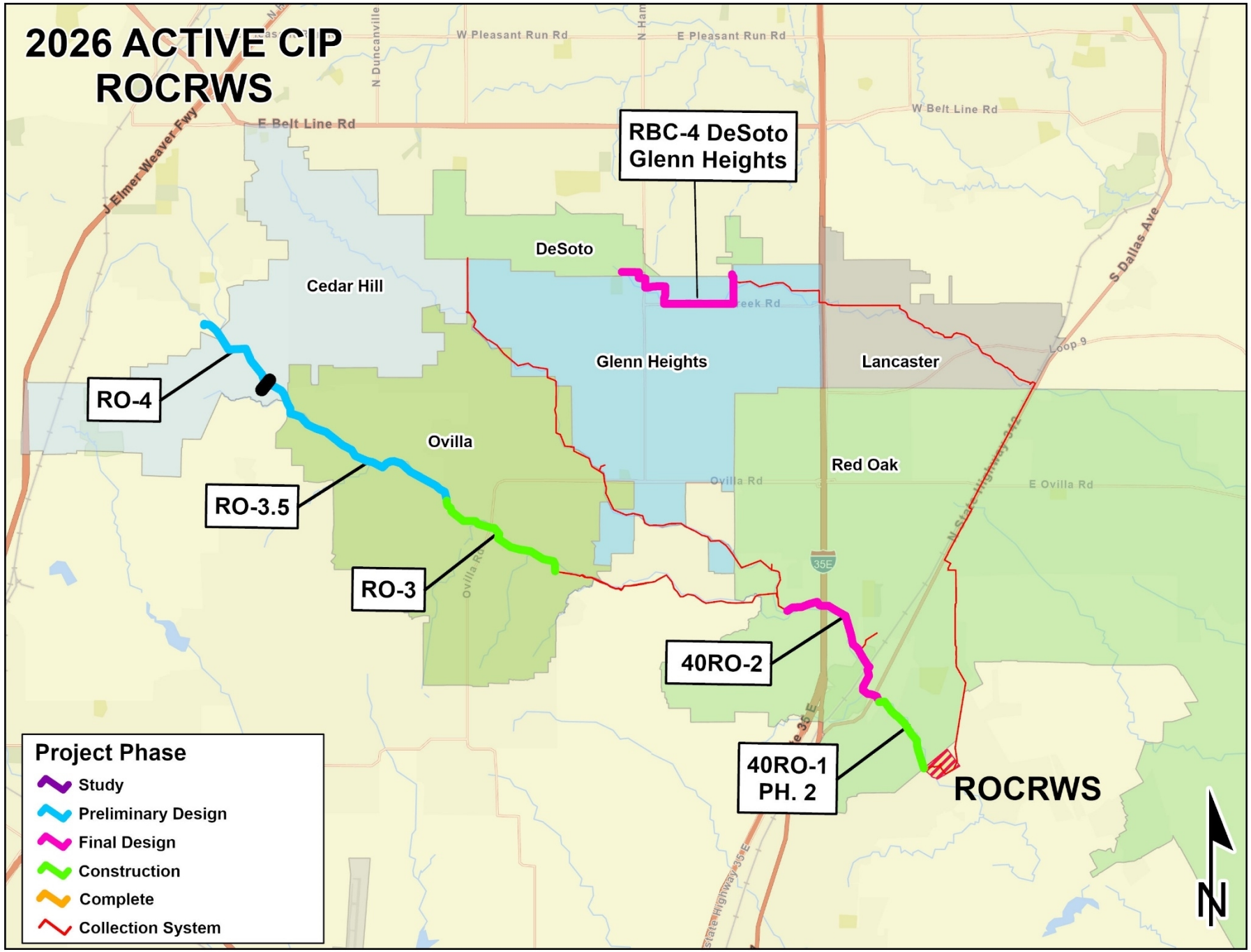
CMAR Construction Schedule



Trinity River Authority of Texas



Trinity River Authority of Texas



ROCRWS CIP Financial Outlay

2027 - 2031

NOTES:

(1) Project Drivers:

- Capacity
- Condition
- Employee Safety
- Public/Customer Impact
- Regulatory
- Efficiency
- Resiliency
- Security

(2) Project Phases:

- ST – Study
- FA - Field Assessment
- PD - Preliminary Design
- FD - Final Design
- LR - Land Rights & Legal
- CA - Construction Administration
- IN - Inspection (Internal Cost)
- CO - Construction

June 29, 2026

Agenda Handout Item V.C.



Five Year CIP Summary

CIP - JULY 2026

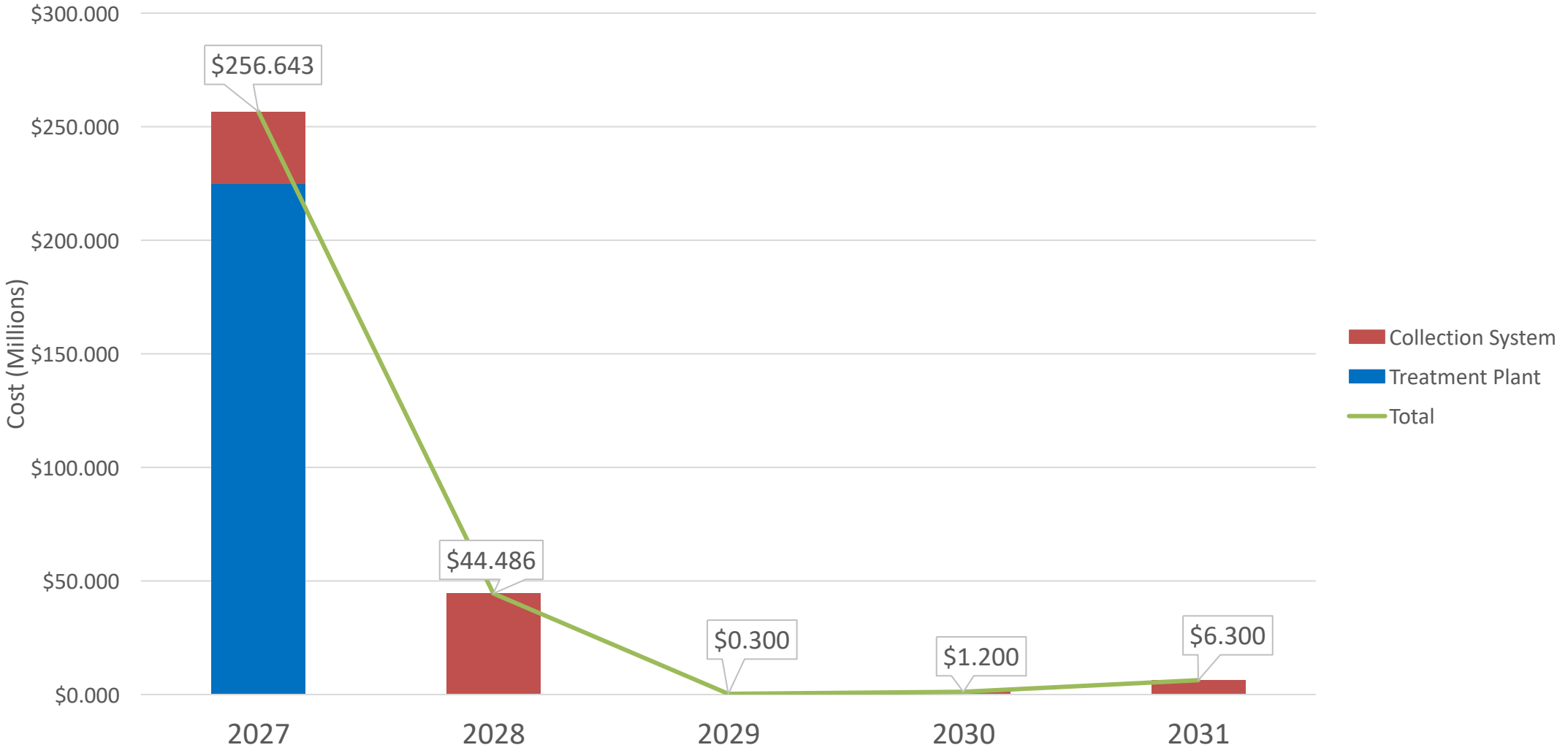
	2027	2028	2029	2030	2031	2027-2031
Treatment Plant	$225.000	-	-	-	-	**$225.000**
Collection System	$31.643	$44.486	$0.300	$1.200	$6.300	**$83.929**
System Grand Total	**$256.643**	**$44.486**	**$0.300**	**$1.200**	**$6.300**	**$308.929**

* Cost in Millions

CIP Revisions from Winter 2026 to Summer 2026 Advisory:

- No change

Five Year CIP Summary (cont'd)



FY 2027 Major CIP Projects

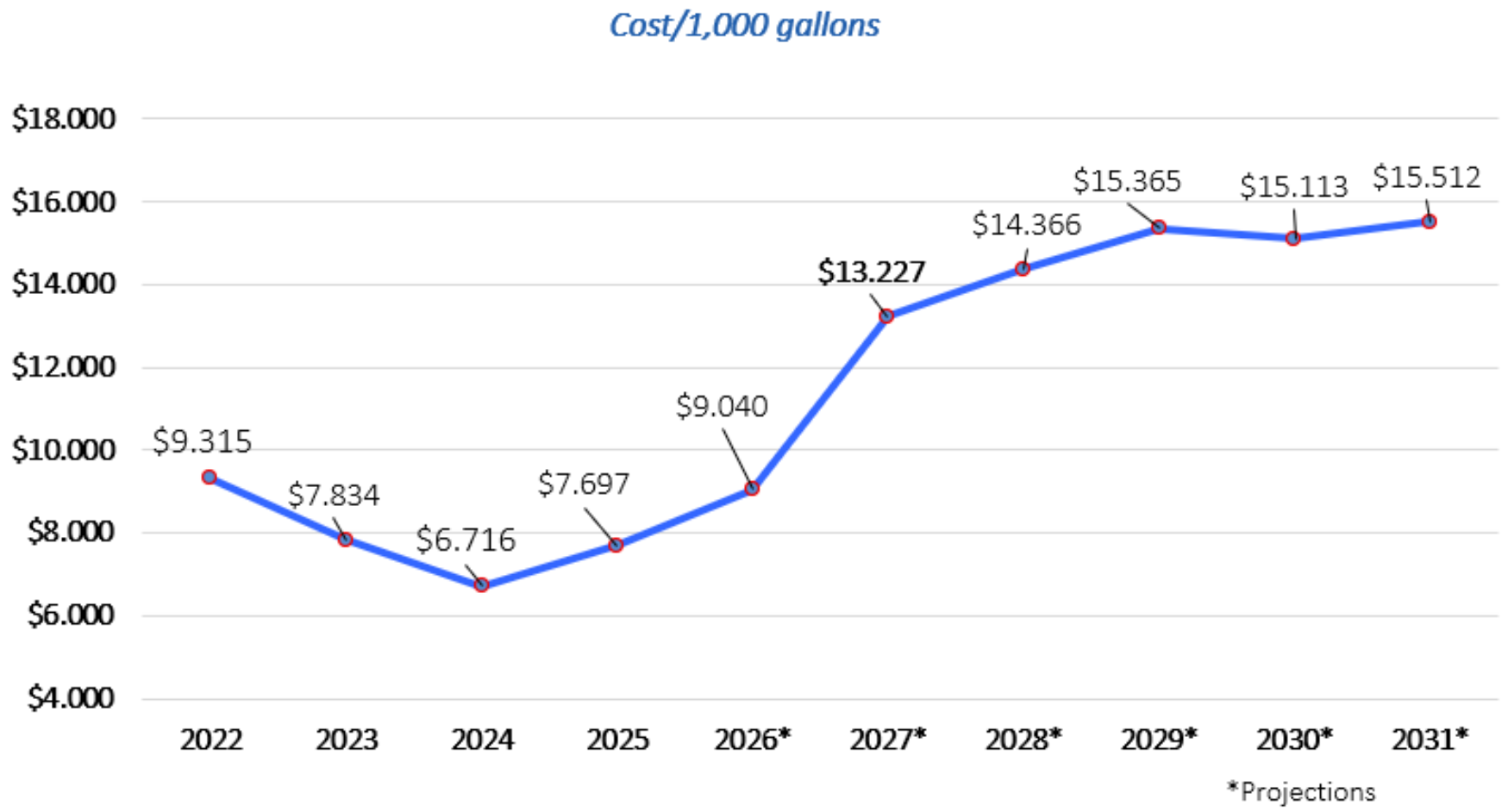
- Plant Expansion from 8.0 MGD to 12.0 MGD
  - $ 225.00M - Construction
- Red Oak Creek Interceptor Rehabilitation, Segment 40RO-2
  - $ 21.37M - Construction
- DeSoto Glenn Heights Interceptor, RBC-4, Phase 1
  - $ 7.67M - Public/Customer Impact

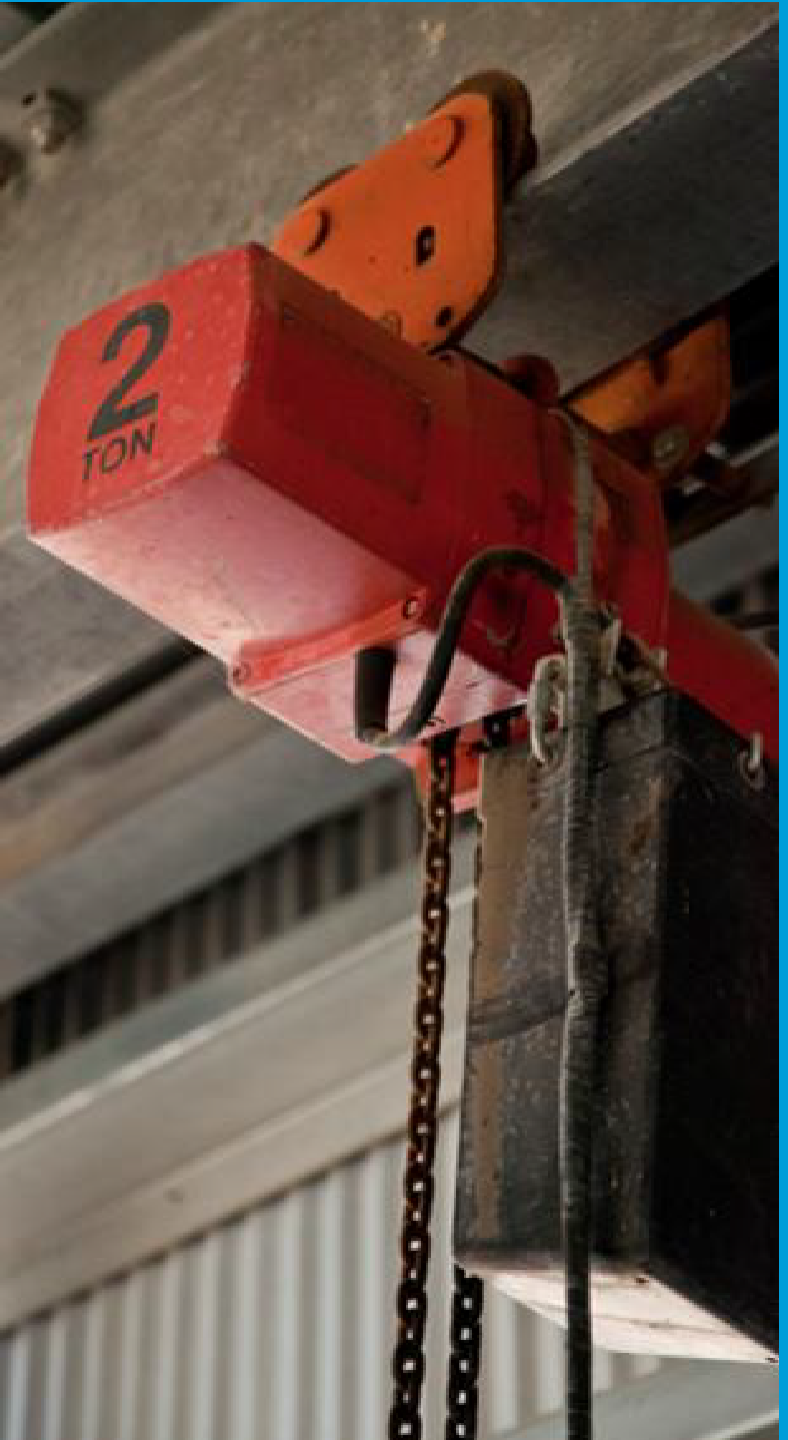
Cost of Service Detail

Red Oak Creek Regional Wastewater System
Cost of Service Detail
June 2026

	Flows	Debt Rate	O&M Rate	TOTAL Rate	% Change
2027	5.601	$ 10.796	$ 2.431	$13.227	46.32%
2028	7.000	$ 12.249	$ 2.117	$14.366	8.61%
2029	7.797	$ 13.303	$ 2.062	$15.365	6.95%
2030	8.474	$ 13.063	$ 2.050	$15.113	-1.64%
2031	9.150	$ 13.468	$ 2.044	$15.512	2.64%

Historical and Projected Cost of Service





Red Oak Creek Regional Wastewater System

City of Glenn Heights Council Meeting

July 7, 2026



AGENDA SUMMARY SHEET
July 7, 2026

AGENDA, ITEM 2

Discussion and take action to approve implementing Automated License Plate Reader software. (Council Member Sherron Mosley and Dr. Glynell Horn, Chief of Police)

Motion	
Second	
For	Brown, Bruton, Mosley, Allen, Hobbs, Lightfoot, Washington
Against	Brown, Bruton, Mosley, Allen, Hobbs, Lightfoot, Washington
Abstain	
Approve/ Deny/ Table	

AGENDA SUMMARY SHEET
July 7, 2026

AGENDA, ITEM 3

Discussion and take action to approve the Aura Glenn Heights (UHL Crossing) Site Plan, Landscape Plan, and Elevation Plans submitted by Trinsic Acquisition Company, LLC, on behalf of Buster William R. Etal, for approximately 13.941 acres of land. The property is generally located on the north side of Ovilla Road and the west side of South UHL Road, within the M. McDermott Survey, Abstract No. 743, in the City of Glenn Heights, Ellis County, Texas. (Bester Munyaradzi, Director of Planning and Development Services)

Motion	
Second	
For	Brown, Bruton, Mosley, Allen, Hobbs, Lightfoot, Washington
Against	Brown, Bruton, Mosley, Allen, Hobbs, Lightfoot, Washington
Abstain	
Approve/ Deny/ Table	

CITY OF GLENN HEIGHTS
CITY COUNCIL MEETING
Date: July 7, 2026

SUBJECT

Discuss and consider approval of Aura Glenn Heights (UHL Crossing) Site Plan, Landscape Plan, and Elevation Plans submitted by Trinsic Acquisition Company, LLC, on behalf of Buster William R. Etal, for approximately 13.941 acres of land. The property is generally located on the north side of Ovilla Road and the west side of South UHL Road, within the M. McDermott Survey, Abstract No. 743, in the City of Glenn Heights, Ellis County, Texas.

DISCUSSION / BACKGROUND

The subject property consists of approximately 33.359 acres of land, generally located at the northwest corner of FM 664 (Ovilla Road) and South Uhl Road.

In June 2025, the Planning and Zoning Commission recommended approval of the preliminary and final plats for UHL Crossing, along with a zoning change from Retail (R) to Planned Development (PD-32), with underlying base zoning districts of Multifamily Residential (MF) and Commercial (C).

In July 2025, the City Council approved the preliminary and final plats for UHL Crossing, as well as the rezoning of the 33.359-acre tract from Retail (R) to PD-32, with underlying Multifamily Residential (MF) and Commercial (C) zoning districts.

<u>Project Description</u>

Trinsic Acquisition Company, LLC is proposing the Aura Glenn Heights development on the multifamily portion of the PD-32-zoned property. The proposed development encompasses approximately 13.941 acres of land within the overall 33.359-acre UHL Crossing development.

The proposal includes the development of a multifamily residential community in accordance with the standards and framework established under PD-32 zoning.

Review and Analysis

To proceed with development, the applicant has submitted site, landscape, and elevation plans for review. Staff reviewed the submitted plans and determined that:

- The proposed site plan is consistent with the approved PD-32 concept plan.
- The landscape plan complies with the approved PD-32 standards and applicable City landscaping requirements.
- The elevation plans meet the design criteria and architectural standards outlined in the PD-32 ordinance.
- All plans are in general compliance with applicable City regulations and development standards.

The plans have been circulated to and reviewed by all relevant City departments. No outstanding issues remain, and all applicable requirements have been addressed. However, per the attached letter, the applicant is requesting a variance from the following section of the Code of Ordinances:

CODES OF ORDINANCES, SECTION 15.02.063, #(3), (B): “For parking lots with more than 30 parking spaces following design standards including area, location and layout guidelines shall be followed: (i) A continuous nine feet (9') wide landscaping strip of moderate water use zone or rainwater harvest zone shall be installed within two head-in parking rows. On both sides of the rainwater harvest zone a six feet (6') wide at-grade paved walkway shall be installed for the entire row of the parking ….”

PRIOR COUNCIL OR BOARD ACTION

BODY	DATE	ACTION
P&Z	06/2025	Recommended Approval of UHL Crossing Preliminary, Final Plat and Zoning Change from Retail to PD-32 with MF and Commercial as the base zonings.
CC	07/2025	Approval of UHL Crossing Preliminary, Final Plat and Zoning Change from Retail to PD-32 with MF and Commercial as the base zonings.
P&Z	06/08/2026	Recommended approval of Aura Glenn Heights (UHL Crossing) Site Plan, Landscape Plan, and Elevation Plans.

PUBLIC CONTACT

Not applicable.

FINANCIAL IMPACT

Not applicable.

RECOMMENDATIONS

On June 8, 2026, the Planning and Zoning Commission recommended approval of Aura Glenn Heights (UHL Crossing) Site Plan, Landscape Plan, and Elevation Plans as presented.

Staff concur with the Commission's recommendation and the applicant's request for a variance.

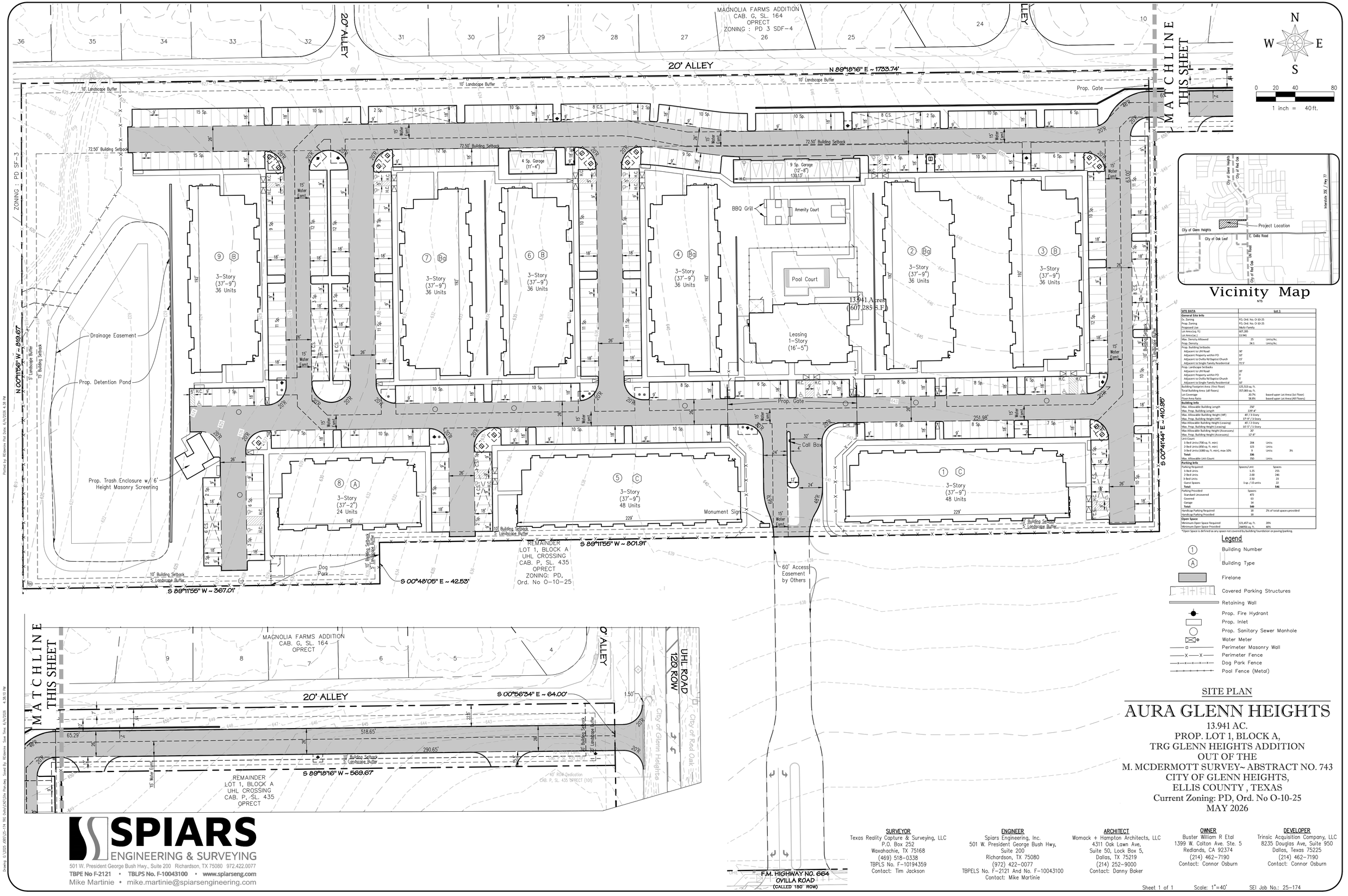
ATTACHMENTS

1. Site Plan
2. Landscape Plan
3. Elevation Plan
4. Photometric Plan
5. PD-32 Ordinance
6. Variance Request Letter

PREPARED BY

Bester Munyaradzi, AICP, Planning and Development Services Director.

REVIWED BY



Vicinity Map

NTS

SITE DATA	Lot 1		
General Site Info			
Ex. Zoning	PD, Ord. No. O-10-25		
Prop. Zoning	PD, Ord. No. O-10-25		
Proposed Use	Multi-Family		
Lot Area (sq. ft)	607,285		
Lot Area (ac.)	13.941		
Max. Density Allowed	25	Units/Ac.	
Prop. Density	24.1	Units/Ac.	
Prop. Building Setbacks			
Adjacent to UHl Road	30'		
Adjacent Property within PD	10'		
Adjacent to Ovilla Rd Baptist Church	10'		
Adjacent to Single Family Residential	72.5'		
Prop. Landscape Setbacks			
Adjacent to UHl Road	20'		
Adjacent Property within PD	5'		
Adjacent to Ovilla Rd Baptist Church	5'		
Adjacent to Single Family Residential	10'		
Building Footprint Area: (first floor)	125,513 sq. ft.		
Total Building Area (all floors)	357,083 sq. ft.		
Lot Coverage	20.7%	based upon Lot Area (1st Floor)	
Floor Area Ratio	58.8%	based upon Lot Area (All Floors)	
Building Info			
Max. Allowable Building Length	250'		
Max. Prop. Building Length	239.4'		
Max. Allowable Building Height (MF)	40' / 3 Story		
Max. Prop. Building Height (MF)	37'-9" / 3 Story		
Max Allowable Building Height (Leasing)	40' / 2 Story		
Max. Prop. building Height (Leasing)	16'-5" / 1 Story		
Max Allowable Building Height (Accessory)	20'		
Max. Prop. building Height (Accessory)	12'-8"		
Unit Count			
1-Bed Units (700 sq. ft. min)	204	Units	
2-Bed Units (850 sq. ft. min)	123	Units	
3-Bed units (1,100 sq. ft. min), max 10%	9	Units	3%
Total:	**336**	Units	
Max. Allowable Unit Count	350	Units	
Parking Info			
Parking Required:	Spaces/Unit	Spaces	
1-Bed Units	1.25	255	
2-Bed Units	2.00	246	
3-Bed Units	2.50	23	
Guest Spaces	1 sp. / 15 units	22	
Total:		**546**	
Parking Provided	Spaces		
Standard Uncovered	472		
Covered	63		
Garage	14		
Total:	**549**		
Handicap Parking Required	18	2% of total spaces provided	
Handicap Parking Provided	18		
Open Space			
Minimum Open Space Required	121,457 sq. ft.	20%	
Minimum Open Space Provided	244956 sq. ft.	40%	

*Open Space is defined as any space not covered by building foundation or paving/parking.

Legend

- Building Number
- Building Type
- Firelane
- Covered Parking Structures
- Retaining Wall
- Prop. Fire Hydrant
- Prop. Inlet
- Prop. Sanitary Sewer Manhole
- Water Meter
- Perimeter Masonry Wall
- Perimeter Fence
- Dog Park Fence
- Pool Fence (Metal)

SITE PLAN

AURA GLENN HEIGHTS

13.941 AC.
PROP. LOT 1, BLOCK A,
TRG GLENN HEIGHTS ADDITION
OUT OF THE
M. MCDERMOTT SURVEY~ ABSTRACT NO. 743
CITY OF GLENN HEIGHTS,
ELLIS COUNTY , TEXAS
Current Zoning: PD, Ord. No O-10-25
MAY 2026

SPIARS
ENGINEERING & SURVEYING
501 W. President George Bush Hwy., Suite 200 Richardson, TX 75080 972.422.0077
TBPE No F-2121 • TBLPS No. F-10043100 • www.spiarseng.com
Mike Martinie • mike.martinie@spiarsengineering.com

SURVEYOR
Texas Reality Capture & Surveying, LLC
P.O. Box 252
Waxahachie, TX 75168
(469) 518-0338
TBPLS No. F-10194359
Contact: Tim Jackson

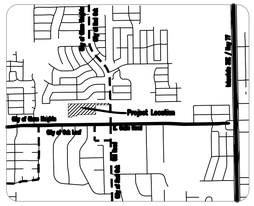
ENGINEER
Spiars Engineering, Inc.
501 W. President George Bush Hwy,
Suite 200
Richardson, TX 75080
(972) 422-0077
TBPELS No. F-2121 And No. F-10043100
Contact: Mike Martinie

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Womack + Hampton Architects, LLC
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(214) 252-9000
Contact: Danny Baker

OWNER
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Redlands, CA 92374
(214) 462-7190
Contact: Connor Osburn

DEVELOPER
Trinsic Acquisition Company, LLC
8235 Douglas Ave, Suite 950
Dallas, Texas 75225
(214) 462-7190
Contact: Connor Osburn

Plotted by: RDSpiarsmie Plot Date: 6/4/2026 4:38 PM
Drawing: G:\2025\ JOBS\25-174 TRG Ovilla\CAD\Site Plan.dwg Saved By: RDSpiarsmie Save Time: 6/4/2026 4:38:03 PM



8'-0" HT. PRE-CAST CONCRETE SCREEN WALL

10'-0" LANDSCAPE BUFFER (PER PLANNED DEVELOPMENT DISTRICT REGULATIONS - UHL ROAD CROSSING)

8'-0" HT. PRE-CAST CONCRETE SCREEN WALL

10'-0" LANDSCAPE BUFFER (PER PLANNED DEVELOPMENT DISTRICT REGULATIONS - UHL ROAD CROSSING)

8'-0" HT. PRE-CAST CONCRETE SCREEN WALL

BUFFER TREES 30'-0" O.C. TYP.

CARPORT, TYP.

CARPORT, TYP.

35-TS

6'-0" HT. WROUGHT IRON PERIMETER FENCE WITH SHRUBS 3' O.C.

AREA TO BE PRESERVED

5'-0" LANDSCAPE BUFFER (PER PLANNED DEVELOPMENT DISTRICT REGULATIONS - UHL ROAD CROSSING)

6'-0" HT. WROUGHT IRON PERIMETER FENCE

N 00°11'56" W ~ 819.67'

Bldg. 9

Bldg. 7

Bldg. 6

Bldg. 4

Bldg. 8

Bldg. 5

Bldg.

BBQ GRILL

CONCEPTUAL POOL COURT LAYOUT ONLY

Leasing

MATCHLINE SEE SHEET L0.02

CARPORT, TYP.

DETENTION POND

PEDESTRIAN GATE

PEDESTRIAN GATE

5-TS

5-TS

VEHICULAR ACCESS GATES

VEHICULAR ACCESS GATES

6' HT. MASONRY SCREENED TRASH ENCLOSURE

CALL BOX

41-TS

42-TS

MONUMENT SIGN

25' VISIBILITY TRIANGLE

25' VISIBILITY TRIANGLE

82-IB

5'-0" LANDSCAPE BUFFER (PER PLANNED DEVELOPMENT DISTRICT REGULATIONS - UHL ROAD CROSSING)

26-AE

81-IB

5'-0" LANDSCAPE BUFFER (PER PLANNED DEVELOPMENT DISTRICT REGULATIONS - UHL ROAD CROSSING)

6'-0" HT. WROUGHT IRON PERIMETER FENCE WITH SHRUBS 3' O.C.

S 89°11'55" W ~ 801.91'

5'-0" LANDSCAPE BUFFER (PER PLANNED DEVELOPMENT DISTRICT REGULATIONS - UHL ROAD CROSSING)

DOG PARK

S 89°11'55" W ~ 367.01'

25-AE

67-IB

6'-0" HT. WROUGHT IRON PERIMETER FENCE WITH SHRUBS 3' O.C.

S 00°48'05" E ~ 42.53'

M. MCDERMOTT SURVEY ABSTRACT NO. 743

LANDSCAPE PLAN

AURA GLENN HEIGHTS

13.941 AC.
PROP. LOT 1, BLOCK A,
TRG GLENN HEIGHTS ADDITION
OUT OF THE
M. MCDERMOTT SURVEY~ ABSTRACT NO. 743
CITY OF GLENN HEIGHTS,
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Current Zoning: PD, Ord. No O-10-25
MAY 2026

ARCHITECT
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(214) 252-9000
Contact: Danny Baker

OWNER
Buster William R Etal
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Contact: Connor Osburn

DEVELOPER
Trinsic Acquisition Company, LLC
8235 Douglas Ave, Suite 950
Dallas, Texas 75225
(214) 462-7190
Contact: Connor Osburn

BENKENDORFER+ASSOCIATES
LANDSCAPE ARCHITECTURE/SITE PLANNING
2901 Bee Cave Rd. Suite P Austin, TX 78746 P 512 366 5259

ISSUED SETS
04/22/26 - PERMIT SET
06/04/26 - PERMIT SET

REVISIONS

AURA GLENN HEIGHTS
GLENN HEIGHTS, TEXAS
LANDSCAPE PLAN

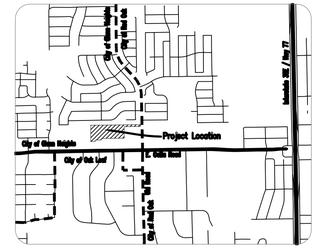
REGISTERED LANDSCAPE ARCHITECT BENJAMIN D. BAKER 1370 STATE OF TEXAS
06/04/26

NORTH

SCALE: 1"=30'-0"
0 15 30 60

PROJECT # 010-31
SHEET # L0.01

L:\010\31\City Submittal\L01.01 LANDSCAPE PLAN.dwg modified by barthur on Jun 04, 2026 - 4:12pm
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Vicinity Map

8'-0" HT. PRE-CAST CONCRETE SCREEN WALL

8'-0" HT. PRE-CAST CONCRETE SCREEN WALL

10'-0" LANDSCAPE BUFFER (PER PLANNED DEVELOPMENT DISTRICT REGULATIONS - UHL ROAD CROSSING)

S 00°56'34" E ~ 64.00'

BT

BUFFER TREES 30'-0" O.C. TYP.

6-TS

VEHICULAR ACCESS GATES

4-TS

ST

CARPORT, TYP.

25' VISIBILITY TRIANGLE

S 89°18'16" W ~ 569.67

5'-0" LANDSCAPE BUFFER (PER PLANNED DEVELOPMENT DISTRICT REGULATIONS - UHL ROAD CROSSING)

Uhl Road

35-AE

6'-0" HT. WROUGHT IRON PERIMETER FENCE WITH SHRUBS 3' O.C.

MATCHLINE SEE SHEET L0.01

Bldg. 2

Bldg. 3

69-TS

5'-0" LANDSCAPE BUFFER (PER PLANNED DEVELOPMENT DISTRICT REGULATIONS - UHL ROAD CROSSING)

S 00°44'44" E ~ 410.98'

57-AE

CARPORT, TYP.

Bldg. 1

82-IB

5'-0" LANDSCAPE BUFFER (PER PLANNED DEVELOPMENT DISTRICT REGULATIONS - UHL ROAD CROSSING)

6'-0" HT. WROUGHT IRON PERIMETER FENCE WITH SHRUBS 3' O.C.

M. CRASP SURVEY
ABSTRACT NO. 264

18.708 Acres
(814,927 S.F.)

ARCHITECT
Womack + Hampton Architects, LLC
4311 Oak Lawn Ave,
Suite 50, Lock Box 5,
Dallas, TX 75219
(214) 252-9000
Contact: Danny Baker

OWNER
Buster William R Etal
1399 W. Colton Ave. Ste. 5
Redlands, CA 92374
(214) 462-7190
Contact: Connor Osburn

DEVELOPER
Trinsic Acquisition Company, LLC
8235 Douglas Ave, Suite 950
Dallas, Texas 75225
(214) 462-7190
Contact: Connor Osburn

LANDSCAPE PLAN

AURA GLENN HEIGHTS

13.941 AC.
PROP. LOT 1, BLOCK A,
TRG GLENN HEIGHTS ADDITION
OUT OF THE
M. MCDERMOTT SURVEY~ ABSTRACT NO. 743
CITY OF GLENN HEIGHTS,
ELLIS COUNTY , TEXAS
Current Zoning: PD, Ord. No O-10-25
MAY 2026

BENKENDORFER+ASSOCIATES
LANDSCAPE ARCHITECTURE/SITE PLANNING
2901 Bee Cave Rd. Suite P
Austin, TX 78746
P 512 366 9259

ISSUED SETS
04/22/26 - PERMIT SET
06/04/26 - PERMIT SET

REVISIONS

AURA GLENN HEIGHTS
GLENN HEIGHTS, TEXAS
LANDSCAPE PLAN

REGISTERED LANDSCAPE ARCHITECT
DANNY W. BENKENDORFER
1370
STATE OF TEXAS
06/04/26

NORTH

SCALE: 1"=30'-0"

0 15 30 60

PROJECT # 010-31

SHEET # L0.02

L:\010\31\City Submittal\L01.02 LANDSCAPE PLAN.dwg modified by barthur on Jun 04, 2026 - 4:13pm
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LANDSCAPE REQUIREMENTS

PLANNED DEVELOPMENT DISTRICT REGULATIONS - UHL ROAD CROSSING

LANDSCAPE CALCULATIONS

MINIMUM LANDSCAPE AREA	Required	Provided
Total Site Area	N\A	607,285 sf.
Minimum Open Space (20% of Site Area not covered by building foundation or paving/parking) 607,285 x 20% = 121,457sf	121,457	191,915 sf. (31.6%)

SITE TREES REQUIREMENTS	Required	Provided
Minimum 1 shade tree per 10,000 square feet of lot area 607,285 sf. / 10,000 = 60.7	61	61 trees

PERIMETER LANDSCAPING

31,000 SF PROVIDED PER BUFFERS DIRECTED BY THE PLANNED DEVELOPMENT DISTRICT REGULATIONS - UHL Road Crossing

RESIDENTIAL ADJACENCY REQUIREMENTS	Required	Provided
The Multifamily development shall construct a barrier along the north side of its property to screen the existing residential homes from the new development. This barrier will include a pre-cast concrete screening wall at least 8 feet tall and trees planted at 30-foot intervals to provide additional screening above the wall.	YES	YES
Northern boundary landscape buffer: This area will require trees to be planted with a maximum spacing of 30 feet. Trees in this area will have a minimum caliper of 3 inches and minimum height of 10 feet at time of planting. 1,080lf / 30 = 36 trees	36	36 trees

CREDIT FOR TREE PRESERVATION	Required	Provided
N/A	N/A	N/A

VISIBILITY	Required	Provided
Street intersection of intersection of private driveway onto a public street. These areas shall have a triangular visibility area with two (2) sides of each triangle being a minimum of twenty-five feet (25') in length along the right-of-way lines (or along the driveway curbline and the street right-of-way line) from the point of the intersection, and the third side being a line connecting the ends of the other two (2) sides.	YES	YES

LEGEND

BT — RESIDENTIAL ADJACENCY BUFFER TREE (3" CAL. MIN.)

ST — LANDSCAPE SITE TREE (3" CAL. MIN.)

WROUGHT IRON PERIMETER SHRUB (5 GAL. MIN.)

LANDSCAPE OPEN SPACE CONSISTING OF TREES, SHRUBS, GROUNDCOVER, TURF AND MULCH

AREA TO BE PRESERVED

GENERAL LANDSCAPE NOTES

- General. The owner, and tenant, if any, shall be jointly and severally responsible for the maintenance of all landscaping and irrigation. All required landscaping shall be maintained in a neat and orderly manner at all times. This shall include mowing, edging, pruning, fertilizing, watering, weeding, and other such activities common to the maintenance of landscaping. Landscaped areas shall be kept free of trash, litter, weeds and other such material or plants not a part of the landscaping. All plant materials shall be maintained in a healthy and growing condition as is appropriate for the season of the year. All irrigation heads or lines that are broken and flow water shall be replaced or repaired immediately to prevent the waste of water.Refer to "General Construction Notes" (If applicable) for additional information.
- Plant replacement. The owner and/or tenant shall be responsible for replacing all plant materials displaying dead branching over 75 percent or more of the normal branching pattern. Plant materials which die shall be replaced with plant material of similar variety and similar initial size. The owner and/or tenant shall make such necessary replacements within 30 days of notification by the city to replace any plant. The owner and/or tenant shall maintain all irrigation system equipment so as to avoid damage to any landscaping caused by lack of irrigation.
- An underground automatic pop-up type irrigation system shall be installed to water all landscape areas, including right-of-way areas. Adjustments to system will limit overspray onto adjacent roadways and conserve water to the greatest extent possible. A rain sensing device and a freeze sensor will be part of the system
- Additional plant material will be installed on-site by owner, in accordance with the City of Glenn Heights landscape standards. Material shown on this plan is to meet minimum City of Glenn Heights landscape ordinance requirements.
- All landscape areas shall be protected from vehicular traffic through the use of concrete curbs, wheelstops or other permanent barriers.
- Reference engineering plans for proposed grades.
- Final location of plant material may vary due to actual field conditions, proposed grades and hardscape layout. General intent will be maintained.
- Tree limbs shall be trimmed up to a height of at least eight feet (8') above the sidewalk level. Tree limbs which overhang the public street shall be trimmed to the height of at least thirteen feet (13') above the street level.
- A layer of organic mulch to a minimum depth of 3" within plant beds and around individual trees in turf grass areas. Mulch shall not be required in annual beds.

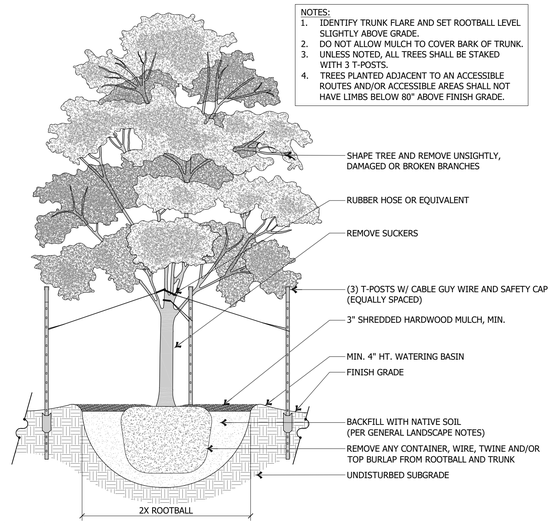
8'-0" HEIGHT SCREEN WALL

- Pre-Fab Concrete Fence - 8' tall "Stucco Style Concrete Fence" by Fencecrete America, (www.fencecrete.com) Color TBD.

PLANT SCHEDULE

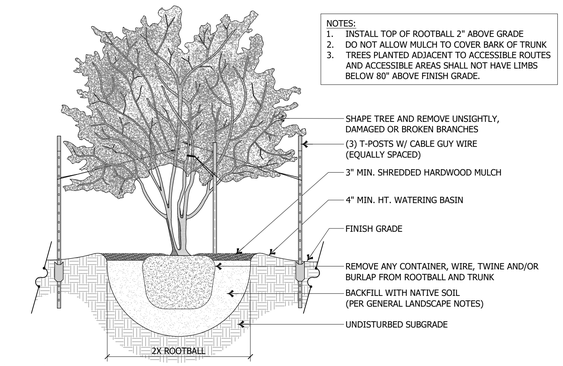
SYMBOL	QTY	COMMON NAME	BOTANICAL NAME	CONT	CAL	SIZE
CANOPY TREES						
MW	19	Shumard Red Oak Nursery grown, single straight trunk	Quercus shumardii	#65	3"	12` Ht. / 5` Sprd.
HW	35	Live Oak Nursery grown, single straight trunk	Quercus virginiana	#65	3"	12` Ht./ 5` Sprd.
MW	43	Cedar Elm Single straight trunk	Ulmus crassifolia	#65	3"	12` Ht./ 5` Sprd.
SYMBOL	QTY	COMMON NAME	BOTANICAL NAME	CONT	-	SIZE
SHRUBS						
AE MW	143	Glossy Abelia	Abelia x grandiflora 'Edward Goucher'	#5		24" Ht./ 12" Sprd.
IB HW	230	Dwarf Burford Holly	Ilex cornuta 'Burfordii Nana'	#5		24" Ht./ 12" Sprd.
TS LW	207	Texas Sage	Leucophyllum frutescens 'Silverado'	#5		24" Ht,/ 20" Sprd.

*HW - High water use zone (limited to a maximum of fifty percent (50%) of the total required landscape area)
MW - Moderate water use zone
LW - Low water use zone



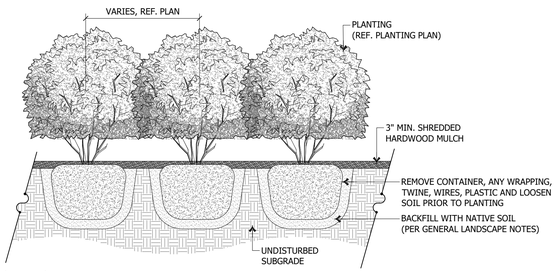
NOTES:
1. IDENTIFY TRUNK FLARE AND SET ROOTBALL LEVEL SLIGHTLY ABOVE GRADE.
2. DO NOT ALLOW MULCH TO COVER BARK OF TRUNK.
3. UNLESS NOTED, ALL TREES SHALL BE STAKED WITH 3 T-POSTS.
4. TREES PLANTED ADJACENT TO AN ACCESSIBLE ROUTES AND/OR ACCESSIBLE AREAS SHALL NOT HAVE LIMBS BELOW 80" ABOVE FINISH GRADE.

CANOPY TREE PLANTING
SECTION — SCALE: 3/8 "= 1'-0"

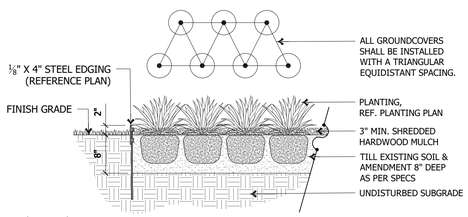


NOTES:
1. INSTALL TOP OF ROOTBALL 2" ABOVE GRADE
2. DO NOT ALLOW MULCH TO COVER BARK OF TRUNK
3. TREES PLANTED ADJACENT TO ACCESSIBLE ROUTES AND ACCESSIBLE AREAS SHALL NOT HAVE LIMBS BELOW 80" ABOVE FINISH GRADE.

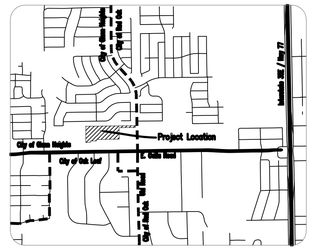
ORNAMENTAL TREE PLANTING
SECTION — SCALE: 3/8 "= 1'-0"



SHRUB "POCKET PLANTING"
SECTION — SCALE: 3/8 "= 1'-0"



GROUNDCOVER / SEASONAL COLOR PLANTING
SECTION — SCALE: 3/4 "= 1'-0"



Vicinity Map

LANDSCAPE NOTES & SPECIFICATIONS

AURA GLENN HEIGHTS

13.941 AC.
PROP. LOT 1, BLOCK A,
TRG GLENN HEIGHTS ADDITION
OUT OF THE
M. MCDERMOTT SURVEY~ ABSTRACT NO. 743
CITY OF GLENN HEIGHTS,
ELLIS COUNTY , TEXAS
Current Zoning: PD, Ord. No O-10-25
MAY 2026

ARCHITECT
Womack + Hampton Architects, LLC
4311 Oak Lawn Ave,
Suite 50, Lock Box 5,
Dallas, TX 75219
(214) 252-9000
Contact: Danny Baker

OWNER
Buster William R Etal
1399 W. Colton Ave. Ste. 5
Redlands, CA 92374
(214) 462-7190
Contact: Connor Osburn

DEVELOPER
Trinsic Acquisition Company, LLC
8235 Douglas Ave, Suite 950
Dallas, Texas 75225
(214) 462-7190
Contact: Connor Osburn

BENKENDORFER+ASSOCIATES
LANDSCAPE ARCHITECTURE/SITE PLANNING
2901 Bee Cave Rd. Suite P
Austin, TX 78746
P 512 366 5259

ISSUED SETS
04/22/26 - PERMIT SET
06/04/26 - PERMIT SET

REVISIONS

AURA GLENN HEIGHTS
GLENN HEIGHTS, TEXAS
LANDSCAPE NOTES & SPECIFICATIONS

REGISTERED LANDSCAPE ARCHITECT — DANIEL O. BENKENDORFER — 1370 — STATE OF TEXAS
06/04/26

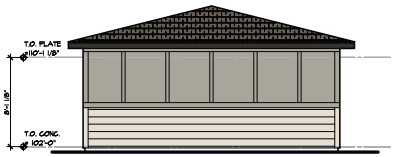
NORTH

SCALE:
REFERENCE DETAIL

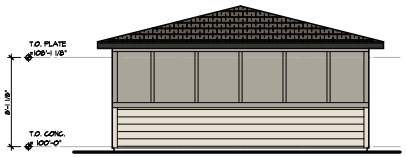
PROJECT # 010-31
SHEET # L0.03

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BUILDING MATERIALS KEY	
FIBER CEMENT LAP SIDING 1 / LAP SIDING 1	SW 7042 SHOJI WHITE OR SIMILAR
FIBER CEMENT LAP SIDING 2	SW 7071 DORIAN GRAY OR SIMILAR
FIBER CEMENT LAP SIDING 3 / FIBER CEMENT PANEL	SW 7069 IRON ORE OR SIMILAR
STUCCO 1	SW 7042 SHOJI WHITE OR SIMILAR
STUCCO 2	SW 7069 IRON ORE OR SIMILAR
METAL RAILING, DOORS AND AWNING	SW 6991 BLACK MAGIC OR SIMILAR
VINYL WINDOW FRAME	FLYSEM CLAY OR SIMILAR
FASCIA & BALCONY TRIM	SW 7069 IRON ORE OR SIMILAR
FACADE MATERIALS CONTINUE AROUND CORNERS AT WALL RETURNS.*	



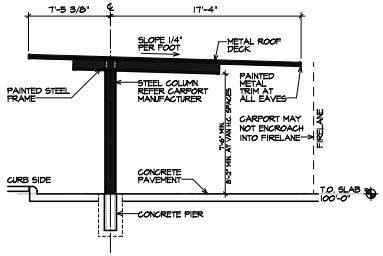
04 EAST SIDE ELEVATION
DETACHED GARAGE SCALE: 3/16"=1'-0"



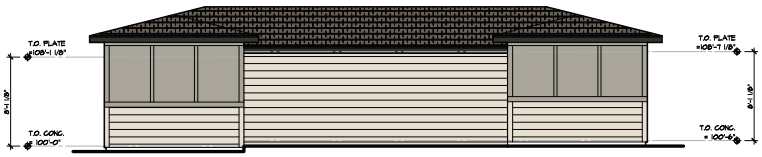
03 WEST SIDE ELEVATION
DETACHED GARAGE SCALE: 3/16"=1'-0"



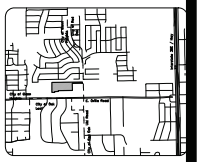
02 NORTH ELEVATION
DETACHED GARAGE SCALE: 3/16"=1'-0"



05 CARPORT SIDE
SCALE: 1/4"=1'-0"



01 SOUTH ELEVATION
DETACHED GARAGE SCALE: 3/16"=1'-0"



Vicinity Map

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Project No.
25000
Drawn By: DPB
4/30/2026
ISSUE FOR PERMIT:
-
ISSUE FOR CONSTRUCTION:
-
Revisions:

AURA GLENN HEIGHTS
GLENN HEIGHTS, TEXAS
TRG TRINSIC RESIDENTIAL GROUP

Womack+Hampton ARCHITECTS, L.L.C.
[illegible]

Sheet Number:
A8.21
DETACHED GARAGE TYPE II

ELEVATIONS
AURA GLENN HEIGHTS
13.941 AC.
PROP. LOT 1, BLOCK A,
TRG GLENN HEIGHTS ADDITION
OUT OF THE
M. MCDERMOTT SURVEY- ABSTRACT NO. 743
CITY OF GLENN HEIGHTS,
ELLIS COUNTY , TEXAS
Curent Zoning: PD, Ord. No O-10-25
APRIL 2026

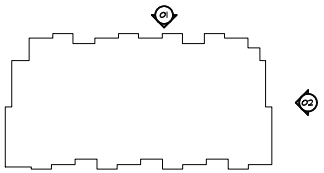
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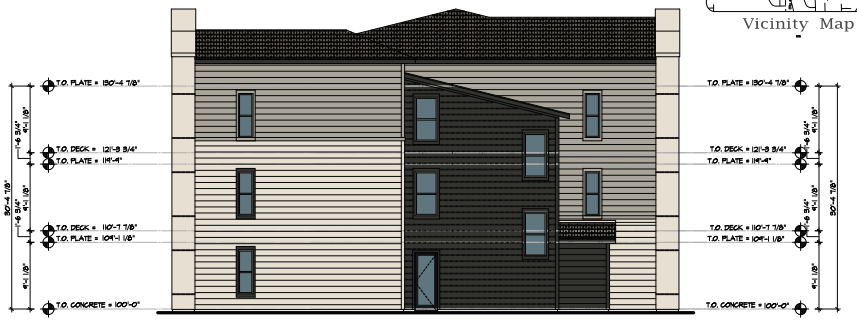
BUILDING MATERIALS KEY

	FIBER CEMENT LAP SIDING 1 LAP SIDING 1	SW 7042 SHOJI WHITE OR SIMILAR
	FIBER CEMENT LAP SIDING 2	SW 7017 DORIAN GRAY OR SIMILAR
	FIBER CEMENT LAP SIDING 3 / FIBER CEMENT PANEL	SW 7069 IRON ORE OR SIMILAR
	STUCCO 1	SW 7042 SHOJI WHITE OR SIMILAR
	STUCCO 2	SW 7069 IRON ORE OR SIMILAR
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	FASCIA & BALCONY TRIM	SW 7069 IRON ORE OR SIMILAR

FACADE MATERIALS CONTINUE AROUND CORNERS AT WALL RETURNS.*

BUILDING TYPE A KEYPLAN





02 RIGHT ELEVATION
BUILDING A
SCALE: 1/8"=1'-0"

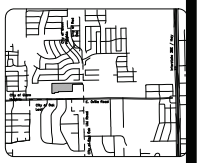


01 REAR ELEVATION
BUILDING A
SCALE: 1/8"=1'-0"

ELEVATIONS

AURA GLENN HEIGHTS

13.941 AC.
PROP. LOT 1, BLOCK A,
TRG GLENN HEIGHTS ADDITION
OUT OF THE
M. MCDERMOTT SURVEY- ABSTRACT NO. 743
CITY OF GLENN HEIGHTS,
ELLIS COUNTY , TEXAS
Curent Zoning: PD, Ord. No O-10-25
APRIL 2026



Vicinity Map

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Project No.
25000
Drawn By: DPB
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ISSUE FOR PERMIT:
-
ISSUE FOR CONSTRUCTION:
-
Revisions:

AURA GLENN HEIGHTS
GLENN HEIGHTS, TEXAS
TRG RESIDENTIAL GROUP

Womack+Hampton
ARCHITECTS, L.L.C.

Sheet Number:
A4.15
EXTERIOR ELEVATIONS BLDG TYPE A

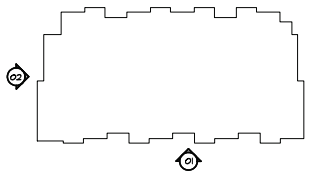
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BUILDING MATERIALS KEY

FIBER CEMENT LAP SIDING 1 / LAP SIDING 1	SW 7042 SHOJI WHITE OR SIMILAR
FIBER CEMENT LAP SIDING 2	SW 7017 DORIAN GRAY OR SIMILAR
FIBER CEMENT LAP SIDING 3 / FIBER CEMENT PANEL	SW 7069 IRON ORE OR SIMILAR
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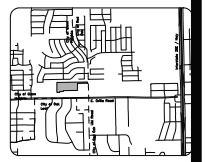
FACADE MATERIALS CONTINUE AROUND CORNERS AT WALL RETURNS.*

BUILDING TYPE A KEYPLAN

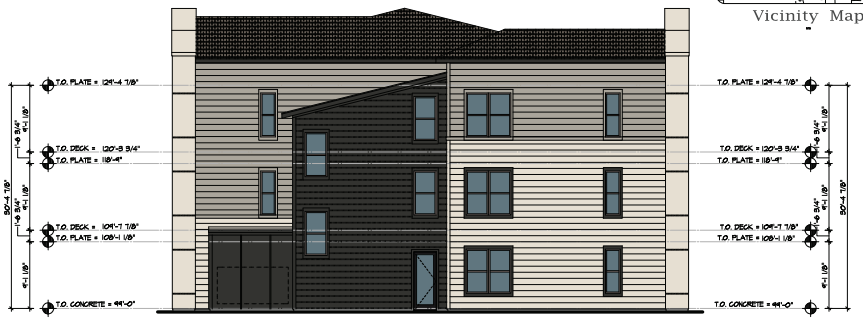


BUILDING A MATERIAL CALCULATIONS

	FRONT
FACADE S.F. (exclusive of doors and windows)	3,400 S.F.
PRIMARY MASONRY TOTALS (Min. 80%)	
STUCCO S.F.	2,358 S.F. 69%
SECONDARY MATERIALS TOTALS (Max. 40%)	
FIBER CEMENT	1,042 S.F. 31%



Vicinity Map



02 LEFT ELEVATION
BUILDING A — SCALE: 1/8"=1'-0"



01 FRONT ELEVATION
BUILDING A — SCALE: 1/8"=1'-0"

ELEVATIONS

AURA GLENN HEIGHTS

13.941 AC.
PROP. LOT 1, BLOCK A,
TRG GLENN HEIGHTS ADDITION
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Curent Zoning: PD, Ord. No O-10-25
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Project No. 25000
Drawn By: DPB
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ISSUE FOR CONSTRUCTION: -
Revisions:

AURA GLENN HEIGHTS
GLENN HEIGHTS, TEXAS
TRG TRINSIC RESIDENTIAL GROUP

Womack+Hampton ARCHITECTS, L.L.C.

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A4.16
EXTERIOR ELEVATIONS BLDG TYPE A

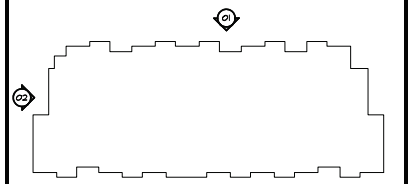
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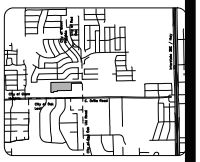
BUILDING MATERIALS KEY

FIBER CEMENT LAP SIDING 1 LAP SIDING 1	SW 7042 SHOJI WHITE OR SIMILAR
FIBER CEMENT LAP SIDING 2	SW 7017 DORIAN GRAY OR SIMILAR
FIBER CEMENT LAP SIDING 3 / FIBER CEMENT PANEL	SW 7069 IRON ORE OR SIMILAR
STUCCO 1	SW 7042 SHOJI WHITE OR SIMILAR
STUCCO 2	SW 7069 IRON ORE OR SIMILAR
METAL RAILING, DOORS AND AWNING	SW 6991 BLACK MAGIC OR SIMILAR
VINYL WINDOW FRAME	FLYGEM CLAY OR SIMILAR
FASCIA & BALCONY TRIM	SW 7069 IRON ORE OR SIMILAR

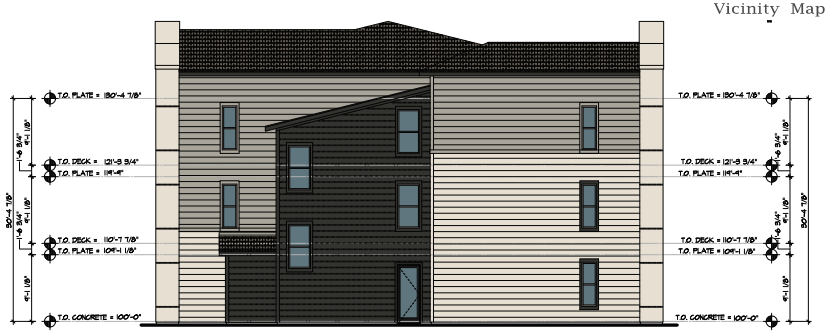
FACADE MATERIALS CONTINUE AROUND CORNERS AT WALL RETURNS.*

BUILDING TYPE B KEYPLAN





Vicinity Map



02 RIGHT ELEVATION
BUILDING B SCALE: 1/8"=1'-0"



01 FRONT ELEVATION
BUILDING B SCALE: 1/8"=1'-0"

ELEVATIONS

AURA GLENN HEIGHTS

13.941 AC.
PROP. LOT 1, BLOCK A,
TRG GLENN HEIGHTS ADDITION
OUT OF THE
M. MCDERMOTT SURVEY- ABSTRACT NO. 743
CITY OF GLENN HEIGHTS,
ELLIS COUNTY , TEXAS
Curent Zoning: PD, Ord. No O-10-25
APRIL 2026

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Project No.
25000
Drawn By: DPB
4/30/2026
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AURA GLENN HEIGHTS
GLENN HEIGHTS, TEXAS

TRG TRINSIC RESIDENTIAL GROUP

Womack+Hampton ARCHITECTS, L.L.C.

Sheet Number:

A4.25
EXTERIOR ELEVATIONS BLDG TYPE B

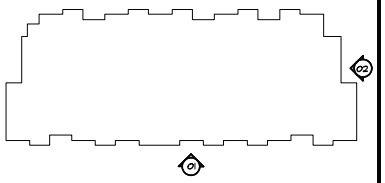
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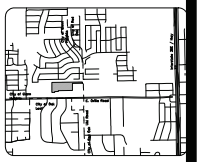
BUILDING MATERIALS KEY

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FIBER CEMENT LAP SIDING 2	SW 7017 DORIAN GRAY OR SIMILAR
FIBER CEMENT LAP SIDING 3 / FIBER CEMENT PANEL	SW 7069 IRON ORE OR SIMILAR
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STUCCO 2	SW 7069 IRON ORE OR SIMILAR
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VINYL WINDOW FRAME	FLYSEM CLAY OR SIMILAR
FASCIA & BALCONY TRIM	SW 7069 IRON ORE OR SIMILAR

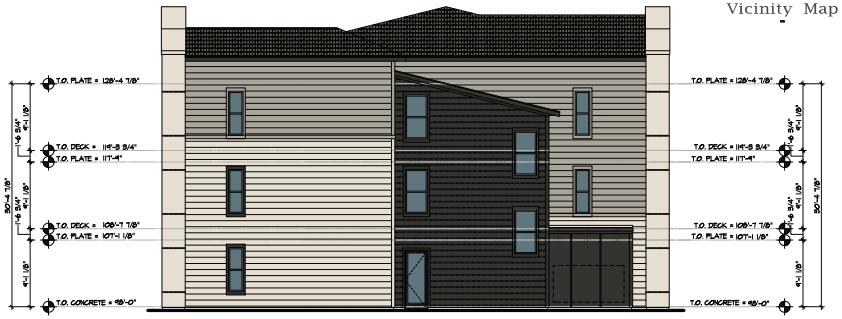
FACADE MATERIALS CONTINUE AROUND CORNERS AT WALL RETURNS.*

BUILDING TYPE B KEYPLAN





Vicinity Map



02 LEFT ELEVATION
BUILDING B
SCALE: 1/8"=1'-0"



01 REAR ELEVATION
BUILDING B
SCALE: 1/8"=1'-0"

ELEVATIONS

AURA GLENN HEIGHTS

13.941 AC.
PROP. LOT 1, BLOCK A,
TRG GLENN HEIGHTS ADDITION
OUT OF THE
M. MCDERMOTT SURVEY- ABSTRACT NO. 743
CITY OF GLENN HEIGHTS,
ELLIS COUNTY , TEXAS
Curent Zoning: PD, Ord. No O-10-25
APRIL 2026

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AURA GLENN HEIGHTS
GLENN HEIGHTS, TEXAS
TRG TRINSIC RESIDENTIAL GROUP

Womack+Hampton
ARCHITECTS, L.L.C.
2626 Howell St. Suite 710 Dallas, Texas 75204
P 214 855 0555

Sheet Number:
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EXTERIOR ELEVATIONS BLDG TYPE B

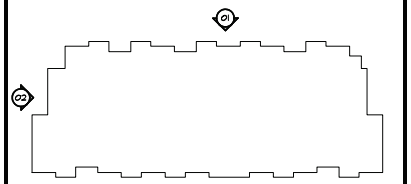
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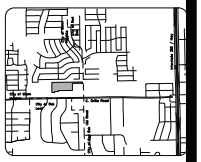
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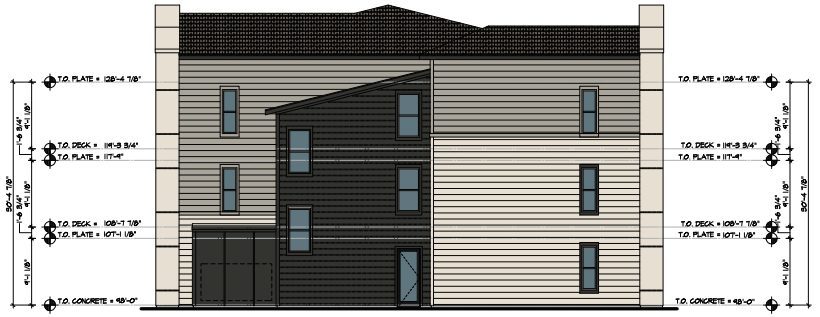
FACADE MATERIALS CONTINUE AROUND CORNERS AT WALL RETURNS.*

BUILDING TYPE Ba KEYPLAN





Vicinity Map



02 LEFT ELEVATION
BUILDING Ba — SCALE: 1/8"=1'-0"



01 REAR ELEVATION
BUILDING Ba — SCALE: 1/8"=1'-0"

ELEVATIONS

AURA GLENN HEIGHTS

13.941 AC.
PROP. LOT 1, BLOCK A,
TRG GLENN HEIGHTS ADDITION
OUT OF THE
M. MCDERMOTT SURVEY- ABSTRACT NO. 743
CITY OF GLENN HEIGHTS,
ELLIS COUNTY , TEXAS
Curent Zoning: PD, Ord. No O-10-25
APRIL 2026

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AURA GLENN HEIGHTS
GLENN HEIGHTS, TEXAS
TRG TRINSIC RESIDENTIAL GROUP

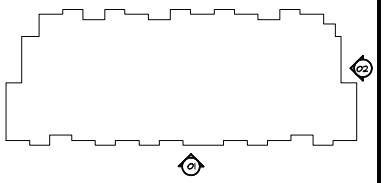
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ARCHITECTS, L.L.C.

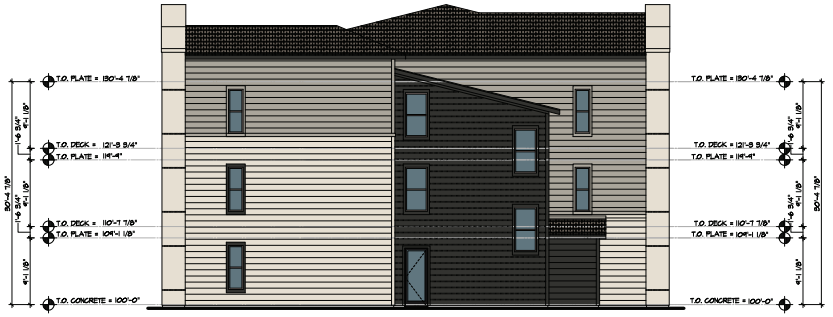
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BUILDING MATERIALS KEY	
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FIBER CEMENT LAP SIDING 2	SW 7017 DORIAN GRAY OR SIMILAR
FIBER CEMENT LAP SIDING 3 / FIBER CEMENT PANEL	SW 7069 IRON ORE OR SIMILAR
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FASCIA & BALCONY TRIM	SW 7069 IRON ORE OR SIMILAR
FACADE MATERIALS CONTINUE AROUND CORNERS AT WALL RETURNS.*	

BUILDING TYPE Ba KEYPLAN





02 RIGHT ELEVATION
BUILDING Ba SCALE:1/8"=1'-0"

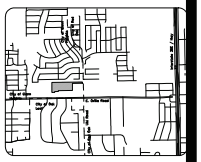


01 REAR ELEVATION
BUILDING Ba SCALE:1/8"=1'-0"

ELEVATIONS

AURA GLENN HEIGHTS

13.941 AC.
PROP. LOT 1, BLOCK A,
TRG GLENN HEIGHTS ADDITION
OUT OF THE
M. MCDERMOTT SURVEY- ABSTRACT NO. 743
CITY OF GLENN HEIGHTS,
ELLIS COUNTY , TEXAS
Curent Zoning: PD, Ord. No O-10-25
APRIL 2026



Vicinity Map

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AURA GLENN HEIGHTS
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TRG TRINSIC RESIDENTIAL GROUP

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ARCHITECTS, L.L.C.
2626 Howell St. Suite 710 Dallas, Texas 75204 P 214 855 0500

Sheet Number:
A4.36
EXTERIOR ELEVATIONS BLDG TYPE Ba

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BUILDING MATERIALS KEY

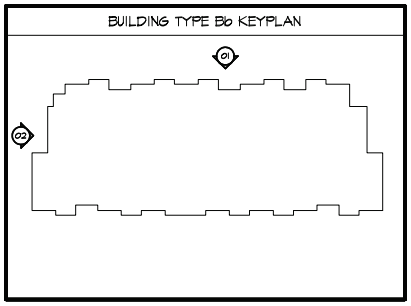
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FIBER CEMENT LAP SIDING 2	SW 7017 DORIAN GRAY OR SIMILAR
FIBER CEMENT LAP SIDING 3 / FIBER CEMENT PANEL	SW 7069 IRON ORE OR SIMILAR
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METAL RAILING, DOORS AND AWNING	SW 6991 BLACK MAGIC OR SIMILAR
VINYL WINDOW FRAME	FLYSEM CLAY OR SIMILAR
FASCIA & BALCONY TRIM	SW 7069 IRON ORE OR SIMILAR

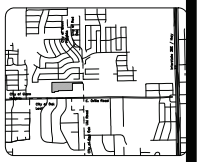
FACADE MATERIALS CONTINUE AROUND CORNERS AT WALL RETURNS.*

BUILDING Bb MATERIAL CALCULATIONS

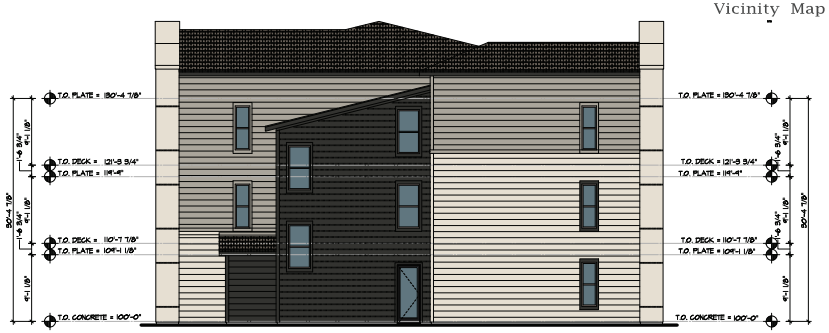
	FRONT
FACADE S.F. (exclusive of doors and windows)	3,151 S.F.
PRIMARY MASONRY TOTALS (Min. 60%)	
STUCCO S.F.	2,140 S.F. 70%
SECONDARY MATERIALS TOTALS (Max. 40%)	
FIBER CEMENT	961 S.F. 30%

BUILDING TYPE Bb KEYPLAN

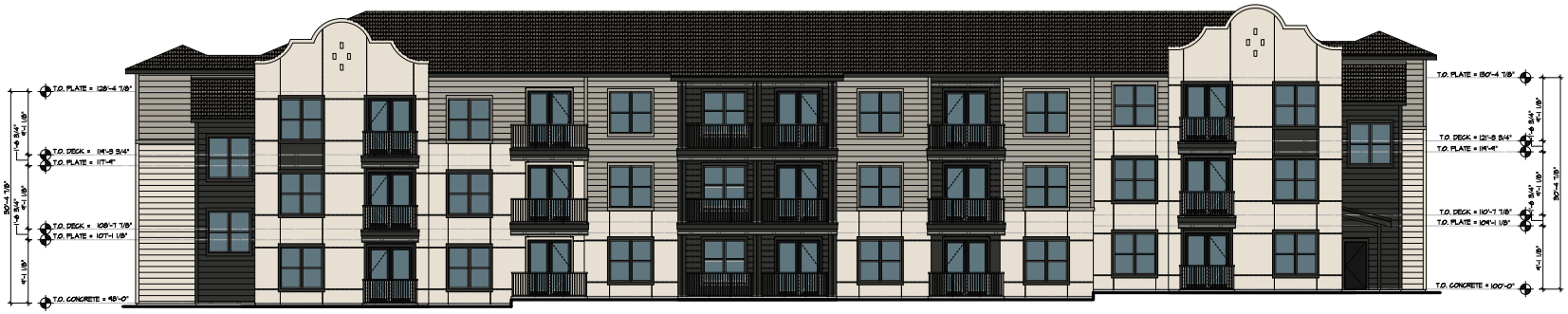




Vicinity Map



02 RIGHT ELEVATION
BUILDING Bb SCALE: 1/8"=1'-0"



01 FRONT ELEVATION
BUILDING Bb SCALE: 1/8"=1'-0"

ELEVATIONS

AURA GLENN HEIGHTS

13.941 AC.
PROP. LOT 1, BLOCK A,
TRG GLENN HEIGHTS ADDITION
OUT OF THE
M. MCDERMOTT SURVEY- ABSTRACT NO. 743
CITY OF GLENN HEIGHTS,
ELLIS COUNTY , TEXAS
Curent Zoning: PD, Ord. No O-10-25
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2626 Howell Street, Suite 710 Dallas, Texas 75204 P 214 855 0555

Sheet Number:
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EXTERIOR ELEVATIONS BLDG TYPE Bb

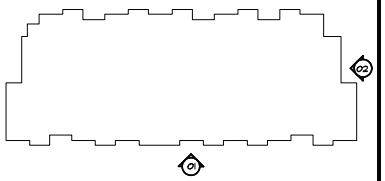
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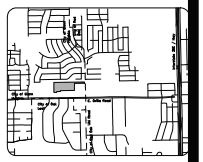
BUILDING MATERIALS KEY

FIBER CEMENT LAP SIDING 1 LAP SIDING 1	SW 7042 SHOJI WHITE OR SIMILAR
FIBER CEMENT LAP SIDING 2	SW 7017 DORIAN GRAY OR SIMILAR
FIBER CEMENT LAP SIDING 3 / FIBER CEMENT PANEL	SW 7069 IRON ORE OR SIMILAR
STUCCO 1	SW 7042 SHOJI WHITE OR SIMILAR
STUCCO 2	SW 7069 IRON ORE OR SIMILAR
METAL RAILING, DOORS AND AWNING	SW 6991 BLACK MAGIC OR SIMILAR
VINYL WINDOW FRAME	FLYSEM CLAY OR SIMILAR
FASCIA & BALCONY TRIM	SW 7069 IRON ORE OR SIMILAR

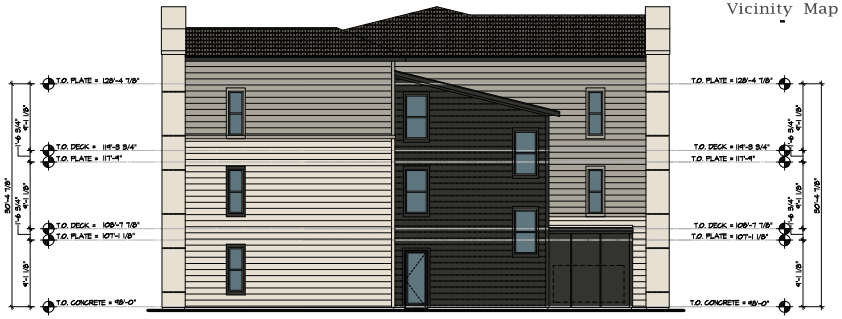
FACADE MATERIALS CONTINUE AROUND CORNERS AT WALL RETURNS.*

BUILDING TYPE Bb KEYPLAN

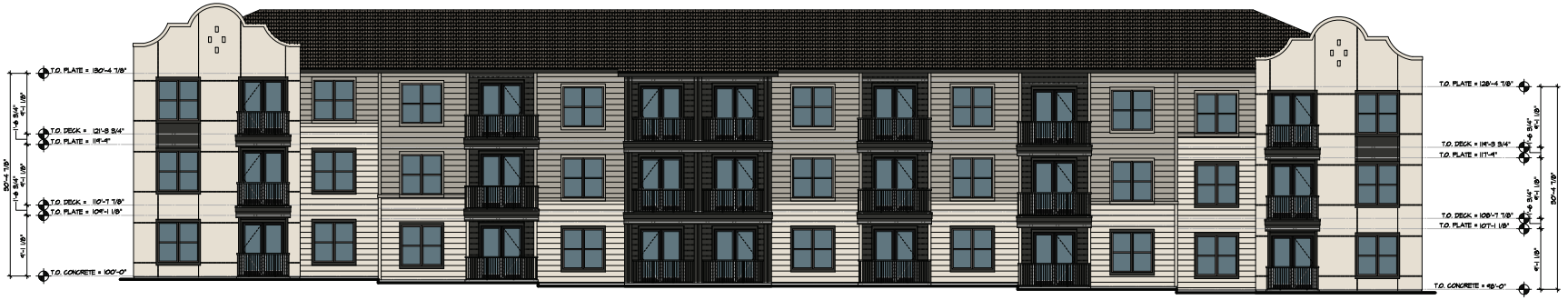




Vicinity Map



02 LEFT ELEVATION
BUILDING Bb
SCALE: 1/8"=1'-0"



01 REAR ELEVATION
BUILDING Bb
SCALE: 1/8"=1'-0"

ELEVATIONS

AURA GLENN HEIGHTS

13.941 AC.
PROP. LOT 1, BLOCK A,
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TRG TRINSIC RESIDENTIAL GROUP

Womack+Hampton
ARCHITECTS, L.L.C.

Sheet Number:
A4.46
EXTERIOR ELEVATIONS BLDG TYPE Bb

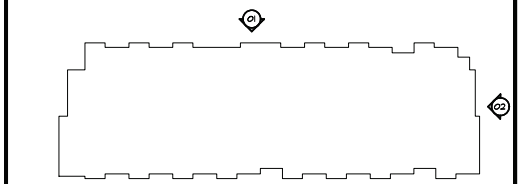
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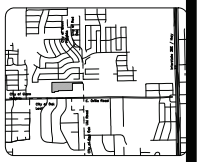
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VINYL WINDOW FRAME	PLYGEM CLAY OR SIMILAR
FASCIA & BALCONY TRIM	SW 7069 IRON ORE OR SIMILAR

FACADE MATERIALS CONTINUE AROUND CORNERS AT WALL RETURNS.*

BUILDING TYPE C KEYPLAN





Vicinity Map



02 RIGHT ELEVATION
BUILDING C
SCALE: 1/8"=1'-0"



01 REAR ELEVATION
BUILDING C
SCALE: 1/8"=1'-0"

ELEVATIONS

AURA GLENN HEIGHTS

13.941 AC.
PROP. LOT 1, BLOCK A,
TRG GLENN HEIGHTS ADDITION
OUT OF THE
M. MCDERMOTT SURVEY- ABSTRACT NO. 743
CITY OF GLENN HEIGHTS,
ELLIS COUNTY , TEXAS
Curent Zoning: PD, Ord. No O-10-25
APRIL 2026

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Project No.
25000
Drawn By: DPB
4/30/2026
ISSUE FOR PERMIT:
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ISSUE FOR CONSTRUCTION:
-
Revisions:

AURA GLENN HEIGHTS
GLENN HEIGHTS, TEXAS
TRG TRINSIC RESIDENTIAL GROUP

Womack+Hampton
ARCHITECTS, L.L.C.

Sheet Number:
A4.55
EXTERIOR ELEVATIONS BLDG TYPE C

PLOT DATE: 4/30/2026 PLOT TIME: 4:20 PM PATH/NAME: N:\25000\25013 Aura Glenn Heights\SHEETS\25013AA4.55-Exterior Elevations_Building Type C.dwg

BUILDING MATERIALS KEY

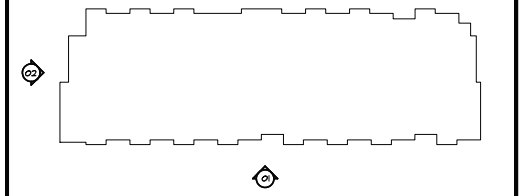
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	VINYL WINDOW FRAME	PLYGEM CLAY OR SIMILAR
	FASCIA & BALCONY TRIM	SW 7069 IRON ORE OR SIMILAR

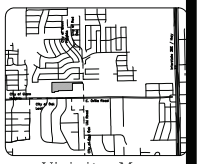
FACADE MATERIALS CONTINUE AROUND CORNERS AT WALL RETURNS.*

BUILDING C MATERIAL CALCULATIONS

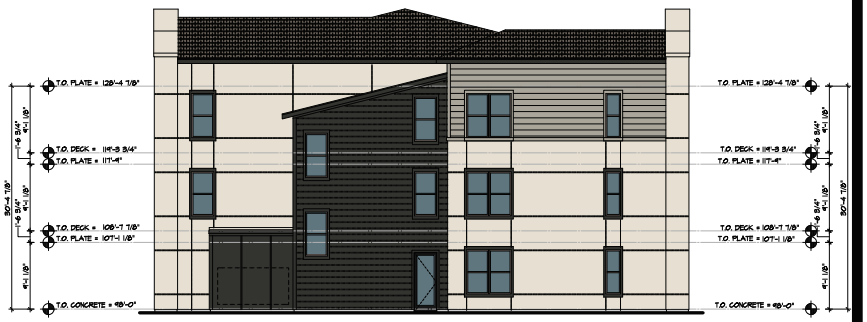
	FRONT
FACADE S.F. (exclusive of doors and windows)	4,229 S.F.
PRIMARY MASONRY TOTALS (Min. 60%)	
STUCCO S.F.	2564 S.F. 61%
SECONDARY MATERIALS TOTALS (Max. 40%)	
FIBER CEMENT	1665 S.F. 39%

BUILDING TYPE C KEYPLAN





Vicinity Map



02 LEFT ELEVATION
BUILDING C
SCALE: 1/8"=1'-0"



01 FRONT ELEVATION
BUILDING C
SCALE: 1/8"=1'-0"

ELEVATIONS

AURA GLENN HEIGHTS

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Revisions:

AURA GLENN HEIGHTS
GLENN HEIGHTS, TEXAS
TRG TRINSIC RESIDENTIAL GROUP

Womack+Hampton ARCHITECTS, L.L.C.

Sheet Number:
A4.56
EXTERIOR ELEVATIONS BLDG TYPE C

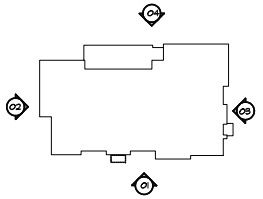
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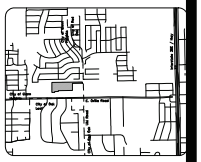
BUILDING MATERIALS KEY

FIBER CEMENT LAP SIDING 1 LAP SIDING 1	SW 7042 SHOJI WHITE OR SIMILAR
FIBER CEMENT LAP SIDING 2	SW 7017 DORIAN GRAY OR SIMILAR
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STUCCO 1	SW 7042 SHOJI WHITE OR SIMILAR
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FASCIA & BALCONY TRIM	SW 7069 IRON ORE OR SIMILAR

FACADE MATERIALS CONTINUE AROUND CORNERS AT WALL RETURNS.*

LEASING KEYPLAN

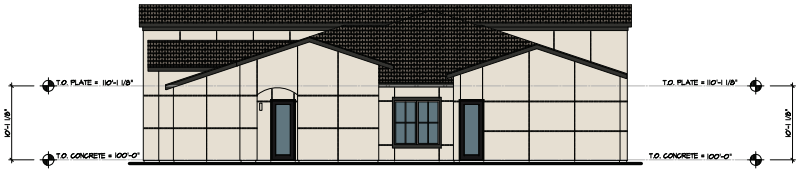




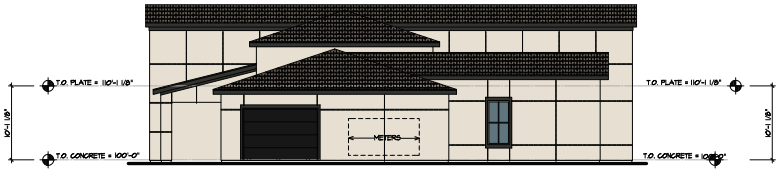
Vicinity Map



04 FRONT ELEVATION
LEASING SCALE: 1/8"=1'-0"



03 RIGHT ELEVATION
LEASING SCALE: 1/8"=1'-0"



02 LEFT ELEVATION
LEASING SCALE: 1/8"=1'-0"



01 REAR ELEVATION
LEASING SCALE: 1/8"=1'-0"

ELEVATIONS

AURA GLENN HEIGHTS

13.941 AC.
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Project No. 25000
Drawn By: DPB
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Revisions:

AURA GLENN HEIGHTS
GLENN HEIGHTS, TEXAS
TRG TRINSIC RESIDENTIAL GROUP

Womack+Hampton ARCHITECTS, L.L.C.
2626 Howell St. Suite 710 Dallas, Texas 75204 P 214 855 0555

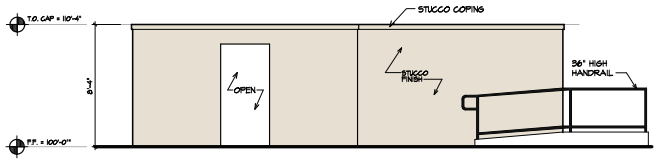
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A8.3
EXTERIOR ELEVATIONS LEASING

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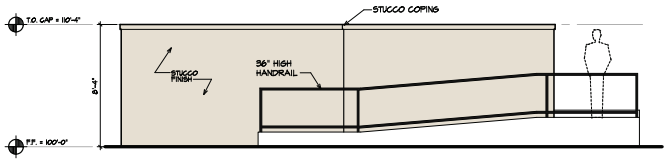
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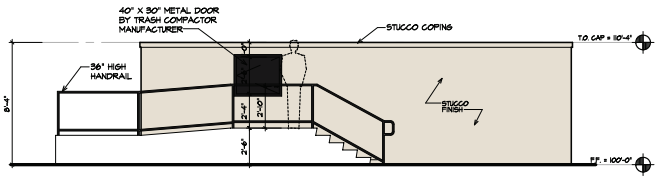
FACADE MATERIALS CONTINUE AROUND CORNERS AT WALL RETURNS.*



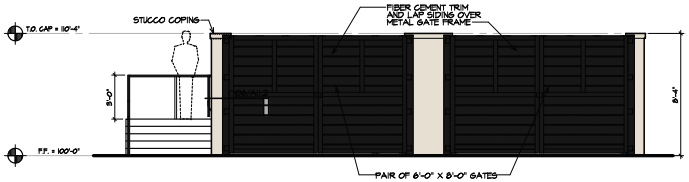
04 TRASH COMPACTOR - RIGHT SIDE ELEVATION
SCALE: 1/4"=1'-0"



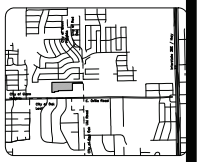
03 TRASH COMPACTOR - REAR ELEVATION
SCALE: 1/4"=1'-0"



02 TRASH COMPACTOR - LEFT SIDE ELEVATION
SCALE: 1/4"=1'-0"



01 TRASH COMPACTOR - FRONT ELEVATION
SCALE: 1/4"=1'-0"



Vicinity Map

ELEVATIONS

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13.941 AC.
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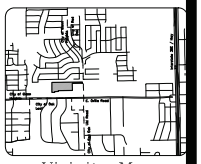
AURA GLENN HEIGHTS
GLENN HEIGHTS, TEXAS
TRG TRINSIC RESIDENTIAL GROUP

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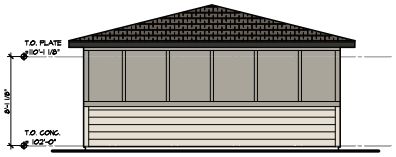
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A8.10
COMPACTOR ENCLOSURE

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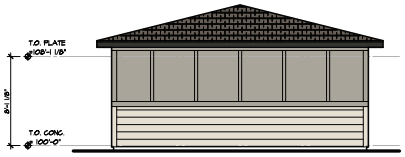
BUILDING MATERIALS KEY	
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FACADE MATERIALS CONTINUE AROUND CORNERS AT WALL RETURNS.*	



Vicinity Map



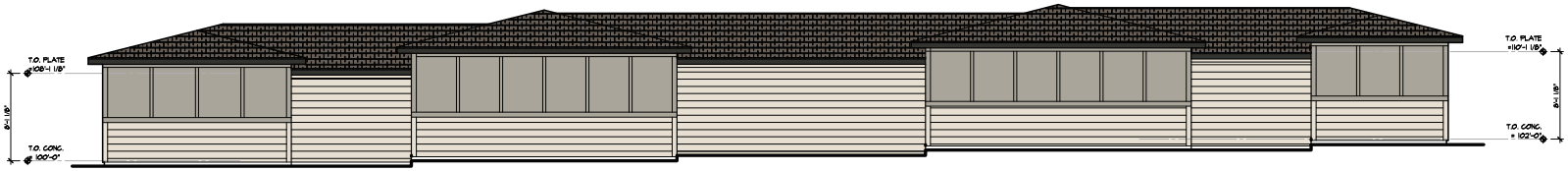
04 EAST SIDE ELEVATION
DETACHED GARAGE SCALE:3/16"=1'-0"



03 WEST SIDE ELEVATION
DETACHED GARAGE SCALE:3/16"=1'-0"



02 NORTH ELEVATION
DETACHED GARAGE SCALE:3/16"=1'-0"



01 SOUTH ELEVATION
DETACHED GARAGE SCALE:3/16"=1'-0"

ELEVATIONS

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Sheet Number:
A8.20
DETACHED GARAGE TYPE 1

PLOT DATE: 4/30/2026 PLOT TIME: 4:21 PM PATH/NAME: N:\25000\25013 Aura Glenn Heights\SHEETS\25013AM&DA-Garage & Carport.vwx

KEYED NOTES:

1. FIELD ADJUST ALL FIXTURES SUCH THAT THEY ILLUMINATE THE PARKING LOT AND NOT SURROUNDING NEIGHBORHOOD. CONNECT TO BUILDING PHOTOCELL (TYP. FOR ALL). CONTRACTOR SHALL BE RESPONSIBLE FOR PROPER AIMING OF ALL SITE FIXTURES TO MEET CITY SITE LIGHTING REQUIREMENTS.
2. FIELD ADJUST ALL FIXTURES SUCH THAT ILLUMINATES THE GROUNDS/COURTYARD AND NOT SURROUNDING BUILDINGS. CONNECT TO BUILDING PHOTOCELL (TYP. FOR ALL). CONTRACTOR SHALL BE RESPONSIBLE FOR PROPER AIMING OF ALL FIXTURES TO MEET CITY LIGHTING REQUIREMENTS.
3. PROVIDE A QUAD GFI/WP RECEPTACLE AND LIGHT AT THE POOL EQUIPMENT AREA FOR SERVICING. COORDINATE WITH POOL CONTRACTOR LOCATION OF POOL EQUIPMENT AND ALL PUMP REQUIREMENTS. PROVIDE FOR A DEDICATED TELEPHONE LINE TO MEET LOCAL 911 EMERGENCY SERVICE DIAL-UP REQUIREMENTS.
4. RUN A 1" CONDUIT AND PROVIDE WEATHERPROOF J-BOX FOR MONUMENT AND FLAG POLE LIGHTING. COORDINATE WITH OWNER/ARCHITECT FOR EXACT LOCATIONS. CONNECT LIGHTS TO THE NEAREST BUILDING PHOTOCELL AND HOUSE PANEL FOR POWER (TYP. FOR ALL).
5. RUN 2-1" CONDUITS TO EACH GATE FOR POWER AND CONTROLS. COORDINATE WITH GATE EQUIPMENT SUPPLIER ALL INSTALLATION REQUIREMENTS (TYP. FOR ALL). CONNECT TO THE GARAGE PANEL FOR POWER (TYP. FOR ALL).
6. ALL POOL EQUIPMENT AND LIGHTS ARE CONNECTED TO POOL PANEL. PROVIDE EPO (EMERGENCY POWER OFF) BUTTON AS PER NEC 680.41. PROVIDE EMERGENCY TELEPHONE PER AHJ (AUTORITY HAVING JURISDICTION) REQUIREMENTS. LOCATION OF EPO AND EMERGENCY TELEPHONE SHALL BE COORDINATED WITH ARCHITECT/ LANDSCAPE DESIGNER.
7. PROVIDE CABLE TAP BOX AND 2-4" UNDERGROUND CONDUIT (R.G.C. OR SCHED. 40 PVC) WITH PULL WIRE FOR TELEPHONE AND CABLE SERVICE TO PROPERTY LINE. COORDINATE WITH SERVICE PROVIDER FOR EXACT LOCATION. STUB UP IN MDF/IDF ROOM BELOW TEL. BD.
8. RUN A 1" CONDUIT AND PROVIDE WEATHERPROOF J-BOX FOR IRRIGATION SYSTEM, COORDINATE WITH LANDSCAPE/ARCHITECT FOR EXACT LOCATIONS. CONNECT TO THE NEAREST BUILDING HOUSE PANEL FOR POWER (TYP. FOR ALL). PROVIDE ADDITIONAL OUTDOOR PLUG FOR LOW VOLTAGE AND IRRIGATION CLOCK.
9. RUN A 1" CONDUIT AND PROVIDE WEATHERPROOF PEDESTAL GFCI RECEPTACLES AND STRING LIGHTING, REFER LANDSCAPE PLANS FOR EXACT LOCATIONS. CONNECT LIGHTS TO THE NEAREST BUILDING HOUSE PANEL THROUGH TIMER CLOCK FOR POWER (TYP. FOR ALL)
10. PROVIDE WEATHERPROOF J-BOX FOR LANDSCAPE LIGHT FIXTURES. CONNECT LIGHTS TO THE NEAREST BUILDING HOUSE PANEL VIA PHOTOCELL/TIME-CLOCK FOR POWER. REFER LANDSCAPE PLANS FOR FIXTURES TYPE, NUMBER AND LOCATIONS (TYP. FOR ALL).
11. PROVIDE PROVISION FOR INSTALLATION OF AN EXTERIOR ANTENNA @+10'-12' AFF AND DEDICATED WEATHER PROOF DUPLEX GFCI RECEPTACLE WITHIN 12" FOR ANTENNA MOUNT LOCATION IF REQUIRED BY POWER COMPANY. INSTALL 1.5" CONDUIT FROM METER ROOM TO ANTENNA MOUNT LOCATION. PROVIDE KEY STORAGE LOCKBOX NEAR THE EXTERIOR DOOR CLOSEST TO METER ROOM.
12. PROVIDE POWER FOR OUTDOOR WATER FEATURE, COORDINATE WITH LANDSCAPE FOR EXACT LOCATION AND POWER REQUIREMENT.

SITE LIGHTING GENERAL NOTES:

A. ALL CONDUCTORS 75°C COPPER, TYPE THWN UNLESS INDICATED OTHER WISE.

B. ALL CONDUIT PVC SCHEDULE 40 EXCEPT AS FOLLOWS:

1). EXPOSED ABOVE GRADE: RIGID, GALV. STEEL (RGS).

2). TRANSITION BETWEEN EXPOSED ABOVE GRADE & DIRECT BURIED: RGS.

3). BELOW PAVED DRIVING SURFACES (BACK OF CURB TO BACK OF CURB):

A) WITH CONCRETE ENCASEMENT AT MINIMUM DEPTH PER NEC: SCHEDULE 40 PVC.

B) WITHOUT CONCRETE ENCASEMENT, MINIMUM DEPTH PER NEC: RGS WITH CORROSION - RESISTANT COATING.

C) WITHOUT CONCRETE ENCASEMENT, DEPTH 3 FEET OR MORE: SCHEDULE 80 PVC.

C. ALL POLE & BOLLARD LIGHTING IS CIRCUITED AT 240V, SINGLE PHASE.

D. ALL BUILDING SIGN LIGHTING IS CIRCUITED AT 120V, SINGLE PHASE.

E. ALL GROUND-MOUNTED, ACCENT LIGHTING IS CIRCUITED AT 120V, SINGLE PHASE.

F. PROVIDE COPPER GROUND CONDUCTOR WITH ALL UNDERGROUND BRANCH CIRCUITS.

G. PROVIDE 2-6" WIDE METALLIC DETECTION TAPE FOR ALL BURIED CONDUITS.

H. SITE LIGHTING SHALL BE INSTALL AS PER PHOTOMETRIC STUDY E1.02.

GENERAL NOTES:

1. ALL EXTERIOR LIGHT FIXTURES SHALL BE FULLY SHIELDED, FULL CUT-OFF, AND SHIELDED AWAY FROM THE ADJACENT RESIDENTIAL ZONING.
2. REFER TO "T" SERIES SHEETS FOR SITE DATA CONDUITS ROUTING.
3. REFER TO "L" SHEETS FOR LANDSCAPE LIGHTING LOCATION AND SCHEDULE.

NOTE:

- THE SERVICE DIMENSIONS ARE FOR COORDINATION PURPOSE ONLY. EXACT SIZE AND LOCATION MAY VARY ON FIELD DEPENDING ON MANUFACTURER SELECTED BY CONTRACTOR. VERIFY SPACE AVAILABLE BEFORE PURCHASE.
- 250 KVA XFMR FOR 2000 AMP SERVICE NEEDS APPROVAL FROM POWER COMPANY.

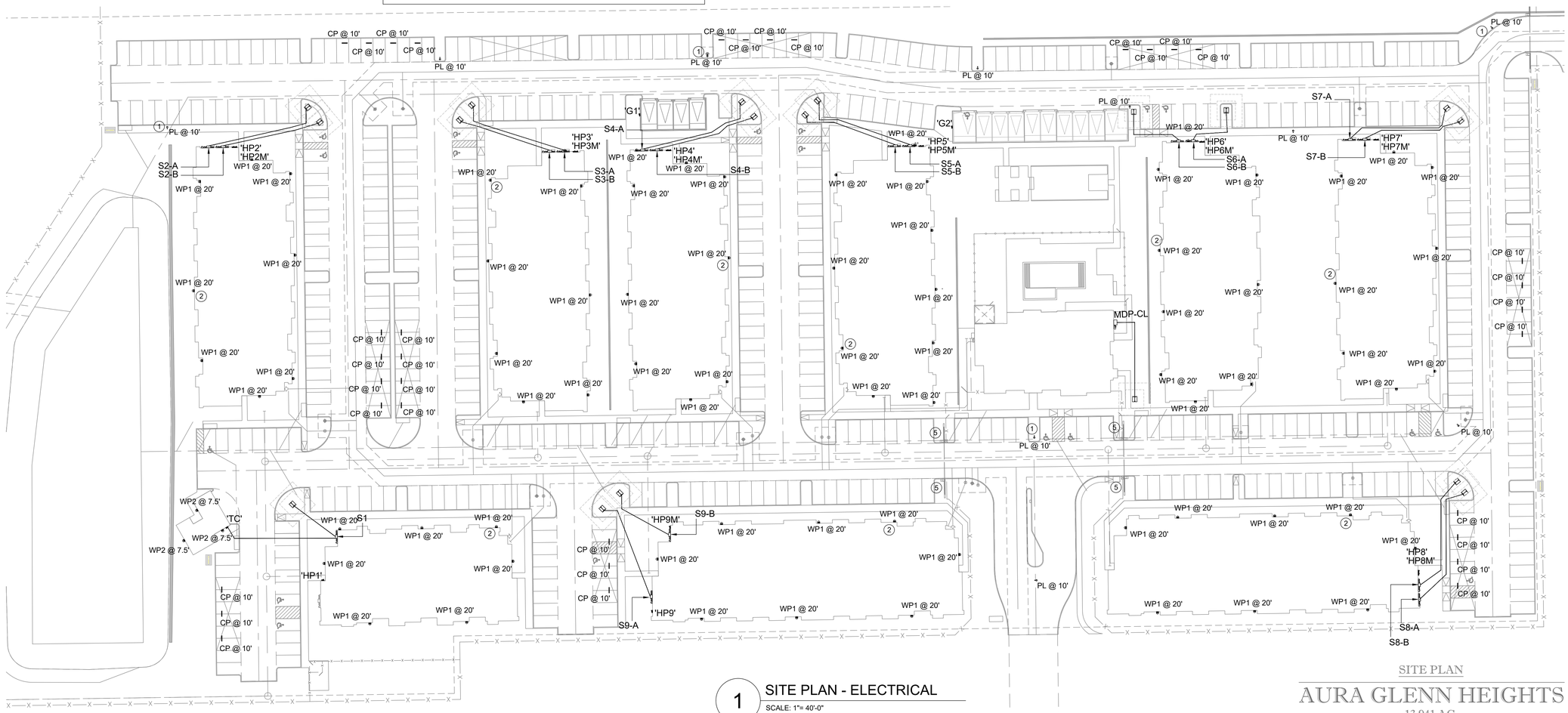
SITE PLAN ELECTRICAL SYMBOLS

(T) POWER COMPANY PAD-MOUNTED TRANSFORMER

(J) WEATHERPROOF JUNCTION BOX (PVC OR GALVANIZED) MOUNTED FLUSH W/GRADE FOR SIGNS, SECURITY GATES CARD PEDESTALS, ETC.



Vicinity Map



1 SITE PLAN - ELECTRICAL

SCALE: 1"= 40'-0"

SITE PLAN

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TRG GLENN HEIGHTS ADDITION
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ELLIS COUNTY , TEXAS
Curent Zoning: PD, Ord. No O-10-25
MAY 2026

SURVEYOR
Texas Reality Capture & Surveying, LLC
P.O. Box 252
Waxahachie, TX 75168
(469) 518–0338
TBPLS No. F–10194359
Contact: Tim Jackson

ENGINEER
Spiars Engineering, Inc.
501 w. President George Bush Hwy.
Suite 200
Richardson, TX 75080
(972) 422–0077
TBPELS No. F–2121 And No. F–10043100
Contact: Mike Martinie

ARCHITECT
Womack + Hampton Architects, LLC
4311 Oak Lawn Ave,
Suite 50, Lock Box 5,
Dallas, TX 75219
(214) 252–9000
Contact: Danny Baker

OWNER
Buster William R Etal
1399 W. Colton Ave. Ste. 5
Redlands, CA 92374
(214) 462–7190
Contact: Connor Osburn

DEVELOPER
Trinsic Acquisition Company, LLC
8235 Douglas Ave, Suite 950
Dallas, Texas 75225
(214) 462–7190
Contact: Connor Osburn

PHA Consulting Engineers, Inc.
MECHANICAL, ELECTRICAL & PLUMBING
1130 E. Arapaho Road Suite 300
Richardson, TX 75081
T: (972) 235-2192 F: (972) 235-4604

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Project No.
3028–26

Drawn By: PHA

ISSUE FOR PERMIT

ISSUE FOR CONSTRUCTION:

Revisions:

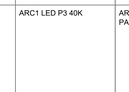
AURA GLENN HEIGHTS

TRG TRINSIC RESIDENTIAL GROUP

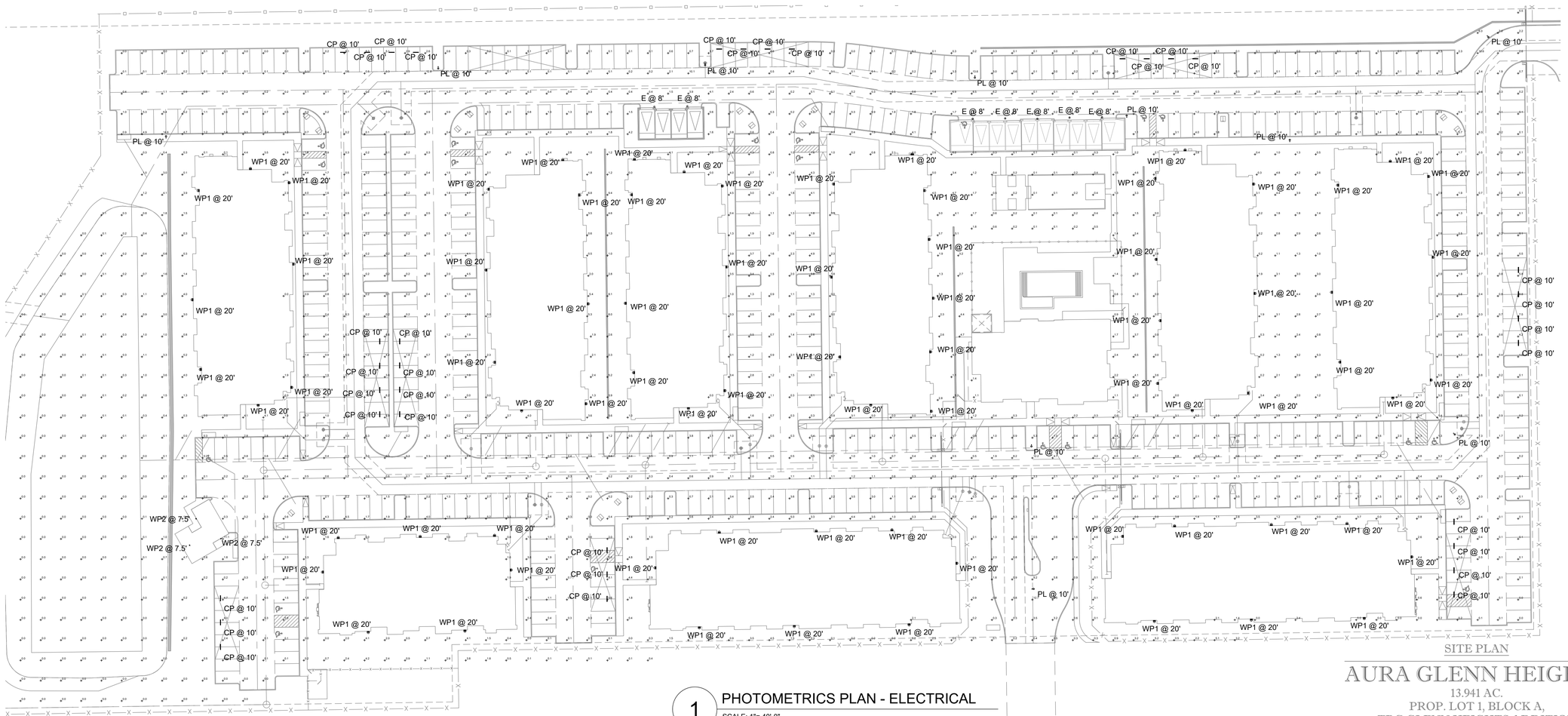
Womack + Hampton ARCHITECTS, L.L.C.
4311 Oak Lawn Ave., Suite 50 Lock Box 5
Dallas, Texas 75219 (214) 252–9000

Sheet Number:
E1.01
SITE PLAN - ELECTRICAL

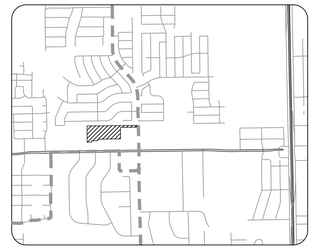
PLOT DATE: PLOT TIME: T:\PJTS\TH\NAME\CAD\FILENAME.EXT

Schedule											
Symbol	Label	Image	QTY	Manufacturer	Catalog	Description	Number Lamps	Lamp Output	LLF	Input Power	Polar Plot
	WP1		75	Lithonia Lighting	ARC2 LED P5 40K	ARC2 LED WITH P5 - PERFORMANCE PACKAGE, 4000K	1	6615	1	51.2609	
	WP2		3	Lithonia Lighting	ARC1 LED P3 40K	ARC1 LED WITH P3 - PERFORMANCE PACKAGE, 4000K	1	3021	1	24.5247	
	PL		10	COOPER LIGHTING SOLUTIONS - INVUE (FORMERLY EATON)	EMM-E04-LED-E1-T4	EPIC MODERN MEDIUM DECORATIVE LED LUMINAIRE (4) LIGHTBARS WITH AccuLED OPTICS - TYPE 4	84	137	1	97.2	
	CP		34	Lithonia Lighting	CLX L48 3000LM SEF SBL FDL 30K 80CRI	CLX LED linear 48", 3000 lumens, Standard efficiency, Straight blade louver, Flat diffuse, General, 3000K, 80CRI	1	1587	1	18.52	
	E		7	Lithonia Lighting	WMCL4 P1 SWW2 @4000LM A4S @BOTH	WMCL4 cylinder wall pack, Performance package one, switchable 4000K, 457? angle, downlight and uplight	1	2494	1	18.66	

Statistics						
Description	Symbol	Avg	Max	Min	Max/Min	Avg/Min
Calc Zone #2	+	1.4 fc	14.9 fc	0.0 fc	N/A	N/A



1 PHOTOMETRICS PLAN - ELECTRICAL
SCALE: 1"= 40'-0"



Vicinity Map

SITE PLAN

AURA GLENN HEIGHTS

13.941 AC.
PROP. LOT 1, BLOCK A,
TRG GLENN HEIGHTS ADDITION
OUT OF THE
M. MCDERMOTT SURVEY~ ABSTRACT NO. 743
CITY OF GLENN HEIGHTS,
ELLIS COUNTY , TEXAS
Curent Zoning: PD, Ord. No O-10-25
MAY 2026

SURVEYOR
Texas Reality Capture & Surveying, LLC
P.O. Box 252
Waxahachie, TX 75168
(469) 518-0338
TBPLS No. F-10194359
Contact: Tim Jackson

ENGINEER
Spiars Engineering, Inc.
501 w. President George Bush Hwy.
Suite 200
Richardson, TX 75080
(972) 422-0077
TBPELS No. F-2121 And No. F-10043100
Contact: Mike Martinie

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Project No.
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Revisions:

AURA GLENN HEIGHTS

TRG TRINSIC RESIDENTIAL GROUP

Womack+Hampton ARCHITECTS, L.L.C.
4311 Oak Lawn Ave. Suite 50 Lock Box 5 Dallas, Texas 75219 (214) 252-9000

Sheet Number:
E1.02
PHOTOMETRICS PLAN - ELECTRICAL

PLOT DATE: PLOT TIME: PATH: NAME: XREF:

AN ORDINANCE OF THE CITY OF GLENN HEIGHTS, TEXAS

ORDINANCE NO. O-10-25

AN ORDINANCE OF THE CITY OF GLENN HEIGHTS, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE, PLAN AND MAP OF THE CITY OF GLENN HEIGHTS, AS HERETOFORE AMENDED, BY GRANTING A CHANGE IN ZONING FOR AN APPROXIMATE 33.359+/-ACRE PARCEL OF LAND GENERALLY LOCATED ON THE NORTHWEST CORNER OF FM 664 (OVILLA ROAD) AND S. UHL ROAD, AND BEING MORE PARTICULARLY DESCRIBED AS A TRACT OF LAND SITUATED IN THE M. CRASP SURVEY, ABSTRACT NO. 264, AND THE M. MCDERMOTT SURVEY, ABSTRACT NO. 743, CITY OF GLENN HEIGHTS, ELLIS COUNTY, TEXAS AND BEING MORE PARTICULARLY DESCRIBED IN EXHIBIT 1 ATTACHED HERETO, TO REZONE THE PROPERTY FROM RETAIL ("R") DISTRICT TO PLANNED DEVELOPMENT ("PD-32"), ALLOWING FOR THE DEVELOPMENT OF MULTIFAMILY AND COMMERCIAL USES, WITH UNDERLYING BASE ZONING OF MULTI-FAMILY (MF) AND COMMERCIAL (C); ADOPTING PLANNED DEVELOPMENT REGULATIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED TWO THOUSAND DOLLARS ($2,000.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the Planning and Zoning Commission of the City of Glenn Heights and the City Council of the City of Glenn Heights, in compliance with the laws of the State of Texas with reference to the granting of zoning classifications and changes, have given requisite notices by publication and otherwise, and have held due hearings and afforded a full and fair hearing to all property owners generally and to all persons interested and situated in the affected area and in the vicinity thereof, and the City Council of the City of Glenn Heights is of the opinion and finds that a zoning change should be granted, and that the Comprehensive Zoning Ordinance, Plan and Map should be amended.

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

SECTION 1. The Comprehensive Zoning Ordinance, Plan and Map of the City of Glenn Heights, Texas, as heretofore amended, be and the same are hereby amended by granting a change in zoning from "R" Retail to Planned Development (PD-32) with underlying base zoning of Multifamily Residential (MF) and Commercial (C) on those portions of the Property as shown in Exhibit 3 for a 33.359+/-acre parcel of land generally located on the northwest corner of FM 664 (Ovilla Road) and S. Uhl Road, and being more particularly described as a tract of land situated in the M. Crasp Survey, Abstract no. 264, and the M. McDermott Survey, Abstract no. 743, City of Glenn Heights, Ellis County, Texas, and being more particularly described in Exhibit 1 attached

hereto (the "Property").

SECTION 2. That the development standards and regulations set forth in the following exhibits:

Exhibit 2: Planned Development District Regulations
Exhibit 3: Concept/Site Plan

all of which are attached hereto and made a part hereof, shall be applicable to all land uses, structures, the use and occupancy of all structures and the development, construction, operation maintenance of all improvements on the Property.

SECTION 3. The Property shall be used only in the manner and for the purposes provided herein and by the ordinances of the City of Glenn Heights, Texas, as heretofore amended, and as amended herein. The development, use and occupancy of the Property shall conform to the standards and regulations set forth in the Exhibits attached hereto, the provisions of the Comprehensive Zoning Ordinance of the City of Glenn Heights, Texas, and the laws of the State of Texas, as amended. In the event of any conflict or inconsistency between the provisions of this ordinance and the provisions contained in any other provision of the City's Comprehensive Zoning Ordinance or other codes or ordinances of the City, the provisions of this ordinance shall control. In the event that this ordinance does not include a standard or regulation that is otherwise required for similar or comparable development or uses by the Comprehensive Zoning Ordinance or Code of Ordinances, then the standard or regulation required by the Comprehensive Zoning Ordinance or Code of Ordinances shall be applied to development and use of the Property.

SECTION 4. An offense committed before the effective date of this ordinance is governed by the prior law and the provisions of the Code of Ordinances, as amended, in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 5. That all provisions of the ordinances of the City of Glenn Heights in conflict with the provisions of this ordinance be and the same are hereby repealed, and all other provisions of the ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 6. Should any sentence, paragraph, subdivision, clause, phrase, or section of this ordinance or the Comprehensive Zoning Ordinance, as amended hereby, be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance or the Comprehensive Zoning Ordinance as a whole, or any part or provision thereof, other than the part declared to be invalid, illegal, or unconstitutional.

SECTION 7. Any person, firm, or corporation violating any of the provisions or terms of this ordinance or the Comprehensive Zoning Ordinance, as amended hereby, shall be subject to a penalty by fine not to exceed two thousand dollars ($2,000.00) for each offense, and each and every day such violation continues or is allowed to exist shall constitute a separate offense.

SECTION 8. This ordinance shall take effect immediately from and after its passage and

the publication of its caption, as the law and charter in such cases provide.

DULY PASSED by the City Council of the City of Glenn Heights, Texas this 15th day of July, 2025.

APPROVED:

SONJA A. BROWN, MAYOR

ATTEST:

Brandi Brown, City Secretary

APPROVED AS TO FORM:

David M. Berman, City Attorney

EXHIBIT 1

PROPERTY DESCRIPTION:

BEING A TRACT OF LAND SITUATED IN THE M. CRASP SURVEY, ABSTRACT NO. 264, AND THE M. MCDERMOTT SURVEY, ABSTRACT NO. 743, CITY OF GLENN HEIGHTS, ELLIS COUNTY, TEXAS AND BEING A PORTION OF THAT TRACT OF LAND DESCRIBED AS SIXTH TRACT IN DEED TO JOE MICHAEL MCGEATH, RECORDED IN VOLUME 621, PAGE 839, OF THE OFFICIAL PUBLIC RECORDS OF ELLIS COUNTY, TEXAS (OPRECT) AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A COTTON SPINDLE FOUND FOR NORTHWEST CORNER OF A CALLED 3.2922 ACRE TRACT OF LAND DESCRIBED IN DEED TO THE STATE OF TEXAS, RECORDED IN INSTRUMENT NO. 1610477, OPRECT AND THE COMMON NORTHEAST CORNER OF A CALLED 0.5173ACRE TRACT OF LAND DESCRIBED IN DEED TO THE STATE OF TEXAS, RECORDED IN INSTRUMENT NO. 1600845, OPRECT AND IN THE EAST LINE OF THAT TRACT OF LAND DESCRIBED IN DEED TO OVILLA HEIGHTS BAPTIST CHURCH, RECORDED IN VOLUME 1548, PAGE 163, OPRECT AND IN THE NORTH RIGHT-OF-WAY (ROW) LINE OF F.M. HIGHWAY NO. 664/OVILLA ROAD (CALLED 150' ROW);

THENCE N 00°11'56" W, ALONG THE EAST LINE OF SAID OVILLA HEIGHTS BAPTIST CHURCH TRACT, A DISTANCE OF 819.67 FEET TO A 5/8" IRON ROD WITH CAP STAMPED "TXRCS" SET FOR CORNER THE NORTHEAST CORNER OF SAID OVILLA HEIGHTS BAPTIST CHURCH TRACT, IN THE SOUTH LINE OF MAGNOLIA FARMS ADDITION, RECORDED IN CABINET G SLIDE 164, OPRECT;

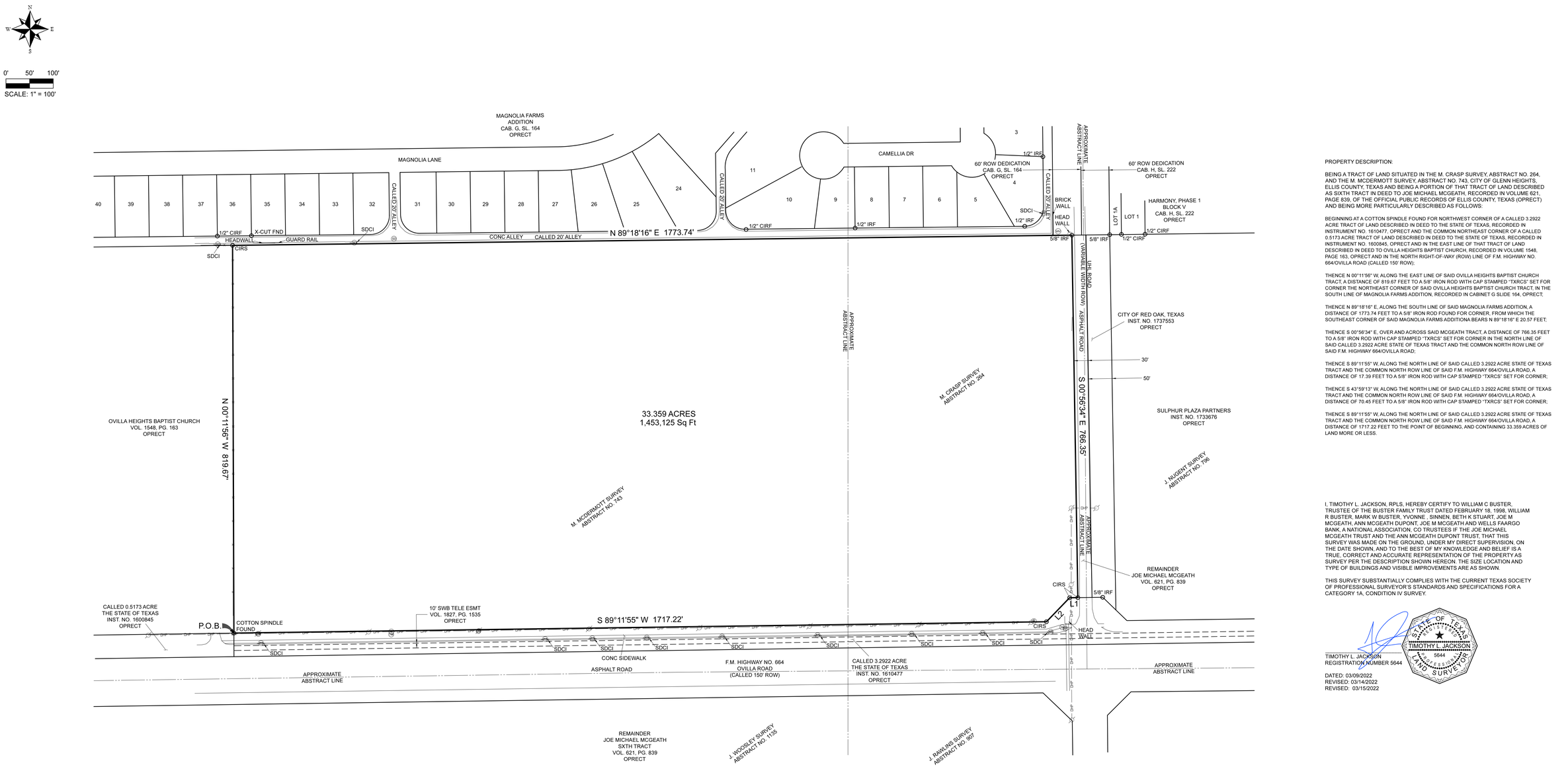
THENCE N 89°18'16" E, ALONG THE SOUTH LINE OF SAID MAGNOLIA FARMS ADDITION, A DISTANCE OF 1773.74 FEET TO A 5/8" IRON ROD FOUND FOR CORNER, FROM WHICH THE SOUTHEAST CORNER OF SAID MAGNOLIA FARMS ADDITION BEARS N 89°18'16" E 20.57 FEET;

THENCE S 00°56'34" E, OVER AND ACROSS SAID MCGEATH TRACT, A DISTANCE OF 766.35 FEET TO A 5/8" IRON ROD WITH CAP STAMPED "TXRCS" SET FOR CORNER IN THE NORTH LINE OF SAID CALLED 3.2922 ACRE STATE OF TEXAS TRACT AND THE COMMON NORTH ROW LINE OF SAID F.M. HIGHWAY 664/OVILLA ROAD;

THENCE S 89°11'55" W, ALONG THE NORTH LINE OF SAID CALLED 3.2922 ACRE STATE OF TEXAS TRACT AND THE COMMON NORTH ROW LINE OF SAID F.M. HIGHWAY 664/OVILLA ROAD, A DISTANCE OF 17.39 FEET TO A 5/8" IRON ROD WITH CAP STAMPED "TXRCS" SET FOR CORNER;

THENCE S 43°59'13" W, ALONG THE NORTH LINE OF SAID CALLED 3.2922 ACRE STATE OF TEXAS TRACT AND THE COMMON NORTH ROW LINE OF SAID F.M. HIGHWAY 664/OVILLA ROAD, A DISTANCE OF 70.45 FEET TO A 5/8" IRON ROD WITH CAP STAMPED "TXRCS" SET FOR CORNER:

THENCE S 89°11'55" W. ALONG THE NORTH LINE OF SAID CALLED 3.2922 ACRE STATE OF TEXAS TRACT AND THE COMMON NORTH ROW LINE OF SAID F.M. HIGHWAY 664/OVILLA ROAD, A DISTANCE OF 1717.22 FEET TO THE POINT OF BEGINNING, AND CONTAINING 33.359ACRES OF LAND MORE OR LESS.



PROPERTY DESCRIPTION:

BEING A TRACT OF LAND SITUATED IN THE M. CRASP SURVEY, ABSTRACT NO. 264, AND THE M. MCDERMOTT SURVEY, ABSTRACT NO. 743, CITY OF GLENN HEIGHTS, ELLIS COUNTY, TEXAS AND BEING A PORTION OF THAT TRACT OF LAND DESCRIBED AS SIXTH TRACT IN DEED TO JOE MICHAEL MCGEATH, RECORDED IN VOLUME 621, PAGE 839, OF THE OFFICIAL PUBLIC RECORDS OF ELLIS COUNTY, TEXAS (OPRECT) AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A COTTON SPINDLE FOUND FOR NORTHWEST CORNER OF A CALLED 3.2922 ACRE TRACT OF LAND DESCRIBED IN DEED TO THE STATE OF TEXAS, RECORDED IN INSTRUMENT NO. 1610477, OPRECT AND THE COMMON NORTHEAST CORNER OF A CALLED 0.5173 ACRE TRACT OF LAND DESCRIBED IN DEED TO THE STATE OF TEXAS, RECORDED IN INSTRUMENT NO. 1600845, OPRECT AND IN THE EAST LINE OF THAT TRACT OF LAND DESCRIBED IN DEED TO OVILLA HEIGHTS BAPTIST CHURCH, RECORDED IN VOLUME 1548, PAGE 163, OPRECT AND IN THE NORTH RIGHT-OF-WAY (ROW) LINE OF F.M. HIGHWAY NO. 664/OVILLA ROAD (CALLED 150' ROW);

THENCE N 00°11'56" W, ALONG THE EAST LINE OF SAID OVILLA HEIGHTS BAPTIST CHURCH TRACT, A DISTANCE OF 819.67 FEET TO A 5/8" IRON ROD WITH CAP STAMPED "TXRCS" SET FOR CORNER THE NORTHEAST CORNER OF SAID OVILLA HEIGHTS BAPTIST CHURCH TRACT, IN THE SOUTH LINE OF MAGNOLIA FARMS ADDITION, RECORDED IN CABINET G SLIDE 164, OPRECT;

THENCE N 89°18'16" E, ALONG THE SOUTH LINE OF SAID MAGNOLIA FARMS ADDITION, A DISTANCE OF 1773.74 FEET TO A 5/8" IRON ROD FOUND FOR CORNER, FROM WHICH THE SOUTHEAST CORNER OF SAID MAGNOLIA FARMS ADDITIONA BEARS N 89°18'16" E 20.57 FEET;

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THENCE S 89°11'55" W, ALONG THE NORTH LINE OF SAID CALLED 3.2922 ACRE STATE OF TEXAS TRACT AND THE COMMON NORTH ROW LINE OF SAID F.M. HIGHWAY 664/OVILLA ROAD, A DISTANCE OF 17.39 FEET TO A 5/8" IRON ROD WITH CAP STAMPED "TXRCS" SET FOR CORNER;

THENCE S 43°59'13" W, ALONG THE NORTH LINE OF SAID CALLED 3.2922 ACRE STATE OF TEXAS TRACT AND THE COMMON NORTH ROW LINE OF SAID F.M. HIGHWAY 664/OVILLA ROAD, A DISTANCE OF 70.45 FEET TO A 5/8" IRON ROD WITH CAP STAMPED "TXRCS" SET FOR CORNER;

THENCE S 89°11'55" W, ALONG THE NORTH LINE OF SAID CALLED 3.2922 ACRE STATE OF TEXAS TRACT AND THE COMMON NORTH ROW LINE OF SAID F.M. HIGHWAY 664/OVILLA ROAD, A DISTANCE OF 1717.22 FEET TO THE POINT OF BEGINNING, AND CONTAINING 33.359 ACRES OF LAND MORE OR LESS.

I, TIMOTHY L. JACKSON, RPLS, HEREBY CERTIFY TO WILLIAM C BUSTER, TRUSTEE OF THE BUSTER FAMILY TRUST DATED FEBRUARY 18, 1998, WILLIAM R BUSTER, MARK W BUSTER, YVONNE , SINNEN, BETH K STUART, JOE M MCGEATH, ANN MCGEATH DUPONT, JOE M MCGEATH AND WELLS FAARGO BANK, A NATIONAL ASSOCIATION, CO TRUSTEES IF THE JOE MICHAEL MCGEATH TRUST AND THE ANN MCGEATH DUPONT TRUST, THAT THIS SURVEY WAS MADE ON THE GROUND, UNDER MY DIRECT SUPERVISION, ON THE DATE SHOWN, AND TO THE BEST OF MY KNOWLEDGE AND BELIEF IS A TRUE, CORRECT AND ACCURATE REPRESENTATION OF THE PROPERTY AS SURVEY PER THE DESCRIPTION SHOWN HEREON. THE SIZE LOCATION AND TYPE OF BUILDINGS AND VISIBLE IMPROVEMENTS ARE AS SHOWN.

THIS SURVEY SUBSTANTIALLY COMPLIES WITH THE CURRENT TEXAS SOCIETY OF PROFESSIONAL SURVEYOR'S STANDARDS AND SPECIFICATIONS FOR A CATEGORY 1A, CONDITION IV SURVEY.

STATE OF TEXAS
REGISTERED
TIMOTHY L. JACKSON
5644
PROFESSIONAL
LAND SURVEYOR

TIMOTHY L. JACKSON
REGISTRATION NUMBER 5644

DATED: 03/09/2022
REVISED: 03/14/2022
REVISED: 03/15/2022

NOTES:

BEARING BASIS FOR THIS SURVEY IS TEXAS COORDINATE SYSTEM, NORTH CENTRAL ZONE 4202, NAD 83, PER GPS OBSERVATIONS

THE SURVEYOR DID NOT ABSTRACT THE SUBJECT PROPERTY FOR EASEMENTS OR ENCUMBRANCES THAT MAY AFFECT THE SUBJECT PROPERTY. THE SURVEYOR RELIED UPON THE TITLE COMMITMENT PROVIDED BY INDEPENDENCE TITLE ISSUED ON JANUARY 28, 2022, BY FIRST AMERICAN TITLE GUARANTY COMPANY GF NO. 2202147-SMDF, FOR RESEARCH OF EASEMENTS.

UTILITIES SHOWN HEREON ARE FROM OBSERVED EVIDENCE OF VISIBLE APPURTENANCES.

THE SUBJECT PROPERTY LIES WITHIN ZONE "X" - DEFINED AS "AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN", ACCORDING TO THE THE FLOOD INSURANCE RATE MAP NO. 48139C0075F DATED JUNE 3, 2013, AS PUBLISHED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY.

THE FOLLOWING ITEMS SHOWN IN SCHEDULE B OF TITLE COMMITMENT PROVIDED BY INDEPENDENCE TITLE ISSUED ON JANUARY 28, 2022, BY FIRST AMERICAN TITLE GUARANTY COMPANY GF NO. 2202147-SMDF, APPEAR TO NOT HAVE AN AFFECT THE SUBJECT PROPERTY:

STATE OF TEXAS ROW: VOL. 496, PG. 212, OPRECT
SOUTHWESTERN BELL TELEPHONE COMPANY EASEMENT: VOL. 541, PG. 137, OPRECT
SOUTHWESTERN BELL TELEPHONE COMPANY EASEMENT: VOL. 544, PG. 649, OPRECT
HILL COUNTY ELECTRIC COOPERATIVE, INC. TERMS, CONDITIONS AND STIPULATIONS: VOL. 1362, PG. 554, OPRECT

THE FOLLOWING ITEMS SHOWN IN SCHEDULE B OF TITLE COMMITMENT PROVIDED BY INDEPENDENCE TITLE ISSUED ON JANUARY 28, 2022, BY FIRST AMERICAN TITLE GUARANTY COMPANY GF NO. 2202147-SMDF, APPEAR TO HAVE AN AFFECT THE SUBJECT PROPERTY

RESTRICTIVE COVENANTS, INST. NO. 1733679, OPRECT

THE FOLLOWING ITEMS SHOWN IN SCHEDULE B OF TITLE COMMITMENT PROVIDED BY INDEPENDENCE TITLE ISSUED ON JANUARY 28, 2022, BY FIRST AMERICAN TITLE GUARANTY COMPANY GF NO. 2202147-SMDF, HAVE A DESCRIPTION THAT IS AMBIGUOUS IN NATURE, THEREFOR THE SURVEYOR IS UNABLE TO DETERMINE THE AFFECT, IF ANY, ON THE SUBJECT PROPERTY:

TP&L COMPANY EASEMENT: VOL. 399, PG. 135, OPRECT

SOUTHWESTERN BELL TELEPHONE COMPANY EASEMENT: VOL. 1827, PG. 1535, OPRECT

LEGEND:

(EP)	ELECTRIC PULLBOX
(GM)	GAS MARKER
	POWER POLE
(P)	PULLBOX (UNKNOWN)
(SD)	STORM DRAIN MANHOLE
(T)	TELEPHONE MARKER
(TM)	TELEPHONE MANHOLE
(TS)	TRAFFIC SIGNAL
(WV)	WATER VALVE
-x-x-x-	FENCE LINE (VARIOUS TYPES)
-OHL-	OVERHEAD UTILITY LINES
CIRS	5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "TXRCS" SET
OPRECT	OFFICIAL PUBLIC RECORDS, ELLIS COUNTY, TEXAS
(XXX)	INDICATE RECORD OR DEED CALLS
ROW	RIGHT-OF-WAY

LINE	BEARING	DISTANCE
L1	S 89°11'55" W	17.39'
L2	S 43°59'13" W	70.45'

PROJECT NO. 2082

LAND TITLE SURVEY
33.359 ACRES
SITUATED IN THE
M. CRASP SURVEY
ABSTRACT NO. 264
AND THE
M. MCDERMOTT SURVEY
ABSTRACT NO. 743
CITY OF GLENN HEIGHTS
ELLIS COUNTY, TEXAS

TEXAS REALITY CAPTURE & SURVEYING, LLC
P.O. BOX 252
WAXAHACHIE, TEXAS 75168
469.518.0338
TBPLS FIRM NO 10194359

TxRCS
TEXAS REALITY CAPTURE & SURVEYING LLC

EXHIBIT 2

PLANNED DEVELOPMENT DISTRICT REGULATIONS

UHL Road Crossing

City of Glenn Heights, Texas

_____, 2025

Development Regulations

Table of Contents

PART 1. PURPOSE AND INTENT

PART 2. EXHIBITS

PART 3. DEFINITIONS

PART 4. ALLOCATION OF LAND USES

PART 5. RELATIONSHIP TO CITY OF GLENN HEIGHTS COMPREHENSIVE ZONING ORDINANCE

PART 6. PERMITTED USES

PART 7. GENERAL DESIGN STANDARDS

PART 1. PURPOSE AND INTENT

1.01 General

The Planned Development district is a mixed-use development located in the heart of the City, convenient to major roadways without sacrificing the beauty of the setting, and purposefully designed for high quality rental housing along that is appointed with luxury amenities and situated among commercial and open-space recreational uses that blend a high quality lifestyle.

The rental community may be set for the community, has been conceived as a luxury rental community up 25 units/acre with high end amenities such as a resort style swimming pool, fully appointed fitness center, other recreational areas and business center inside one or more common buildings that may also contain an event room, children's play area and a conference room. Purposeful design may include giving each rental unit a balcony or a patio and well landscaped courtyards throughout the property that will feel parklike in its setting, with the overall goal of fostering and maintaining high quality standards in the community.

Abutting Ovilla Road may be two or more lots for future commercial business. These lots may be developed to be compatible uses for the residential community to be located behind this commercial frontage and to provide walkability to and from the residential community. Compatible uses could be restaurants, urgent care or retail uses. Such lots may also feature mixed uses of commercial and multifamily residential.

The total acreage of this Planned Development is 33.3559 +/- acres (Property). The Development shall consist of two (2) districts. District 1, being land in-between District 2 and Ovilla Road, may include Retail and/or neighborhood services uses. District 2 will be approximately 17 acres of land that, in addition to the uses allowed in District 1, may include multifamily development with multiple buildings up to three stories with common open space areas and may feature common amenities such as a club house, recreational facilities, and landscaping, as well as self-storage.

1.02 Planned Development District

The Planned Development District, as defined under the City of Glenn Heights' Comprehensive Zoning Ordinance, is intended to accommodate multiple family dwellings as well as retail and neighborhood services and open space. Except as set forth in these Regulations, the Planned Development District will be planned and developed in accordance with planned development provisions of the City of Glenn Heights' Comprehensive Zoning Ordinance including, without limitation, Exhibit A to Chapter 14 and the City's Subdivision Regulations contained in Chapter 10).

PART 2. EXHIBITS

The attached exhibits are incorporated in these regulations in their entirety. The exhibits are as follows:

Exhibit A: Provisional comparisons

PART 3. DEFINITIONS

A. The term "Multifamily Development" as described in this PD shall refer to a multi-family dwelling, or a complex of dwellings, consisting of up to 25 units/acre.

PART 4. ALLOCATION OF LAND USES

Table 1 — Estimated Land Use Allocation

District	Land Use	Est. Acres	Est. Percentage of PD
District 1	Commercial	16.3559	49%
District 2	Commercial/Multifamily/Storage	17.0000	51%
	Total PD Acres & Percentages	33.3559	100%

PART 5. RELATIONSHIP TO CITY OF GLENN HEIGHTS' COMPREHENSIVE ZONING ORDINANCE

In the event of a conflict or inconsistency between the written the provisions of the enabling Ordinance that incorporates these Regulations and the provisions of the City of Glenn Heights' Comprehensive Zoning Ordinance, the provisions and intent of the enabling Ordinance No. O-XX-25 shall control. In the event of a conflict or inconsistency between the written requirements of this ordinance and any information contained on the attached Concept Plan, the written requirements of the enabling Ordinance No. O-XX-25and these Regulations shall control. These Regulations, together with the applicable provisions of the enabling Ordinance No. O-XX-25 and the applicable provisions of the City of Glenn Heights' Comprehensive Zoning Ordinance and Subdivision Regulations, shall constitute all the development standards that are applicable to the Subdivision. Any approved Preliminary or Final Subdivision Plat must substantially conform to the applicable approved Concept Plan.

PART 6. PERMITTED USES

6.01 District 1. The uses permitted by right in District 1 of the PD shall be limited to those allowed under the City's current Commercial base zoning district as well as those listed below. All uses developed will follow the City's design and standards for those uses, except as modified by this ordinance.

The following uses are permitted by right in addition to those allowed under the base zoning district specified above:

a) Retail Store, General
b) Retail
c) Urgent Care or Medical Office
d) Automobile Repair, Minor
e) Carwash, Automated
f) Food/Convenience Store
g) Grocery Store

h) Multi-Use Entertainment Complex

i) Restaurant, drive-in

j) Restaurant, drive-thru

k) Restaurant, Incidental or Accessory

l) Office (Include Medical)

m) Civic Use

n) Community Facilities

o) Shopping Center

p) New Tire Sales/Service

The following uses are permitted under the base zoning district specified above with Specific/ Special Use Permit:

a) Liquor store

b) Vape / Smoke Shop

c) Automobile Repair, Major

d) Terminal, bus or Baggage and transfer

e) Storage, Warehouse, Wholesale and mini warehouse

f) Any use that is not specified above in the list of uses permitted by right

6.02 District 2. The uses permitted by right in District 2 of the PD shall include all of the uses allowed in District 1 as well as the additional uses listed below. All uses will follow the City's design and standards for those uses, except as modified by this ordinance.

The following uses are permitted by right in addition to those allowed in District 1:

a) Multifamily

PART 7. GENERAL DESIGN STANDARDS

7.01 City Building Permits. All development of and construction within the Planned Development will be subject to obtaining building permits from the City in accordance with the City's applicable rules and regulations governing such permits.

7.02 Standalone development. This development will be constructed as a stand-alone project fully contained within the initial 33.359 acre tract. There will be no access from any components of this project to the Magnolia Farms community to the North, including to that community’s private alleyway, which runs just above the northern boundary of this Planned Development.

7.03 District 1 Standards

a) All future development in District 1 shall be subject to the City of Glenn Heights' development code that is in place on the date of approval of this Ordinance including, but not limited to, regulations regarding height, lot size, parking, landscape, screening, lighting, and driveway spacing, except as modified herein. For clarity, a copy of those based standards shall be attached to this document and subject to any modifications listed below.

b) Building Setbacks – Within this development, the required setbacks from the property line are modified as follows for District 1:

1. From Ovilla Road or Uhl Road: 30 feet
2. From adjacent property within the development: 10 feet
3. From the Ovilla Rd Baptist Church property: 15 feet

(c) Landscape buffer – 20 feet from both Uhl & Ovilla

(d) Sidewalks - The minimum width of any sidewalk parallel and adjacent to S UHL RD shall be five feet (5').

7.04 District 2 Standards for Multifamily development

a) Density — Maximum of twenty-five (25) units an acre

b) Total units – Maximum of 350 total multifamily units are permitted in District 2

c) Unit Floor Area - A Multifamily Development dwelling unit shall have a minimum square feet of floor area, excluding common corridors, basements, open and screened porches or decks, and garages as follows:

Studio units will be a minimum of 550 square feet.

One-bedroom units will be a minimum of 700 square feet.

Two-bedroom units will be a minimum of 850 square feet.

Three-bedroom units will be a minimum of 1000 square feet.

d) Maximum Lot Coverage/Minimum Open Space— The multifamily site will include a minimum of 20% open space, which is defined as any space not covered by building foundation or paving/parking.

e) Building Separation — There shall not be a minimum building separation other than as stipulated in the Building and Fire codes.

f) Building Length - Buildings shall not exceed two hundred fifty feet (250') horizontally.

g) Parking - Parking regulations as provided shall apply to Multifamily Development as follows:

1. A minimum parking ratio of one space per studio unit, 1.25 space per 1-bedroom unit, 2.0 spaces per 2-bedroom unit, and 2.5 spaces per 3-bedroom unit; and
2. An additional one guest space for every 15 units
3. No enclosed or covered spaces are required, but are permitted; and
4. No screening of parking shall be required.
5. Each standard off-street surface parking space shall be in accordance with the design standards for space size and design as set forth below.
6. Standard: Nine feet by eighteen feet (9' x 18'), exclusive of access drives and aisles.

h) Maximum Height — the Multifamily Development shall not exceed 3 stories in height for multifamily residential building. The community clubhouse and/or leasing office shall not exceed 2 stories in height. No structure will exceed 45 feet in height.

i) Accessory Buildings — the accessory buildings, including any item attached to its roof, shall not exceed 20' at its tallest point.

j) Sidewalks - The minimum width of any sidewalk parallel and adjacent to head-in parking spaces shall be five feet (5').

k) Minimum Exterior Construction Standards — For the individual multifamily buildings that are nearest to and directly visible from Ovilla and Uhl Roads, the exterior wall elevations of said building that are parallel to Ovilla and Uhl Roads shall be constructed of at least sixty percent (60%) masonry construction to include brick, stone, granite, marble, or stucco; excluding doors, windows, and balconies. Buildings and structures that are not the nearest building to Ovilla or Uhl Roads shall have no masonry restriction. Exhibit D illustrates which wall elevations will include masonry construction.

l) Refuse Facilities —

1. If a multifamily development provides its residents with valet trash service, the development may be served by a single trash compactor and recycling receptacle. These facilities will be subject to Glenn Heights' refuse facility screening requirements.
2. If the developer does not provide a valet trash service, the following standards will apply:
    i. Multifamily buildings shall be located within two hundred feet (200') to refuse facilities as defined in Exhibit B; and
    ii. Multifamily development shall have a total of at least 6 refuse containers located generally around the site for easy access from each residential building. These facilities will be subject to Glenn Heights' current refuse facility screening requirements.

m) Landscape and Screening Requirements — The following requirements apply to all Multifamily development within the project:

1. The Multifamily development will incorporate drought tolerant, native species into its landscape plan. Tree species may include live oak, red oak, cedar elm, or other similar species if approved by the Planning Director.

2. The Multifamily development shall construct a barrier along the north side of its property to screen the existing residential homes from the new development. This barrier will include a pre-cast concrete screening wall at least 8 feet tall and trees planted at 30-foot intervals to provide additional screening above the wall.

3. Perimeter Landscaping – The following landscape buffers are required as measured from the property line:

    i. A minimum 20-foot-wide landscape buffer is required along any portion of the property bordering either Ovilla or Uhl roads.

    ii. A minimum 10-foot-wide landscape buffer is required along the northern boundary of the property bordering the Magnolia Farms residential development.

    iii. A minimum 5-foot-wide landscape buffer is required along all property lines adjacent to other commercial lots as an additional 5-foot-wide landscape buffer is required on the commercial lot to create a 10-foot-wide area in total.

    iv. The western boundary of this property, which borders property currently owned by Ovilla Heights Baptist Church, requires a 5-foot-wide landscape buffer.

4. The following requirements apply only to the specified landscape buffers:

    i. Northern boundary landscape buffer: This area will require trees to be planted with a maximum spacing of 30 feet. Trees in this area will have a minimum caliper of 3 inches and minimum height of 10 feet at the time of planting.

    ii. Ovilla Road boundary landscape area: Trees in this area will have a minimum caliper of 3 inches and minimum height of 10 feet at the time of planting.

5. The multi-family portion of the development shall be a gated community with controlled access.

n) Multifamily Development Setbacks – The multifamily development site will be subject to the following building setback requirements:

    1. Rear building setback (as measured from the northern property line, adjacent to Magnolia Farms residential development): 72.5 feet from the northern property line.

    2. Ovilla Road building setback: 30 feet

o) Multifamily Building Orientation – Any primary residential buildings exceeding 25 feet in height constructed within 100 feet of the northern property line will be oriented in a north/south fashion, meaning that the shorter portion of the buildings will be oriented north/south while the longer building edges will be oriented east/west.

p) Multifamily Site Plan – a draft concept plan for the multifamily use is included as Exhibit X. This concept plan is not binding and is only to illustrate certain features of the proposed zoning and is not intended to establish a site plan to be developed. For avoidance of doubt, any and all buildings and features may change in size and orientation subject to the PD's requirements. Any multifamily development will be required to complete the city's formal Site Plan approval process by submitting a proposed plan that adheres to the PD's zoning requirements for the city's review and approval.

Exhibit A

Exhibit "1"
UHL Crossing
District Comparisons/ Deviation District 2

	MF	**Uhl Crossing**	***Explanation***
Density	Max 14 Units Per Acre	Max 25 Units Per Acre	25 units per acre is considered a suburban MF density
Unit Floor Area	Studio = 500 sq ft One bedroom = 800 sq ft two bedroom = 950 sq ft three bedroom = 1,100 sq ft	Studio = 550 sq ft One bedroom = 700 sq ft two bedroom = 850 sq ft three bedroom = 1,000 sq ft	
Maximum Lot Coverage	60%	80%	
Parking	2 enclosed spaces = 1 bedroom 2 enclosed spaces & one covered space = 2 & 3 bedrooms	1 space per studio unit; 1.25 spaces per single bedroom unit; 2 spaces per two-bedroom unit; 2.5 spaces per three-bedroom unit; Add'l space per 15 units. Enclosed or covered spaces optional	The parking standard would result in the development being grossly overparked
Site Amenities	None Required	May include resort style swimming pool, fitness center, business center, community room, BBQ grills and/or children's playground	MF included in Uhl Crossing will be fully appointed rental community with amenities that rival the nicest communities in DFW

Max Height	Max Height of 2.5 stories or 35’	Max Height of 3 stories / 45’	
Accessory Building Height	Max Height of 15'	Max Height of 20’	
Unit Mix	Studio = max of 15% Three-bedroom = max of 10%	No change	
Exterior Construction	100% Masonry	60% Masonry on facades closest to and facing both Ovilla and Uhl	100% masonry can look institutional and we prefer to use materials of high quality and designed in a way that is beautiful
Fencing	Screening required but no fence is required	8 ft. masonry screening fence required along northern boundary adjacent to Magnolia Farms community.	No direct access to Magnolia Farms neighborhood from this development
Refuse Facilities	All units to be within 200' of a refuse facility	If Valet trash service is not provided, all buildings to be located within 200' of a refuse facility	Valet trash service will likely be provided

Landscape	90% of the street yard and 20% of the total lot area shall be devoted to a combination of landscaping and usable open space	20% of the total lot area shall be devoted to a combination of landscaping and usable open space.	Development incorporates significant screening and landscape buffer along norther boundary, including trees spaced at 30’ and planted with a minimum height of 10’
Building size	Buildings shall not exceed 200' in length	Maximum building length 250'	

Glenn Heights

EXHIBIT B: DISTRICT MAP

0' 50' 100'

SCALE: 1" = 100'

N

W E

S

MAGNOLIA FARMS
ADDITION
CAB. G, SL. 164
OPRECT

MAGNOLIA LANE

40 39 38 37 36 35 34 33 32 CALLED 20' ALLEY 31 30 29 28 27 26 25 24 CALLED 20' ALLEY 11 10 9 8 7 6 5 4 3 CALLED 20' ALLEY

CAMELLIA DR

HEADWALL GUARD RAIL CONC ALLEY CALLED 20' ALLEY

LOT 1A LOT 1

HARMONY, PHASE 1
BLOCK V
CAB. H, SL. 222
OPRECT

(VARIABLE WIDTH ROW) ASPHALT ROAD

UHL ROAD

UHL ROAD

DISCTRICT 2
17.000 acres

DISCTRICT 1
16.359 acres

APPROXIMATE
ABSTRACT LINE

OVILLA ROAD

OVILLA ROAD

OVILLA ROAD

Glenn Heights
Landscape Plan

EXHIBIT C: LANDSCAPE AND SCREENING

0' 50' 100'
SCALE: 1" = 100'

N
W E
S

MAGNOLIA FARMS
ADDITION
CAB. G, SL. 164
OPRECT

MAGNOLIA LANE

CAMELLIA DR

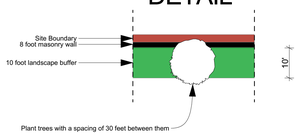
40 39 38 37 36 35 34 33 32 CALLED 20' ALLEY 31 30 29 28 27 26 25 24 CALLED 20' ALLEY 11 10 9 8 7 6 5 4 3 CALLED 20' ALLEY

1,775'

HEADWALL GUARD RAIL CONC ALLEY CALLED 20' ALLEY

10-foot landscape buffer

DETAIL



TREES

LIVE OAK 

RED OAK 

CEDAR ELM 

30' 30' 30' 30' 30' 30' 30' 30' 30' 30' 32' 27' 30' 30' 30' 30' 30' 30' 30' 30' 30

Glenn Heights

Site Plan

EXHIBIT D

0' 50' 100'

SCALE: 1" = 100'

N

W E

S

MAGNOLIA FARMS
ADDITION
CAB. G, SL. 164
OPRECT

MAGNOLIA LANE

CAMELLIA DR

40 39 38 37 36 35 34 33 32 CALLED 20' ALLEY 31 30 29 28 27 26 25 24 CALLED 20' ALLEY 11 10 9 8 7 6 5 4 3 CALLED 20' ALLEY

LOT 1A LOT 1

HARMONY, PHASE 1
BLOCK V
CAB. H, SL. 222
OPRECT

HEADWALL GUARD RAIL CONC ALLEY CALLED 20' ALLEY

(VARIABLE WIDTH ROW) ASPHALT ROAD

UHL ROAD

UHL ROAD

UHL ROAD

DISTRICT 2
17.000 acres

DISTRICT 1
16.359 acres

dash indicates facade with minimum 60% masonry

APPROXIMATE ABSTRACT LINE

OVILLA ROAD

OVILLA ROAD

OVILLA ROAD

EXHIBIT 3 : CONCEPT PLAN

SITE DATA	
ZONING (PD-XXX)	TOTAL
GROSS SITE AREA	1,453,125 SF / 33.359 ACRES
DISTRICT 1 - COMMERCIAL	539,805 SF / 12.394 ACRES
DISTRICT 2 - MULTIFAMILY	913,322 SF / 20.965 ACRES
LOT COVERAGE - DISTRICT 2	
BUILDINGS	
DRIVES AND PARKING	
MULTIFAMILY DWELLING UNITS (866 SF AVG)	336 UNITS
ONE BEDROOM UNITS (700 SF MIN)	192 UNITS
TWO BEDROOM UNITS (850 SF MIN)	129 UNITS
THREE BEDROOM UNITS (1,000 SF MIN)	15 UNITS
REQUIRED PARKING SUMMARY - DISTRICT 2	
TOTAL REQUIRED PARKING	556 SPACES
1.25 SPACES PER ONE BED UNIT	240 SPACES
2.0 SPACES PER TWO BED UNIT	258 SPACES
2.5 SPACES PER THREE BED UNIT	37.5 SPACES
1 GUEST SPACE PER 15 DWELLING UNITS	22.5 SPACES
PROVIDED PARKING SUMMARY - DISTRICT 2	562 SPACES
SURFACE SPACES	562 SPACES
CARPORT SPACES	0 SPACES

MAGNOLIA FARMS ADDITION
CAB. G, SL. 164
OPRECT

MAGNOLIA LANE

CALLED 20' ALLEY

CAMELLIA DR

60' ROW DEDICATION
CAB. G, SL. 164
OPRECT

APPROXIMATE ABSTRACT LINE

60' ROW DEDICATION
CAB. H, SL. 222
OPRECT

BRICK WALL

HEAD WALL

LOT 1A

LOT 1

HARMONY, PHASE 1
BLOCK V
CAB. H, SL. 222
OPRECT

HEADWALL

GUARD RAIL

SDCI

10' LANDSCAPE BUFFER

CONC ALLEY

DOG PARK

25' REAR BUILDING SETBACK

DETENTION POND
APPROX 1.0 ACRE

33.359 ACRES
1,453,125 Sq Ft

DRAIN PIPE

UHL ROAD
(VARIABLE WIDTH ROW)
ASPHALT ROAD

CITY OF RED OAK, TEXAS
INST. NO. 1737553
OPRECT

M. CRISP SURVEY
ABSTRACT NO. 254

OVILLA HEIGHTS BAPTIST CHURCH
VOL. 1548, PG. 163
OPRECT

SULPHUR PLAZA PARTNERS
INST. NO. 1733676
OPRECT

J. NUGENT SURVEY
ABSTRACT NO. 796

GATE

UHL CROSSING

M. MCDERMOTT SURVEY
ABSTRACT NO. 749

ROCK CREEK DRIVE

WINDING CREEK TRAIL

POOL COURT

LEASING

CALL BOX

REMAINDER
JOE MICHAEL MCGEATH
VOL. 621, PG. 839
OPRECT

CALLED 0.5173 ACRE
THE STATE OF TEXAS
INST. NO. 1600845
OPRECT

20' LANDSCAPE BUFFER AND SETBACK

10' SWB TELE ESMT
VOL. 1827, PG. 1535
OPRECT

CONC SIDEWALK

ASPHALT ROAD

F.M. HIGHWAY NO. 664
OVILLA ROAD
(CALLED 150' ROW)

CALLED 3.2922 ACRE
THE STATE OF TEXAS
INST. NO. 1610477
OPRECT

OVILLA ROAD

APPROXIMATE ABSTRACT LINE

This concept plan is not binding and is only to illustrate certain features of the proposed zoning and is not intended to establish a site plan to be developed. For avoidance of doubt, any and all buildings and features may change in size and orientation subject to the PD's requirements. Any multifamily development will be required to complete the city's formal Site Plan approval process by submitting a proposed plan that adheres to the PD's zoning requirements for the city's review and approval.

CONCEPT SITE
SCALE:1"=80'-0"
0 80 160 320

PLOT DATE: 6/19/2025 PLOT TIME: 5:09 PM PATH\NAME: H:\25000\Potential Projects\Trove Glenn Heights\25000 Trove Glenn Heights boundary.sec

THIS DRAWING HAS BEEN PREPARED UNDER THE DIRECT SUPERVISION OF DANNY P. BAKER TEXAS REGISTRATION #21401 AND IS CONSIDERED TO BE

INCOMPLETE

THIS DRAWING MAY NOT BE USED FOR REGULATORY APPROVAL, PERMIT, OR CONSTRUCTION WITHOUT THE ARCHITECT'S OFFICIAL SEAL.

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Project No.
25000

Drawn By: DPB

6/19/2025

ISSUE FOR PERMIT:
-

ISSUE FOR CONSTRUCTION:
-

Revisions:

AURA GLENN HEIGHTS
GLENN HEIGHTS, TEXAS

TRG TRINSIC
RESIDENTIAL GROUP

Womack+Hampton
ARCHITECTS, L.L.C.
Phone (214) 252-9020
Fax (214) 252-9080
4511 Oak Lawn Ave., Suite 50
Dallas, Texas 75219

Sheet Number:

TRINSIC
RESIDENTIAL GROUP
BUILDING VALUE IN MULTIFAMILY REAL ESTATE

July 1, 2026

Ms. Bester Munyaradzi
Director of Planning and Development Services
City of Glenn Heights
1938 S Hampton Road
Glenn Heights, TX 75154

SUBJECT: Aura Glenn Heights Multifamily – Variance Request

Dear Ms. Munyaradzi,

We are writing to request a variance for the Aura Glenn Heights project related to a landscape requirement stated in the Code of Ordinances, Section 15.02.063 “Landscaping Area and Location Requirements”, #3 “Parking Lot Interior Landscaping”, (B).

The code states the following:

For parking lots with more than 30 parking spaces following design standards including area, location and layout guidelines shall be followed:
(i) A continuous nine feet (9') wide landscaping strip of moderate water use zone or rainwater harvest zone shall be installed within two head-in parking rows. On both sides of the rainwater harvest zone a six feet (6') wide at-grade paved walkway shall be installed for the entire row of the parking. This paving material should be porous in nature to support natural stormwater infiltration. Site grading and slope should be designed such that stormwater should naturally drain into these rainwater harvest zones. To support the landscaping during no-rain seasons, drip irrigation should be installed in these landscaping strips. Wheel stops shall be installed next to the paved walkways to prevent cars entering the pavement or landscaping. The overall layout and design principle of parking lot landscaping is shown in the graphics below.
(ii) One medium shade tree every ten feet (10') shall be installed in the continuous landscape strip with drought tolerant ground cover at the base.
(iii) Approximately at the midway of the parking aisle and at both ends, landscape islands shall be installed as shown in the graphics below.
(iv) Water usage in parking lot landscaping shall be restricted to seasons when rainwater is not abundant. Drip irrigation shall be installed to prevent water wastage.

Instead of a 21’ total landscape strip consisting of two sidewalks and a moderate water use zone, TRG would like to request a variance to provide a more normally sized landscape strip of 4’ between the two rows of head-in parking. This provides for adequate spacing for vehicles on both sides and breaks up the parking field.

TRINSIC
RESIDENTIAL GROUP
BUILDING VALUE IN MULTIFAMILY REAL ESTATE

The two 6' sidewalks per the ordinance do not serve a purpose for future residents. As shown on the Site Plan, TRG will provide sidewalks around the buildings and amenity spaces to adequately circulate residents from the parking lot into their buildings. The sidewalks indicated in question do not bring any connection as they are isolated in a landscape island.

Sincerely,

Cole Murphy
Development Associate, Trinsic Residential Group
P: 918-949-8886 | E: cmurphy@trinsicres.com

AGENDA SUMMARY SHEET
July 7, 2026

AGENDA, ITEM 4

Presentation and discussion regarding the development of a Request for Proposals for solid waste, recycling, and related services, including receiving Council input on desired service expectations, policy priorities, and operational considerations to be incorporated into the RFP. (Keith Moore, Deputy City Manager)

Motion	
Second	
For	Brown, Bruton, Mosley, Allen, Hobbs, Lightfoot, Washington
Against	Brown, Bruton, Mosley, Allen, Hobbs, Lightfoot, Washington
Abstain	
Approve/ Deny/ Table	

Solid Waste and Recycling RFP Discussion

July 7, 2026

Keith Moore

Deputy City Manager

Purpose of Discussion

- To seek feed back from City Council on items to be placed in Request For Proposal (RFP) for Solid Waste and Recycling.



Current Vendor Notice

- CWD End of Contract Notice
  - 180 Day prior to end of contract
  - Contract Ends May 31, 2027
  - Notice Date **WEDNESDAY, DECEMBER 2, 2026**

Proposed RFP Dates

Event	Date
Issue Date	Thursday, October 1, 2026, by COB
Pre-proposal Conference	Wednesday, October 14, 2026, at 2PM
Question Submission Deadline	Friday, October 16, 2026, by COB
Deadline to Issue Addenda	Wednesday, October 21, 2026, COB
Submission Deadline	Monday, November 2, 2026, 2PM
Proposal Opening Date	Monday, November 2, 2026, 2PM
Interview of Bidders	Tuesday, January 19, 2027, 7PM
Negotiations	January 19 – February 16, 2027
Contract Awarded	Tuesday, March 16, 2027, 7PM
Notification to Finalist	Wednesday, March 17, 2027, by COB
Finalist Presentation to City Council	Tuesday, April 20, 2027, 7PM
Contract Beginning Date	Tuesday, June 1, 2027

Contract Length

- City of Glenn Heights Contract
  - 5-year contract with option to renew up to (2) two additional (5) five-year terms with City Council Approval
  - 5-year contract with optional first year being 7-years if contractor provides a discount

- Francise Contract

- Cost Adjustments
  - Occurring Annually with Council approval based on prior year performance
  - Shall not exceed 5% for any single year or a cumulative increase of 15% over 4 years

RFP Content

- Contractor to provide collection services at city facilities at no additional cost to City
- City to have access to real time GPS tracking of vehicles
- City to have access to video cameras mounted on vehicles
- City to have access to Customer Service web / app portal
- Potential Transfer Station in the City
- Contractor to market 100% recycled recovered material with a 50/50 revenue split with City
- Education and Outreach services
- Storm and Disaster management
  - Non-Declaration events contractor will have up to 5 business days from the weather event to collect an unlimited amount storm debris in 4 cubic yard increments at no additional charge

Service Types

- Types of Services Desired
  - Solid Waste
  - Recycling
  - Household Hazardous Waste (Opt-In Only)
  - Bulk
  - Brush
  - Holiday grease / oil collection



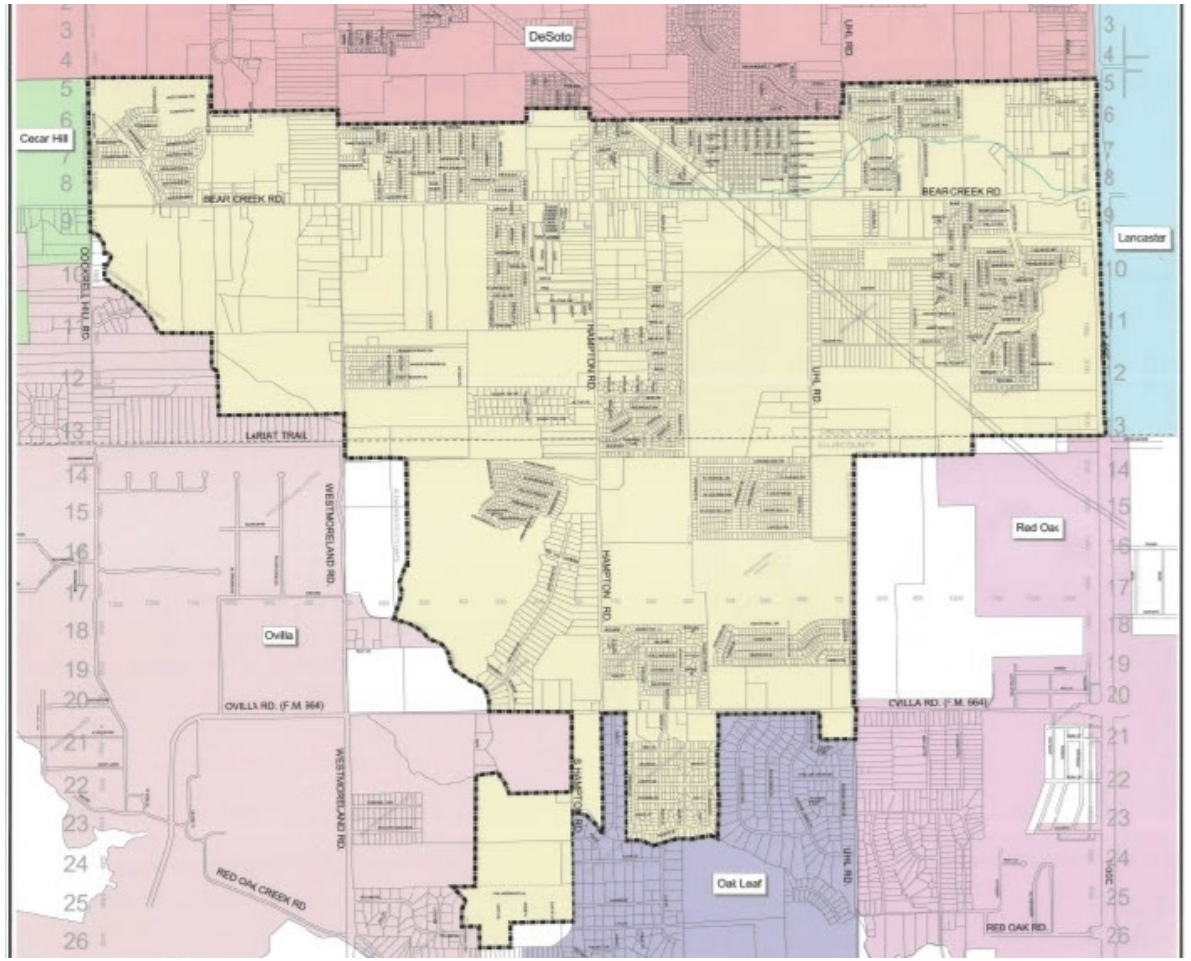






Pickup Frequency

- Pickup Frequency
  - Once a week / Twice a week entire city
  - Desire same day pickup entire city
  - Missed Pickup with in 24 hours



Sample Pricing Request

- Residential Solid Waste
  - Once a week Senior 64 gallon
  - Twice a week Senior 64 gallon
  - Once a week 96 gallon
  - Twice a week 96 gallon
  - Additional trash cart fee 64 gallon
  - Additional trash cart fee 96 gallon
  - Replacement trash cart fee 64 gallon
  - Replacement trash cart fee 96 gallon

- Residential Recycling
  - Once a week Senior 64 gallon
  - Twice a week Senior 64 gallon
  - Once a week 96 gallon
  - Twice a week 96 gallon
  - Additional recycling cart fee 64 gallon
  - Additional recycling cart fee 96 gallon
  - Replacement recycling cart fee 64 gallon
  - Replacement recycling cart fee 96 gallon

Sample Pricing Request

- Residential Yard, Brush, and Bulky Waste 4 cubic yards
  - Weekly Collection
  - Monthly Collection
  - Quarterly Collection
  - Collection by appointment
  - Contractors price for additional collection (more than 4 cubic yards or pickup durations)
  - Collection of freezers & refrigerators
  - Collection of tires
- Residential Household Hazardous Waste (HHW) (OPT-IN Only)
  - Weekly
  - Monthly
  - Quarterly
  - Annual HHW Collection
  - On-going HHW dropoff collection
  - Holiday grease & oil collection

Sample Pricing Request

- Commercial Trash / Recycling
  - Trash Carts
    - Once per week pickup 96 gallon
    - Additional cart collection
    - Cart replacement fee
    - Additional Yard, Brush & Bulky Waste
  - Trash Containers Per Week
    - 2 CY, 4 CY, 6 CY, 8 CY, 10 CY
    - Compactor: 2 CY, 4 CY, 6 CY, 8 CY

- Commercial Trash / Recycling
  - Unscheduled Per Collection
    - 2 CY, 4 CY, 6 CY, 8 CY, 10 CY
    - Compactor: 2 CY, 4 CY, 6 CY, 8 CY
  - Roll Off Service
    - Uncompacted: 20 CY, 30 CY, 40 CY
    - Compacted: 15 CY, 20 CY, 25 CY, 30 CY, 35 CY, 40 CY, 45 CY
    - Cost for Services provide during City Events

Poly Carts

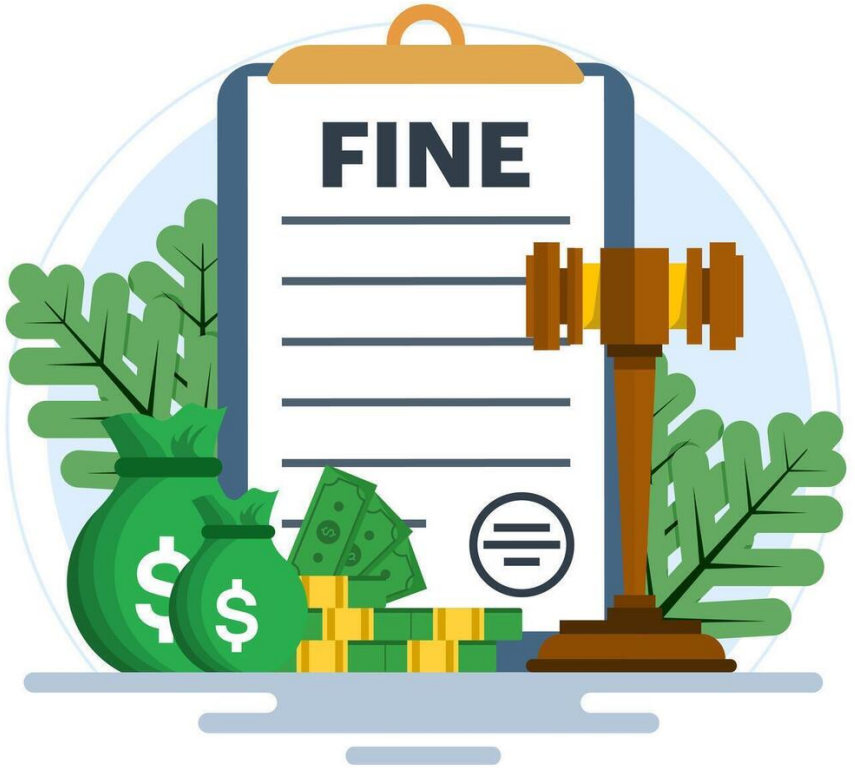
- Pricing requested for two different size Poly Carts for Solid Waste and Recycling
  - 64 – Gallon for Senior Citizens
  - 96 – Gallon
  - Distribution of carts

- *Do you desire to own your own Poly Carts with City Logo?*



Penalty / Fines

- Parameters to penalties
- Fine amounts



RFP Content

- Participation at City Events
  - Annual City Cleanup
  - City Connects
  - Annual Holiday City Events



- City request $27,000 annually contribution to go towards city events

RFP Content

- **Report Types**
  - Grievance reports
  - Non-Compliance
  - Solid waste and recycling tonnage per month
    - **Residential**
      - Solid Waste
      - Recycling
    - **Commercial**
      - Solid Waste
      - Recycling
- **Reporting requirements**
  - Daily reports
  - Monthly reports
  - Quarterly and annually in-person reporting to City Council

Evaluation Process

- City Council determines Evaluation Committee and Advisors
- City Council to interview short list
- City Council to conduct all negotiations

- Steps of Evaluation
  - Step 1 - Compliance of Proposal
  - Step 2 – Review and scoring of the Technical Criteria
  - Step 3 – Review and scoring of the Financial Proposal
  - Step 4 – Short List
  - Step 5 – Interviews and Best / Final Offer
  - Step 6 – Negotiation and Contract Award

Evaluation Criteria

Criteria	Maximum Points
Minimum Requirements	Pass / Fail
Financial Proposal	40
Proposed Approach	35
Experience and Qualifications	20
Financial Capacity	5
Total	**100**



REQUEST FOR PROPOSAL SOLID WASTE AND RECYCLING COLLECTION SERVICES

RFP NO. 2026-00
SUBMITTALS DUE NOVEMBER 02, 2026, BY 5PM CST

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Preliminary Schedule of Events

Event	Date
Issue Date	Thursday, October 1, 2026, by COB
Pre-proposal Conference	Wednesday, October 14, 2026, at 2PM
Question Submission Deadline	Friday, October 16, 2026, by COB
Deadline to Issue Addenda	Wednesday, October 21, 2026, COB
Submission Deadline	Monday, November 2, 2026, 2PM
Proposal Opening Date	Monday, November 2, 2026, 2PM
Interview of Bidders	Tuesday, January 19, 2027, 7PM
Negotiations	January 19 – February 16, 2027
Contract Awarded	Tuesday, March 16, 2027, 7PM
Notification to Finalist	Wednesday, March 17, 2027, by COB
Finalist Presentation to City Council	Tuesday, April 20, 2027, 7PM
Contract Beginning Date	Tuesday, June 1, 2027

Current Demographics

Description	Amount
Population Served	21,600
Residential Units	6,439
Mutli - Family Units	1,500
Commercial Units	48

5-Year Estimated Demographics

Description	Amount
Population Served	25,350
Residential Units	8,600
Multi – Family Units	1,750
Commercial Units	60

1.0 INTRODUCTION

1.1 Overview

The City of Glenn Heights, Texas (the City) is seeking proposals from qualified waste management firms to provide Solid Waste and Recycling Collection to residents and businesses. Services to be provided include:

- Residential Trash Collection Services
- Residential Recycling Collection Services
- Residential Yard, Brush, and Bulky Waste Collection Services
- Residential Household Hazardous Waste Collection Services
- Commercial Trash Collection Services
- Commercial Recycling Collection Services
- Cart Purchase Service
- City Facilities
- City Events and Special Projects

The Contractor shall have the exclusive right to provide Collection Services within the City except as otherwise stated in this Request for Proposals (RFP).

The purpose of this section is to provide Proposers with an overview of the requested scope of services. The Proposer shall carefully review in their entirety this Request for Proposals (RFP), the Forms and the draft Agreement provided as Exhibit B, and all other information contained herein for the complete scope of services and RFP process. Services performed will be in accordance with the final Agreement as negotiated between the City and the Proposer selected for contact award. The draft Agreement may be adjusted at the City's sole discretion to reflect the specific services to be provided by the Contractor to achieve the best overall value for the City. Based on its evaluation of submittals, City staff shall seek City Council authorization to enter into an Agreement. The City reserves the right to cancel the RFP at any time and to award no contract without further obligation to Proposers.

1.2 Draft Agreement

Exhibit B to the RFP provides a draft Agreement that may be awarded as a result of this RFP. It is the intention of the City for the final Agreement terms to be the same or better than those provided in the draft Agreement. However, terms of the final Agreement may be modified based upon negotiation and agreement by the City and Selected Proposer. The City reserves the right to waive negotiations and award an Agreement based on initial proposals received without further negotiation. Therefore, initial proposals should contain the Proposer's best terms.

It is the responsibility of the Proposer to carefully review the RFP and Agreement in their entirety to understand the complete scope of services and contract requirements.

1.3 Agreement Term

The City is considering an initial term of five (5) or seven (7) years. In Form 4, Proposers are asked to identify the discount if the City elects a seven (7) year initial term. Unless earlier terminated in accordance with Section 42.0 of the Agreement, the Initial Term shall be for a five (5) or seven (7) year period commencing on June 1, 2027, and remaining in effect through May 31, 2032, or May 31, 2034.

The City may, at its sole discretion, specify one or more Optional Renewal Term(s) with a combined total length of not more than five (5) or seven (7) years such that the combined total Agreement Term including the Initial Term and the Optional Renewal Terms(s) shall not exceed twelve (12) years. The City shall notify the Contractor in writing of any Optional Renewal Term at least one hundred eighty (180) days prior to the commencement date of the Optional Renewal Term. Unless otherwise agreed in writing, the Optional Renewal Term(s) shall be on the same terms and conditions as the original Agreement, as amended.

[Reference: Section 7.0 of the Agreement]

1.4 Overview of Stages of Procurement and Implementation

The City will carry out the procurement and implementation of the Services in accordance with the following stages.

Stage 1 – RFP Procurement Process

The RFP procurement process is the competitive procurement process by which the City will receive and review Proposals, rank the submittals and seek to negotiate an Agreement with a Selected Proposer.

Stage 2 – Implementation of the Service Agreement

At the completion of Stage 1, the City will request final authority from City Council to execute an Agreement with the Selected Proposer on final terms and conditions as approved by City Council.

2.0 DEFINITIONS

The following terms have the following meanings when used in the RFP Documents. Terms that are capitalized throughout the RFP but are not defined in this section of the RFP shall have the meanings described in Section 2.1 of the Agreement.

A. **Addendum (pl. Addenda) –** shall mean any written revisions, clarifications or other supporting documentation on the RFP Documents issued by the City during the RFP Process and becoming incorporated into the RFP documents by reference pursuant to Section 5.4.

B. **Agreement –** shall mean any contractual agreement between the City and a Contractor resulting from this RFP.

C. **Contractor–** shall mean the corporation(s) responsible for performing Services pursuant to the Agreement and includes the Contractor's assignees and subcontractors.

D. **Contract Award –** shall mean final authorization by City Council to award a contract for Services to a Selected Proposer.

E. **Contract Rates –** shall mean the unit prices proposed for Services in the Financial Proposal (Form 3), or as otherwise agreed to by the City and Contractor(s) in any Agreement developed as a result of this RFP.

F. **Draft Agreement –** shall mean the Draft Agreement provided as Exhibit B.

G. **Evaluation Committee –** shall mean the group of individuals selected by the City to evaluate RFP Submissions as described in Section 5.14.

H. **Financial Proposal –** shall mean the pricing submitted by a Proposer in response to the RFP as submitted on Form 3 or as amended by the parties during negotiations.

I. **Finance Director–** shall mean the City representative responsible for purchasing of goods or services that serves as the sole point of contact for Proposers pursuant to Section 5.5.

J. **Proposal –** shall mean an offer to provide services submitted in response to this RFP including the Proposer's initial submission, Best-and-Final-Offer(s) (BAFO) or other written correspondence and amendments submitted by a Proposer during negotiation.

K. **Proposal Acceptance Period –** shall mean the minimum 180-day period after the Submission Deadline when the Proposer's Financial Proposal remains valid as further described in Section 5.9.

L. **Proposer –** shall mean a firm or entity submitting a Proposal in response to this RFP including all members of the Proposer team including individual persons or subcontractors.

M. **Question Submission Deadline –** shall mean the deadline to submit questions on the RFP Process pursuant to Section 5.1.

N. **RFP Documents –** shall mean all documents included in the RFP as described in Section 5.3.

O. **RFP Process –** shall mean the procurement process to select a Contractor to provide services in accordance with this RFP.

P. **Selected Proposer –** shall mean a Proposer selected to enter into negotiations with the City in accordance with the terms and conditions of this RFP.

Q. **Submission Deadline -** shall mean the date and time that Proposal submissions are due in accordance with Section 5.1 or as amended in writing by the City through an Addendum to the RFP.

R. **Technical Proposal -** shall mean all parts of a Proposal excluding the Financial Proposal.

S. **City's Representatives –** shall mean any of the City's advisors or any other employees or representatives of the City.

3.0 BACKGROUND

3.1 Verification of Information

This section provides background information about existing demographics and solid waste management programs and services in the City and is provided for the reference and convenience of Proposers only.

Proposers are responsible to independently research all information used to inform their Proposals. The City does not guarantee the completeness or accuracy of any information provided in the RFP Documents and will not be responsible for consequences of any reliance upon it by any Proposer.

3.2 City Information

The City of Glenn Heights, Texas, is a growing residential community located in southern Dallas County near the junction of Interstate 35E and U.S. Highway 67, approximately 21 miles south of downtown Dallas. Incorporated in 1969, Glenn Heights developed from a primarily agricultural community into a suburban city that serves as a residential hub within the Dallas–Fort Worth metropolitan area.

Over the past decade, Glenn Heights has experienced steady population growth, increasing from approximately 15,819 residents in 2020 to an estimated 21,000 residents in 2026. This growth has been supported by ongoing residential development, with hundreds of new single family housing units added in recent years, along with supporting commercial and institutional infrastructure. The City is characterized primarily by single family residential neighborhoods, with limited multifamily and commercial development.

Glenn Heights places a strong emphasis on maintaining a high quality of life for residents and supporting orderly, sustainable growth. The City's comprehensive planning efforts emphasize reinvestment in established areas, expansion of public services and amenities, and preservation of community character while accommodating growth. The City continues to invest in public facilities, parks, transportation access, and essential municipal services to meet current and future demands.

As the City continues to grow, reliable and efficient solid waste, recycling, and related services are critical to maintaining public health, neighborhood aesthetics, and resident satisfaction. Through this Request for Proposals (RFP), the City of Glenn Heights seeks qualified service providers capable of delivering high quality solid waste and recycling services that align with the City's service expectations, operational needs, and long-term community goals.

The City places a high priority on providing excellent municipal services, including solid waste and recycling services. The City's current contract for solid waste and recycling services expires on May 31, 2027. The current contract provides for residential, commercial and City services.

For materials collected within the City, the current contractor is responsible for disposal of all solid waste and bulk waste, and processing of all program recyclable materials.

Current estimated household counts by dwelling type are provided in Table 3.2.

Table 3.2: Household Counts by Dwelling Type as of 2025

Dwelling Type	Number of Units
Single Family	6,439

The Proposer's ability to manage projected growth is a key consideration for the City. As further described in Section 7.10, the Proposer shall submit with their Proposal a detailed plan describing how they will provide additional vehicles, fleet parking, maintenance facilities, staffing and other resources required throughout the Agreement Term to manage projected future growth.

The following customer account information with household counts and cart types are estimates based on City-provided information. All service fee rates are rates the contractor charges the City. The rates include Collection, Disposal, and Processing and exclude City administrative/franchise fees.

3.3 Existing Residential Curbside Collection Services

Residential and Commercial Solid Waste and Recycling Collection Services are currently provided by Community Waste Disposal (CWD). A summary of existing curbside collection material types, collection frequencies, and other key program information is provided in Table 3.3. Additional information about existing City curbside collection programs is available on the City's website.

https://glennheightstx.gov

Table 3.3: Existing Residential Services Summary

Residential Services	Description	Duration
Trash	Included	Once Week
Recycling	Included	
Yard, Brush, and Bulky Waste	$22.14 Solid Waste - once a week service - CWD 95-gallon cart Bulky Waste /Separated Loose Brush- once a week service - up to 4 cubic yards Tied & Bundled Brush - once a week service - unlimited - Manual Rear Load Vehicle	
Household Hazardous Waste	Not currently included	N/A

The current contractor's rate effective June 1st, 2026, for basic residential service as described in Table 3.3 is $22.14 per household per month plus $116.32 for each additional Trash Cart or Recycling Cart. These are the rates charged to the City by the contractor and include the cost of Collection, Processing, Disposal, and supply and maintenance of Carts. Purchasing new Carts that reflect the terms of this contract is required. The appearance shall conform with this contract, including using the same color for the body and lid of Carts and that Trash and Recycling Carts are different colors.

3.3.1 Estimated Curbside Residential Households

As of 2026, the City provided Residential Curbside Collection Service to 6,439 households. Base residential service includes one Trash Cart and one Recycling Cart per household with additional Carts available for a fee. Table 3.3.1 provides additional detail on the number of households that pay for additional Trash or Recycling Carts above the standard service level.

Table 3.3.1: Residential Trash and Recycling Carts per Household

Carts Per Household	Trash		Recycling	
	Number of Households	Total Carts	Number of Households	Total Carts
1	6,439	6,439	6,439	6,439
2	613	613	69	69
Total		7,052		6,508

The Contractor shall provide Curbside Collection Service to all current and future single-family residences within the limits of the City as may be amended from time to time.

3.3.2 Residential Curbside Tonnage

Monthly curbside tonnages are summarized by material type for the one-year period from January 2025 through December 2025 in Table 3.3.2.

Table 3.3.2: Monthly Residential Curbside Tonnage by Material Type

Month	Trash	Recycling
January 2025	644	93.22
February 2025	552	68.57
March 2025	725	91.07
April 2025	744	84.99
May 2025	728.4	84.51
June 2025	722.41	90.82
July 2025	768.87	79.1
August 2025	630.86	86.89
September 2025	643.96	71.45
October 2025	673.92	77.07
November 2025	614.42	50.81

December 2025	754.22	82.89
Total	**8202.06**	**158**

3.3.3 Alley Services

The Contractor shall provide Collection Services in alleys at no additional cost to the City. In residences where the designated collection location is in an alley, Trash and Recycling collection shall be provided in the alley and Yard, Brush, and Bulky Waste Collection and Household Hazardous Waste shall be provided in front. The Contractor may need to modify equipment or operations if its regular collection vehicles are unable to safely operate in alleys. The Contractor shall make a careful examination of all streets and alleys and ensure that the equipment selected allows for full and complete performance of Services under the Agreement. Currently, there are no alley collection locations. Future residential housing development may add alley service. If alleys are to be developed, the City requested that developers install 12-foot-wide alleys. If additional developments are approved with alleys in the future the Contractor shall provide service to the new alley units at Contract Rates with no additional cost to the City.

3.3.4 Disabled Carry-out Service

If the City deems that all Residents of a Residential Service Unit are unable due to age or verified physical limitations to safely move a Cart to the Curbside, the Contractor shall provide Residential Trash Collection Services and Residential Recycling Collection Services at a Modified Collection Location acceptable to the Resident and the Contractor at no additional cost. There are currently unknown number of homes that would potentially qualify for Disabled Carry-out Service.

3. 4 Existing Commercial Collection Services

Community Waste Disposal currently provides Commercial Collection Services as part of the same contract for Residential Services. Commercial Collection Services include Commercial, industrial, institutional, and Multi-family Complexes and construction projects. Commercial Services are currently provided through a combination of Front Load Containers, Commercial Carts, Compactors, and Roll-Off Containers. The Contractor shall provide Commercial Collection Services to all current and future Commercial Customers at a level requested by the Customer including Recycling Collection Services upon request. Commercial Carts, Front End Load Dumpsters, and Roll-Off appearance shall reflect the terms of this contract. The number of Commercial customers fluctuates as the City continues to grow. There are approximately 48 Commercial customers.

3.4.1 Commercial Front End Load Tonnage

Monthly commercial front end load tonnages are summarized by material type for the one-year period from January 2025 through December 2025 in Table 3.4.1.

Table 3.4.1: Monthly Commercial Front End Load Trash Tonnage

Month	Trash
January 2025	Not Provided
February 2025	Not Provided
March 2025	Not Provided
April 2025	Not Provided
May 2025	Not Provided
June 2025	Not Provided
July 2025	Not Provided
August 2025	Not Provided
September 2025	Not Provided
October 2025	Not Provided
November 2025	Not Provided
December 2025	Not Provided
Total	**2517**

3.4.2 Commercial Cart Service

As of December 2025, 48 Commercial Trash Cart customers and zero (0) Commercial Recycling Customers. Additional details are provided in Table 3.4.2.

Table 3.4.2: Summary of Commercial Trash and Recycling Carts Accounts

Number of Containers	Trash		Recycling	
	Number of Accounts	Total Carts	Number of Accounts	Total Carts
1	48	Not Provided	Not Provided	Not Provided
Total		**Not Provided**		**Not Provided**

The monthly rate for Commercial Trash Carts is $28.22 per month plus $22.58 per month for each additional Trash Cart. These rates include the cost of Collection, Processing, Disposal, and supply and maintenance of Carts.

3.4.3 Front Load Commercial Service

As of December 2025, there are 48 commercial customers receiving front load commercial service. The container counts and pickup frequency was not obtained. Container counts vary over time as Commercial activity in the City grows and changes.

Table 3.4.3 presents Commercial rates charged to the City by the current contractor for Trash and Recycling Front Load Container service. These rates exclude City administrative/franchise fees and include Disposal and Processing. The current contract does not provide Commercial Recycling Collection Service.

Table 3.4.3: Commercial Rates Charged to the City

Container Size	Weekly Collection Frequency							
	EOW	1	2	3	4	5	6	Extra Pickup
2 CY		$108.66	$201.13	$279.72	$358.36	$435.42	$515.56	$53.44
3 CY		$124.30	$229.93	$319.87	$409.74	$499.66	$589.58	$55.02
4 CY		$155.40	$287.56	$399.92	$512.22	$624.54	$736.82	$56.56
6 CY		$186.41	$345.36	$480.28	$615.21	$750.17	$885.12	$59.76
8 CY		$233.30	$431.70	$600.53	$769.39	$938.24	$1,106.52	$61.29
10 CY		N/A	N/A	N/A	N/A	N/A	N/A	N/A

3.4.4 Commercial Roll-Off Service

Information on the number of Commercial Roll-Off Container hauls for Trash, including permanent, temporary, compacted and uncompacted units was not obtained.

Table 3.4.4 presents rates charged by the current contractor to the City for Commercial Roll-Off Container Service.

Table 3.4.4: Commercial Roll-Off Container Rates

Roll-Off Container Type	Rate Per Delivery	Trip Charge	Rate Per Haul 1,2	Disposal Per Ton
	Weekday	Weekday	Weekday	Weekday
20 CY	$157.83	$157.83	$651.46	$60.77
30 CY	$157.83	$157.83	$648.36	$60.77
40 CY	$157.83	$157.83	$697.62	$60.77

3.5 City Facilities

The Contractor shall be required to provide Trash and Recycling Collection Services at City Facilities at no cost to the City. The City may increase levels of service or designate additional City facilities or City events at its sole discretion in accordance with Section 6.21.

3.5.1 City Facilities

Table 3.5.1 provides a list of current expected service levels at City Facilities.

Table 3.5.1: Estimated Service Requirements for Existing City Facilities

Facility Name	Facility Address	Trash Collection		Recycling Collection	
		Containers	Frequency	Containers	Frequency
City Center	1938 S. Hampton Road	8 – Yard	Weekly	8 – Yard	Weekly
Public Safety	1938 S. Hampton Road	30 – Yard Roll Off	As Needed	N/A	N/A
Family Life Center	1932 S. Hampton Road	96 – Gallon Cart	Weekly	96 – Gallon Cart	Weekly
Heritage Park	400 E. Bear Creek Road	N/A	N/A	N/A	N/A
Animal Shelter	550 E. Bear Creek Road	8 – Yard	Weekly	8 – Yard	Weekly
Public Works	2118 S. Uhl Road	8 – Yard	Weekly	8 – Yard	Weekly
Public Works	2118 S. Uhl Road	30 – Yard Roll Off	As Needed	N/A	N/A

3.6 City Events and Special Projects

The City may request event and special project trash and recycling collection services, as further described in Section 6.22. The City hosts approximately twenty-six (26) events and special projects annually.

4.0 GENERAL CONDITIONS OF RFP PROCESS AND TERMS OF CONTRACT

By submitting a Proposal, the Proposer accepts all general and special conditions of the contract as outlined below and, in the specifications, and plans.

4.1 Proposal Submission

The City encourages all Proposals to be submitted electronically to Sherry Roberts at:

sherry.roberts@glennheightstx.gov

However, the City will also accept paper proposals, if received at the following location by the due date and time specified in Section 5.1.

Mailing Address

City of Glenn Heights

Attn: Finance Director

1938 S. Hampton Road

Glenn Heights, Texas 75154

Paper Proposal submissions shall include at least one (1) original and one (1) copy, and one (1) electronic copy in PDF format on USB submitted in a sealed envelope with the RFP number and the Proposer's name and address clearly indicated on the front of the envelope.

The City cannot guarantee, due to internal mail delivery procedures, that any submittal sent priority mail will be picked up from the Post Office by City mail employees and delivered to the Finance Director by the closing date and time. It is recommended that submittal deliveries be made either in person or via an alternate delivery method ensuring delivery to the physical address. Respondent shall bear full responsibility for ensuring the submittal is delivered to the specified location by the due date and time. Late submittals will be rejected as non-responsive.

Proposals shall be limited to one hundred (100) 8-1/2" X 11" pages printed on one side only using a font size no smaller than twelve (12) point and one-inch margins. The page limit includes the cover letter and title page but does not include the RFP Forms. If a Proposal is larger than the page limits described above or has a font of less than twelve (12) point it may be deemed non-responsive and disqualified pursuant to Section 5.16 of the RFP. Whether submitting as a paper proposal, Proposer shall submit one searchable pdf version of the Proposal.

Proposals shall be completed in accordance with the requirements of this RFP. Statements made by a Proposer shall be without ambiguity, and with adequate

elaboration, where necessary, for clear understanding. All Proposals are subject to the terms and conditions of this solicitation. Material deviations from the terms and conditions that are not indicated in Proposer's submittal of the Exception Form (Form 9), or failure to meet the City's minimum requirements, may render the Proposal non-responsive to this RFP.

Failure to submit all required documents in accordance with Section 7.0 of the RFP may result in the proposal being declared non-responsive. The City reserves the right to reject any and all Proposals.

A responsive Proposal shall substantially conform to, and fulfill, the minimum requirements of this RFP. Proposals containing any clause that would limit contracting authority may be considered non-responsive. An example of a proposal that would limit contracting authority is one made contingent upon award of other bids or proposals currently under consideration.

4.2 Late Proposals

Proposals must be in the office of the Finance Director before or at the specified time and date proposals are due pursuant to Section 5.1 of the RFP. Proposals received in the office of the Finance Director after the Submission Deadline shall be rejected as non-responsive proposals.

4.3 Withdrawal of Proposals

Proposals may be withdrawn before the opening date by submitting a written request for its withdrawal to the Finance Director pursuant to Section 5.4 or by emailing Sherry Roberts at sherry.roberts@glennheightstx.gov .

Proposals may not be withdrawn or cancelled by the Proposer for a period of one hundred eighty (180) days following the Submission Deadline unless otherwise agreed upon by the City and Proposer in writing.

4.4 Amendment of Proposals

A Proposer may amend its Proposal after submission but only if the Proposal has first been withdrawn and is subsequently resubmitted on or before the Submission Deadline.

4.5 Proposal Irrevocability

Except as subject to the Proposer's right to withdraw a Proposal prior to the Submission Deadline in accordance with Section 4.3, the Proposal shall be irrevocable and shall remain in effect and open for acceptance for the entire Proposal Acceptance Period in accordance with Section 5.8 of the RFP.

4.6 Authorized Signatures

The Proposal must be executed personally by a duly authorized partner of the Proposer's partnership or duly authorized officer of the Proposer's corporation. If executed by an agent, a power of attorney or other evidence of authority to act on behalf of the Proposer shall accompany the Proposal to become a valid offer.

4.7 Proposer Costs

All costs and expenses directly or indirectly related to any aspect of a Proposer's participation in this RFP shall be the sole responsibility of and shall be borne solely by the participating Proposer, including, but not limited to, all costs and expenses related to the Proposer's involvement in

- **A.** The preparation, presentation, and submission of its Proposal
- **B.** Attendance at the optional pre-proposal conference or any other, meeting with the City
- **C.** Due diligence and information gathering processes
- **D.** Responding to questions or requests for information from the City
- **E.** Submitting questions or requests for information from the City
- **F.** Negotiations
- **G.** Any other cost

4.8 Tax Exempt Status

The City is exempt from federal excise tax and state sales tax. Unless specifications specifically indicate otherwise, the prices included in Form 3 (Financial Proposal) shall be net exclusive of above-mentioned taxes and will be so construed. Therefore, the Proposal prices shall not include taxes.

4.9 Proprietary Data

Proposer may, by written request, indicate as confidential any portion(s) of a Proposal that contains proprietary information, including manufacturing and/or design processes exclusive to the Proposer by highlighting and clearly and conspicuously marking "Trade Secret" or "Confidential" on each page where confidential information is provided. The City will not be responsible for any public disclosure of the trade secret or confidential information if it is not clearly marked.

The City will protect from public disclosure such portions of a proposal unless directed otherwise by legal authority including existing Open Records Acts. If a request is made under the Texas Public Information Act to inspect information designated in a proposal as trade secret or confidential, the Proposer shall, upon notification by the City, immediately furnish sufficient written reasoning as to why the information should be protected from disclosure in a timely manner to the Texas Attorney General Open Record Division for final determination through its e-filing system at

https://www.texasattorneygeneral.gov/open-government/governmental-bodies/submit-documents-online-using-efiling

or to the following address:

Office of the Attorney General Open Records Division

P.O. Box 12548

Austin, TX 78711

Trade secrets and confidential information contained in a Proposal are subject to the Texas Public Information Act. Pricing is not confidential information. A Proposal in its entirety is not confidential. Proposer agrees to protect the City from claims involving infringements of patents and/or copyrights by submission of a Proposal to this RFP.

4.10 Waiver of Claims

Each Proposer by submission of a Proposal to this RFP waives any claims it has or may have against the City and the City's Representative(s) in this process and their respective employees, officers and elected officials, members, directors and partners, agents and representatives regarding the administration of the RFP process, the RFP evaluation, and the critique and selection of qualified Proposers. Submission of a proposal indicates the Proposer's acceptance of the evaluation technique set out in this RFP. In this regard, Proposer acknowledges that the selection process and evaluations of proposals submitted constitute public information under Texas law and Proposer waives any claim it has or may have regarding any information contained in or derived from such evaluations.

4.11 Compliance with Federal, State, County, and Local Laws

Proposals must comply with all federal, state, county, and local laws. Any vehicles or equipment shall contain all standard safety, emission, and noise control requirements required for the types and sizes of equipment at the time of their manufacture. The Proposer agrees, during the performance of work or service, to comply with all applicable codes and ordinances of the City, County, or State of Texas as they may apply, as these laws may now read or as they may hereafter be changed or amended.

4.12 Purchase Orders and Payment

A purchase order(s) shall be generated by the Finance Director and issued to the Contractor. The purchase order number must appear on all invoices. The City will not be held responsible for any work orders placed and/or performed without a valid current purchase order number. Payment will be made for all services rendered and accepted by the Finance Director for which a valid invoice that meets the requirements of Section 47.0 of the Draft Agreement is provided.

All invoices shall reference the Purchase Order number. Invoices shall provide a detailed description for each item invoiced. Payment will be made under terms of net thirty (30) days unless otherwise agreed upon by the Contractor and the Finance Director.

4.13 Letter of Credit or Performance Bond

Upon Contract Award, the Contractor shall be required to provide the City with a letter of credit or performance bond meeting the criteria set forth in the Draft Agreement.

Proposers shall submit a letter from their bank or surety with their Proposals confirming their ability to obtain a letter of credit or performance bond in the specified amount if awarded a contract resulting from this RFP in accordance with Section 7.9 of the RFP.

[Reference: Section 40.0 of the Draft Agreement]

4.14 Agreement Incorporation

Any Agreement developed as a result of this RFP may include the RFP, the Proposal, and such other terms and conditions as the parties may agree.

4.15 Cooperative Purchasing

As permitted under Chapter 791 of the Texas Government Code, other governmental entities may wish to participate under the same terms and conditions contained in this Agreement. In the event any other entity participates, all purchase orders will be issued directly from the entity requiring supplies/services and shipped directly to the Contractor. Each entity reserves the right to determine their participation in this Agreement. Proposers shall indicate in the space provided on Form 1 whether they agree to offer the proposed services to other governmental entities based on the same terms, conditions, specifications, and pricing through cooperative purchasing.

If a Proposer agrees to extend the resulting Agreement to other governmental entities, then those other governmental entities will be eligible, but not obligated, to purchase goods and services under any Agreements(s) resulting from this RFP. All purchases by governmental entities other than the City will be billed directly to that governmental entity and paid by that governmental entity. The City will not be responsible for another governmental entity's debts. In addition, the letter of credit or bond provided pursuant to Section 40.0 of the Draft Agreement shall not be used to satisfy the requirements of any other governmental entity. Each governmental entity will order its own goods and services as needed.

4.16 Invoicing

The Contractor shall invoice the City for Residential Collection Services on a monthly basis. The invoice shall be based on the number of Service Units multiplied by the applicable Contract Rates. Within thirty (30) calendar days of receiving the Contractor's invoice, the City shall remit to the Contractor payment for the amounts on the invoice less disputed amounts, Liquidated Damages, and payments withheld. The City shall also deduct franchise fees from the Contractor's invoice if applicable.

The Contractor's shall invoice the Commercial Customers based on the number, size, and Collection frequency for in-service Carts and Containers charged at applicable Contract Rates. The Contractor shall also invoice residents for any Additional Yard, Brush, and Bulky Waste Collection Services that are requested in in accordance with Section 6.17. Within ten (10) days of the end of each month, the Contractor shall remit to the City a statement of all fees invoiced for Commercial Collection Services and Additional Bulky Waste Collection Services performed during that month. The City shall deduct the franchise fee payable on Commercial Collection Services and Additional

Yard, Brush, and Bulky Waste Collection Services from its payment to the Contractor for Commercial Collection Services.

Contract Rates include Collection, Processing, and Disposal costs except as described in Section 6.0.

[Reference: Section 47.0 of the Agreement]

4.17 Venue

Any Agreement developed as a result of this RFP shall be construed in accordance with the laws of the State of Texas. If any action, whether real or asserted, at law or in equity, is brought pursuant to any Agreement developed as a result of this RFP, venue for such action shall lie in state courts located in Dallas County and Ellis County, Texas. The Service is performable in Dallas County and / or Ellis County, Texas. Venue shall lie exclusively in Dallas County and / or Ellis County, Texas or in counties that are directly adjacent to Dallas County and / or Ellis County, as required to perform the Service(s).

4.18 Exclusive Franchise and Franchise Fee

For the term of any Agreement developed as a result of this RFP, the City shall grant the right, privilege, and franchise to collect Trash, Program Recyclable Materials, Yard, Brush, and Bulky Waste, and Yard Waste on an exclusive basis as part of Collection Services. The Contractor shall remit franchise fees equal to ten percent (10%) of gross receipts for all collections for all residences, businesses, customers, and accounts within the City Service pursuant to Section 6.0 of the Agreement. Submitted pricing shall exclude the franchise fee.

The City reserves the right to implement a food waste diversion program at a future date. The Contractor hereby agrees that the City may enter into Agreements with other service providers for food waste collection, and that such Agreements would not violate their exclusive franchise for Trash collection.

[Reference: Section 6.0 of the Agreement]

4.19 Termination

Any Agreement developed as a result of this RFP shall remain in effect until the Agreement expires or is terminated for cause by the City by written notice to the Contractor. The City may terminate the Agreement for cause in accordance with Section 42.0 of the Agreement.

[Reference: Section 42.0 of the Agreement]

4.20 Change Orders

No different or additional terms will become part of any Agreement developed as a result of this RFP with the exception of a change order. No oral statement of any person shall modify or otherwise change, or affect the terms, conditions or specifications stated in the resulting Agreement. All change orders to the Agreement will be made in writing

and at the discretion and approval of the City. No change order will be binding unless signed by an authorized representative of the City and the Contractor.

4.21 Invalid, Illegal, or Unenforceable Provisions

In case any one or more of the provisions contained in the Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and the Agreement shall be considered as if such invalid, illegal, or unenforceable provision had never been contained therein.

4.22 Injuries or Damages Resulting from Negligence

The Contractor shall defend, indemnify and save harmless the City and all its officers, agents and employees from all suits, actions, or other claims of any character, name and description brought for or on account of any injuries or damages received or sustained by any person, persons, or property on account of any negligent act or fault of the Contractor, or of any agent, employee, subcontractor or supplier in the execution of, or performance under, any Agreement which may result from award. The Contractor shall pay any judgment with cost which may be obtained against the City growing out of such injury or damages.

[Reference: Section 48.1 of the Agreement]

4.23 Conflict of Interest

The City requires ethical behavior and compliance with the law from all individuals and companies with whom it does business. For the purposes of this RFP, a conflict of interest includes any perceived, potential, or actual situation where, in relation to the RFP or potential Agreement resulting from this RFP, the Proposer, or any officer, employee, agent or representative of the Proposer

- **A.** Has other commitments, relationships, or financial interests that could or could be seen to exercise an improper influence over the objective, unbiased and impartial exercise of independent judgement by any of the City's employees, officials, or representatives.
- **B.** Could or could be seen to compromise, impair, or be incompatible with the effective performance of a Proposer's obligations under the Agreement if that proposer were selected for award of the Contract.
- **C.** Has contractual or other obligations to the City that could or could be seen to have been compromised or otherwise impaired as a result of its participation in the RFP Process or award of any Agreement.

Chapter 176 of the Texas Local Government Code requires that any vendor or person considering doing business with the City disclose in the Questionnaire Form CIQ, the vendor or person's affiliation or business relationship that may cause a conflict of interest with the City. The form is available online at https://www.ethics.state.tx.us/data/forms/conflict/CIQ.pdf . Failure to complete Form CIQ will result in the disqualification of the Proposer, in accordance with Section 5.16 of the RFP.

By law, this questionnaire must be filed with the City of Glenn Heights, 1938 S. Hampton Road, Glenn Heights, Texas 75154, not later than the seventh business day after the date the person becomes aware of facts that require the statement to be filed. A person commits a Class C misdemeanor offense if the person violates Section 176.006, Texas Local Government Code. By submitting a Proposal to this RFP, the Proposer represents that it is in compliance with the requirements of Chapter 176 of the Texas Local Government Code. If a Proposer has questions regarding compliance with Chapter 176, the Proposer should consult its own legal counsel.

No public official shall have any interest in this Agreement, in accordance with the Texas Local Government Code. If a Proposer, or any officer, employee, agent or representative of the Proposer, discovers any conflict of interest, the Proposer shall promptly disclose the conflict of interest to the City in a written statement to the Finance Director. At the request of the City, the Proposer shall provide the City with the Proposer's proposed means to mitigate and minimize to the greatest extent practicable any conflict of interest. The Proposer shall submit any additional information to the City that the City requests and considers necessary to properly assess the conflict(s) of interest.

The City may, at its sole discretion, exclude from the RFP Process any Proposer or officer, employee, agent or representative of the Proposer on the grounds of such conflict of interest.

The City may, at its sole discretion, waive any and all conflicts of interest. A waiver may be upon such terms and conditions as the City, at its sole discretion, requires to satisfy itself that the conflict of interest has been appropriately managed, mitigated and minimized, including requiring the Proposer to put into place such policies, procedures, measures and other safeguards as may be required and be acceptable to the City, in its sole discretion, to manage, mitigate and minimize the impact of such conflict of interest.

4.24 Certificate of Interested Parties (Form 1295)

In 2015, the Texas Legislature adopted House Bill 1295, which added Section 2252.908 of the Texas Government Code. The law states that a governmental entity or state agency may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity or state agency. The disclosure requirement applies to a contract entered on or after January 1, 2016.

The Texas Ethics Commission ("Commission") has made available on its website a new filing application that must be used to file Form 1295. A business entity must use the application to enter the required information on Form 1295 and print a copy of the completed form, which will include a certification of filing that will contain a unique certification number. An authorized agent of the business entity must sign the printed copy of the form. The completed Form 1295 with the certification of filing must be filed with the City.

The City must notify the commission, using the commission's filing application, of the receipt of the filed Form 1295 with the certification of filing not later than the 30th day after the effective date of the Agreement. The commission will post the completed Form 1295 to its website within seven business days after receiving notice from the City.

Certificate of Interested Parties Form is available from the Texas Ethics Commission website at the following address:

https://www.ethics.state.tx.us/filinginfo/1295/

For questions regarding and assistance in filling out this form, please contact the Texas Ethics Commission at: 512-463-5800.

4.25 Insurance Requirements

The Contractor shall be subject to the insurance requirements set forth in Section 37.0 of the Agreement. The Contractor shall obtain coverage for each required insurance for the duration of any Agreement developed as a result of this RFP and furnish certificates of insurance along with copies of policy declaration pages and policy endorsements as evidence thereof. All General Liability and Business Auto Policies shall name the City as an Additional Insured by endorsement.

[Reference: Section 37.0 of the Agreement]

5.0 RFP PROCESS AND EVALUATION CRITERIA

5.1 Schedule of Events

The deadlines for submission of a proposal and the general schedule of events for the RFP Process are provided in Table 5.1. The City may amend the schedule of events at its sole discretion including:

A. At any time before the Submission Deadline for events that are to occur on or before the Submission Deadline, including the Submission Deadline itself.

B. At any time in the RFP Process for events that are to occur after the Submission Deadline.

Table 5.1: Preliminary Schedule of Events

Event	Date
Issue Date	Thursday, October 1, 2026, by COB
Pre-proposal Conference	Wednesday, October 14, 2026, at 2PM
Question Submission Deadline	Friday, October 16, 2026, by COB
Deadline to Issue Addenda	Wednesday, October 21, 2026, COB
Submission Deadline	Monday, November 2, 2026, 2PM
Proposal Opening Date	Monday, November 2, 2026, 2PM
Interview of Bidders	Tuesday, January 19, 2027, 7PM
Negotiations	January 19 – February 16, 2027
Contract Awarded	Tuesday, March 16, 2027, 7PM
Notification to Finalist	Wednesday, March 17, 2027, by COB
Finalist Presentation to City Council	Tuesday, April 20, 2027, 7PM
Contract Beginning Date	Tuesday, June 1, 2027

The amount of time necessary for proposal evaluation may vary and is determined solely by the City. Following City Council action to award the fully negotiated contract or reject all proposals, all Proposals submitted are available for public review.

Proposals duly received will be publicly acknowledged at an official public opening in such a manner that does not disclose the contents of the Proposals. All names of Proposers shall be read publicly at Proposal Opening Date as shown in Table 5.1 of the RFP. Proposers are invited to attend the Proposal opening via video conference by

emailing sherry.roberts@glennheightstx.gov for a Microsoft Teams or Zoom meeting invitation link.

5.2 RFP Documents and Document Distribution

The RFP Documents include:

A. The RFP main document

B. Exhibit A – Forms

C. Exhibit B – Draft Agreement

D. Exhibit C – Maps

E. Addenda to the RFP Documents, if any.

All RFP Documents shall be read as a whole. The Exhibits and Addenda, if any, constitute an integral part of this RFP and are incorporated by reference. The City may add, amend or supplement the RFP Documents.

The City will distribute all RFP Documents, including any Addenda, and City responses to Proposer Question Submissions, by making them available on the City's website as described in Section 5.3 of the RFP.

5.3 Addenda to the RFP Documents

The City may, at its sole discretion, amend or supplement the RFP Documents as provided in Section 5.4 of the RFP. The City shall issue changes to the RFP Documents by written addenda only. No other statement, whether oral or written, made by employees, officials, or representatives of the City or any other person, shall amend the RFP Documents. The City may issue Addenda at any time up to forty-eight (48) hours before the Proposal Submission Deadline.

Addenda to the RFP Documents issued by the City will be provided to all Proposers via posting on the City's website: https://glennheightstx.gov/Bids.aspx

So long as the Proposer has registered with the City and selected a United Nations Standard Products and Services Code (UNSPSC) code that this RFP has been issued under, Proposers will be notified by email that an addendum has been issued. Notification to Proposers by the City that RFP Documents have been added to or amended and posted to the City's website will only be provided notification by email if the Proposer has registered with the City. Proposers are solely responsible for regularly checking the City's website throughout the RFP Process to ensure that they have reviewed all documents prior to submittal of Proposals.

Proposers must complete the Acknowledgement of Addenda Form (Form 7). Failure to acknowledge all addenda may result in disqualification of the Proposer, in accordance with Section 5.15.2 of this RFP.

5.4 RFP Procedural and Content Clarifications

All questions regarding the meaning or intent of these documents shall be emailed to sherry.roberts@glennheightstx.gov . The City, as it determines necessary for interpretation or clarification, will respond to such questions through written addenda. Formal written addenda will be published and made available through the City's website.

Proposers shall submit all communications regarding the RFP Documents or the RFP Process in written form by e-mail to the Finance Director.

A. Via e-mail to: sherry.roberts@glennheightstx.gov

Please note, if an e-mail confirming receipt of your e-mail is not received within one (1) business day, please contact the Finance Director to verify receipt of your question.

No other interpretations or clarifications shall have any legal effect.

All written questions shall clearly identify the Proposer's name and the RFP number on the document or if sent by an e-mail on the subject line. For example: In Attention: [Proposer name] and [Solicitation RFP 2026-00 Solid Waste and Recycling Collection Services], in the subject line of an e-mail. If the Proposer's name and the Solicitation number is not included as specified above, the questions may not be answered.

Proposers making phone calls or other oral inquiries regarding RFP Documents, the RFP Process, or Proposals, will be referred to the Finance Director. The Finance Department will only instruct Proposers to submit their inquiry electronically in writing. The City will respond to all questions received before the Question Submission Deadline. The City may decide to respond or not to respond to questions received after the Question Submission Deadline. The City reserves the right not to answer questions received at any time that it deems to be ambiguous, unclear, or frivolous at its sole discretion.

Interpretations, corrections, or changes to the RFP Documents made in any other manner are not binding upon the City, and Proposers shall not rely upon such interpretations, corrections or changes. Oral explanations or instructions given before the award of any Agreement are not binding pursuant to Section 5.3 of the RFP.

Any material information given to one Proposer concerning the RFP Documents will be furnished by an addendum posted on the City's website under the corresponding Solicitation number pursuant to Section 5.3 of the RFP.

5.5 Proposer to Make Own Examination

It is the responsibility and obligation of each Proposer to examine the RFP in its entirety and seek clarification or additional information, through submission of a question to the City regarding any matter the Proposer considers to be unclear before the Question Submission Deadline. The City assumes no responsibility for any misunderstanding by a Proposer of information contained in this RFP, addenda to this RFP, responses to Proposer Question Submissions, or any other pertinent documents or information

provided by or communication made by the City regarding the RFP, RFP Documents, and RFP Process.

Each Proposer shall make its own examination, investigation, and research regarding the proper method of doing the work, all conditions affecting the work to be done, the labor, equipment and materials, and the quantity of the work to be performed. The Proposer agrees that it has satisfied itself by Proposer's own investigation and research regarding all of such conditions, and that Proposer's conclusion to enter into the Agreement and execution of the Agreement is based upon such investigation and research, and that

Proposer shall make no claim against the City because of any of the estimates, statements or interpretations made by any officer or agent of the City which may prove to be erroneous in any respect.

The data contained in the RFP are for informational purposes only. The City makes no warranty as to the accuracy of this information. By submitting a Proposal, the Proposer agrees it is the sole responsibility of the Proposer to calculate and be responsible for the prices quoted in the applicable set of RFP forms.

5.6 Errors or Omissions

Proposers are expected to examine all RFP Documents and will not be allowed to take advantage of any error, omission, ambiguity, or inconsistency in the RFP Documents. Where errors or omissions appear in this RFP, the Proposer shall promptly notify the City in writing, directing communications to the Finance Director, of such error or omission it discovers. The City assumes no responsibility for errors or misrepresentations that result from the use of incomplete proposals.

Upon notification or identification of any error, omission, ambiguity, or inconsistency, the City may, at its sole discretion, choose to issue an addendum or addenda to the RFP in accordance with Section 5.3 of this RFP. Addenda shall be issued only for minor errors, omissions, ambiguities, or inconsistencies in the RFP Documents. If a major error, omission, ambiguity, or inconsistency is identified, the City reserves the right to void this RFP and re-solicit for proposals.

Any interpretations, corrections or changes to the specifications and plans will be made by addenda no later than forty-eight (48) hours prior to bid opening. Addenda will be distributed to all known recipients of proposal documents. Proposers shall acknowledge receipt of all addenda with submission of proposal pursuant in Form 7 (Acknowledgement of Addenda).

5.7 The City's Clarification and Verification of Proposals

The City may require the Proposer to

- **A.** Clarify or verify the contents of its Proposal or any statement made by the Proposer
- **B.** Require the Proposer to submit supplementary documentation clarifying or verifying any matters contained in its Proposal

C. Acknowledge the City's interpretation of the Proposal, or any parts thereof

The City is not obligated to seek clarification or verification of any aspect of a Proposal or any statement by a Proposer, including any ambiguity in a Proposal or in a statement made by a Proposer.

Any written information received by the City from a Proposer as a Proposer Question Submission may, in the City's sole discretion, be considered as an integral part of the applicable Proposal.

5.8 Proposal Acceptance Period

By submission of its proposal, the Proposer acknowledges that it makes an offer that, if accepted in whole or in part by the City, constitutes a valid and binding Agreement as to any and all items proposed in writing to the City. The Proposal Acceptance Period is one hundred eighty (180) calendar days from the date of opening. The Proposal Acceptance Period may be extended by mutual agreement.

If the City wishes to extend the Proposal Acceptance Period, the City shall submit a request to extend the Proposal Acceptance Period to those Proposers whose Proposals, in the City's sole discretion, are still under consideration in the RFP Process. For greater clarity, the City may issue a request to extend the Proposal Acceptance Period at any point in the RFP Process.

5.9 Communication Restrictions

After release of this solicitation, Proposer contact regarding this RFP with members of the RFP evaluation, interview or selection panels, employees of the City or officials of the City other than the Finance Director or as otherwise indicated is prohibited and may result in disqualification from this procurement process. No officer, employee, agent or representative of the Proposer shall have any contact or discussion, verbal or written, with any members of the City Council, members of the RFP evaluation committee, interview, or selection panels, City staff or City's contractors, or directly or indirectly through others, seek to influence any City Council member, City staff, or City's contractors regarding any matters pertaining to this solicitation, except as herein provided. If a representative of any Proposer violates the foregoing prohibition by contacting any of the above listed parties with whom contact is not authorized, such contact may result in the Proposer being disqualified from the procurement process. Any oral communications are considered unofficial and non-binding with regard to this RFP.

5.10 Exceptions to the RFP Documents

Although the specifications in the RFP Documents represent the City's anticipated needs, there may be instances in which it is in the City's best interest to permit exceptions to specifications and to evaluate alternatives. It is vital that the Proposer make clear where exceptions to the scope of services and technical specifications or draft Agreement and how the Proposer might provide alternatives. Therefore, when allowed, exceptions, conditions or stipulations to the provisions of the City's specifications must be clearly identified as such, together with reasons for taking

exception, and submitted as part of the Proposal on the Exception Form (Form 9). If the Proposer does not make clear that an exception is being taken and where that exception is being proposed, the City will assume the Proposer is, in its proposal, responding to and will meet the specifications and requirements of this RFP.

Any Agreement developed as a result of this RFP may be based on the terms and conditions provided in Exhibit B. However, the City reserves the right to revise any of the Exhibits to reflect the negotiated terms and conditions. The Proposer shall indicate any exceptions to language provided in these exhibits in Form 9.

5.11 Proposer Interviews

The City may elect to conduct in-person interviews of Proposers in accordance with Section 5.14.5 of the RFP. If the City conducts interviews, the presentation shall be led by the Proposer's proposed day-to-day contact person. If the City elects to conduct interviews, interview dates and times will be coordinated with responsive Proposers before any Agreement is awarded.

5.12 Evaluation Criteria

To be considered for award, Proposers must demonstrate the ability to obtain adequate financial resources; be able to comply with required or proposed delivery/completion schedule; have a satisfactory record of performance; have a satisfactory record of integrity and ethics; be otherwise qualified and eligible to receive award as part of their Proposals, which will be evaluated on the criteria set forth in this section. To determine the Preferred Contractor(s), the City shall carry out the steps as described in Section 5.14 of the RFP.

The City maintains the right to award no Agreement solicited in the RFP and may exercise available extensions as part of its existing contracts, if deemed to be in the best interest of the City as determined by the evaluation process described in Section 5.14 of the RFP.

The RFP Submissions shall be evaluated based on the evaluation criteria and maximum number of points available provided in Table 5.12.

Table 5.12: Evaluation Critia

Criteria	Maximum Points
Minimum Requirements	Pass / Fail
Financial Proposal	40
Proposed Approach	35
Experience and Qualifications	20
Financial Capacity	5
Total	**100**

The following sections provide further descriptions of the criteria and the location of relevant chapters of the RFP Submissions that may be considered in the evaluation.

Relevant chapters are provided for reference only, and Proposers must review the RFP in its entirety in developing their Proposals.

5.12.1 Minimum Requirements

Proposers shall provide references indicating that they have provided similar Service(s) that meets or exceeds the City's preferred minimum requirements as determined by this RFP in accordance with Section 7.9 and of the RFP. Meeting the City's minimum requirements shall be considered as a critical component of the evaluation of Technical Criteria as described in Section 5.14.2 of the RFP. The minimum criteria are scored on a pass-fail basis. Failure to provide proof of meeting the minimum requirements may result in disqualification of Proposals from further consideration at the City's sole discretion.

5.12.2 Experience and Qualifications

Proposer's experience and qualifications provided in accordance with Section 7.8 of the RFP shall indicate the Proposer's relevant company history and ownership, subcontractors, performance history, key personnel experience and qualifications with work of similar scope and complexity, and financial capacity to perform the work. Proposers with high levels of experience, qualifications and financial capacity shall be deemed most advantageous to the City.

5.12.3 Proposed Approach

Proposer's approach to providing Service(s) shall reflect the ability to meet the contract requirements in accordance with Section 6.0 of the RFP as demonstrated by the information provided in their Proposal. Proposers shall be evaluated on their demonstrated ability and resources to manage an operator transition and show the ability to implement and effectively manage Service for the term of any Agreement developed as a result of this RFP. The City shall consider key personnel, facilities, equipment and capability to provide consistent quality control and worker training and all other technical specifications required as described in Section 6.0 of the RFP.

Proposers may take exceptions to the scope of work and/or draft Agreement language as described in Section 5.10 by indicating them on the Exception Form (Form 9). The City shall consider the impact of exceptions to requirements set forth in this RFP, and points will be awarded based on the anticipated impact such exceptions would have on the City. Proposers with beneficial exceptions, minimal exceptions or no exceptions to the requirements set forth in this RFP shall be deemed most advantageous to the City. Rather than request exceptions, Proposers may also ask questions to the City before the Question Submission Deadline to determine whether the City would potentially consider the matter in question prior to communicating it as an exception to requirements set forth in this RFP.

5.12.4 Financial Capacity

The City will evaluate evidence submitted by the Proposer demonstrating financial resources and a history of creditworthiness, strong financial profit and loss performance, ability to generate working capital, and current capacity to repay debt.

5.12.5 Financial Proposal

Costs provided shall be inclusive of all costs necessary to meet the requirements included in this RFP and shall be compared and evaluated for their competitiveness, reasonableness, and logically consistent relationship with proposed equipment, services, facilities, conditions, and operating assumptions. The City may evaluate multiple combinations of services under various sets of assumptions to determine the overall best value to the City under alternative scenarios. The Proposer with the lowest overall cost to the City shall receive all available points and all other Proposers will receive a proportional share of the points based on the proration of their cost to the lowest cost option.

5.13 Evaluation Committee and Advisors

The City will establish an Evaluation Committee for the purpose of evaluating Proposals in accordance with the evaluation criteria described in Section 5.12. The City, in its sole discretion, will determine the size, structure and composition of the Evaluation Committee and any sub-committees of the Evaluation Committee. The Evaluation Committee may be assisted by and receive advice from any of the City's advisors or any other employees or representatives of the City as non-voting members of the Evaluation Committee.

If a member of the Evaluation Committee or, if applicable, evaluation sub-committee becomes unable to continue serving on the Evaluation Committee or evaluation sub-committee before the completion of a step in the evaluation process the evaluation comments and scores of that individual, in respect of the uncompleted steps in the evaluation process only, shall be ignored. For greater clarity, if an Evaluation Committee or sub-committee member becomes unable to continue serving on the Evaluation Committee or a sub-committee after the full completion of a step in the evaluation process, the results of the completed steps of the evaluation process are unaffected and remain valid. Whether or not an Evaluation Committee or sub-committee member, in these circumstances, is replaced is in the sole discretion of the City.

5.14 Steps in the Evaluation Process

5.14.1 Step 1 – Compliance of Proposals

In Step 1 of the evaluation process, the City will open each Proposal and will review the contents thereof to assess whether it is in compliance with the terms and conditions as described in this RFP, including whether all documents required to be submitted have been appropriately submitted and whether the minimum requirements are met.

Each Proposer acknowledges and agrees that the City's evaluation of compliance with the RFP is not an evaluation of absolute compliance and that the City may waive failure to comply that, in the City's sole discretion, does not constitute a material deviation.

With the exception of a material deviation that has not been waived by the City, an omission or error in connection with the requirements of the RFP will not lead to the automatic rejection of the proposal concerned, provided, if requested by the City, the

Proposer remedies the error or omission to the City's satisfaction within the time determined by the City, which must be at least one day following the date on which the Proposer receives a written request to that effect from the Finance Director.

5.14.2 Step 2 – Review and Scoring of the Technical Criteria

In Step 2 of the evaluation process, the Evaluation Committee will evaluate and score the Technical Criteria of each proposal. Technical Criteria include content in the RFP Submissions related to evaluating the Minimum Requirements, Proposed Approach, Experience and Qualifications and Financial Capacity. Only those Proposers that are compliant in Step 1 will be considered in Step 2 of the evaluation process.

5.14.3 Step 3 – Review and Scoring of the Financial Proposal

In Step 3 of the evaluation process, after the Technical Scores are completed and finalized, only those receiving 40 of the 60 available points from Technical Criteria shall move to the 3rd step. The City may evaluate multiple combinations of services under various sets of assumptions to determine the overall best value to the City under alternative scenarios. The Proposer with the lowest overall cost to the City shall receive all available points and all other Proposers will receive a proportional share of the points based on the proration of their cost to the lowest cost option.

5.14.4 Step 4 – Short List

In Step 4 of the evaluation process, the Proposers with the highest scores will be placed on a short list to move to Step 5.

5.14.5 Step 5 – Interviews and Best and Final Offers

In Step 5 of the evaluation process the Evaluation Committee shall have the opportunity, at its sole discretion, to

- **A.** Request and schedule an interview from short list Proposers that has been selected to move forward as part of the evaluation process.
- **B.** Request that Proposers that have been interviewed submit a Best and Final Offer (BAFO) for one or more parts of the RFP Submission for the Evaluation Committee's review.
- **C.** Request written clarifications from Proposers based on the Evaluation Committee's review of the BAFO.
- **D.** Upon completing Proposer interviews and reviewing any BAFOs submitted, the Evaluation Committee shall adjust the scoring for short list Proposers as appropriate.
- **E.** The City may enter directly into negotiations with the higher-ranking short list Proposer as described in Step 6 and is under no obligation to request Proposer interviews or any BAFOs.

5.14.6 Step 6 – Negotiation and Contract Award

In Step 6 of the evaluation process, the City may elect to negotiate an Agreement with the highest scoring Proposer as determined by the Evaluation Committee. Any and all verbal communications and/or commitments made during the negotiation process that

are deemed agreeable to both the City and the Selected Proposer shall be submitted in written form and made part of the resulting Agreement. The City reserves the right to waive negotiations and award an Agreement based on initial proposals received without discussions. Therefore, initial proposals should contain the Proposer's best terms.

Should negotiations with the highest evaluated Proposer not produce an Agreement, the City reserves the right to begin negotiations with the second highest evaluated Proposer, and so on, until an acceptable Agreement is negotiated, or to break off negotiations with all firms and not award any Agreement. The City reserves the right to reject any and all proposals and is under no obligation to award an Agreement.

The responsibility for the final selection and award of an Agreement rests solely with the City Council. The City shall not be liable to any Proposer for costs associated with responding to this RFP, for proposer's participation in any oral interview, or any cost associated with negotiations pursuant to Section 4.7 of the RFP and all Proposals shall remain valid and irrevocable until the expiration of the Proposal Acceptance Period.

5.15 General Evaluation and Disqualification Provisions

5.15.1 The City's Discretion in Determining Compliance, Scoring and Ranking

The City shall, in its sole discretion, determine

- **A.** The membership of the Evaluation Committee and any sub-committees of the Evaluation Committee
- **B.** Whether a Proposal is compliant
- **C.** Whether a failure to comply constitutes a material deviation
- **D.** Whether a Proposer's Proposal meets the minimum qualifications of this RFP
- **E.** The rankings of the Proposals and whether a Proposal is disqualified or will cease to be considered in the evaluation process.

The City's discretion in determining compliance, scores, ranking and disqualification of the Proposers and their proposal shall not be limited or restricted in any way. The City has the right, at any time and in its sole discretion, to consider in the evaluation of the proposals or in the exercise of any of the City's rights under this RFP:

- **A.** Any instances of poor performance by a Proposer that the City has experienced
- **B.** Any publicly available information about a Proposer that is, in the City's sole discretion, credible information.

Additionally, the City maintains the right to accept or reject any and all Proposals and re-solicit Proposals as it deems to be in the best interests of the City. If an Agreement is developed as a result of this RFP, it shall be made to the Proposer who scores highest in the Proposal evaluation as determined by the City taking into consideration the evaluation criteria set forth in Section 5.12 of the RFP.

Once an Agreement is awarded, prices shall remain firm for the Agreement term except as otherwise stated in the Agreement. The Agreement shall commence on the date of award and continue until all terms and conditions are satisfied and complete.

5.15.2 Disqualification

The City may, in its sole discretion, disqualify a Proposer or reverse their decision to make an award (even if the award has already been made to a Selected Proposer under this RFP) at any time if:

A. The Proposer contravenes RFP Section 5.9 of the RFP.
B. The Proposer fails to comply with Applicable Law.
C. The Proposal contains false or misleading information or a misrepresentation.
D. The Proposer or any of their respective advisors, employees or representatives directly or indirectly collude with one or more other Proposers or any of their respective advisors, employees or representatives in the preparation or submission of a Proposal or otherwise contravenes Section 5.9 of the RFP.
E. The Proposer has committed a material breach of any existing agreement between the Proposer and the City.
F. The Proposer has been convicted of an offense in connection with any services rendered to the City.
G. There are any convictions related to inappropriate bidding practices or unethical behavior by a Proposer or any of their affiliates in relation to a public or broader public sector solicitation.

5.15.3 Dispute Resolution

The Contractor shall endeavor to settle all disputes arising out of or relating to any Agreement developed as a result of this RFP by amicable negotiations. Except as otherwise provided herein, any claim, dispute, disagreement or controversy that arises between the City and the Contractor under or relating to any Agreement developed as a result of this RFP that is not amicably settled shall be submitted to mediation. If the parties remain unable to resolve the controversy through mediation, then either party may pursue their claim, dispute, disagreement or controversy in a court with proper venue in the County of Dallas and / or County of Ellis, State of Texas, within which the services are being performed. Nothing herein shall be construed as a waiver or surrender of the City’s governmental power or immunity.

6.0 SCOPE OF WORK

This section details the scope of work for each Service included in this RFP. Services performed will be in accordance with any Agreement developed as a result of this RFP and based on the terms provided herein or as otherwise agreed to by the City and Proposer. For clarity, the terms provided herein may be incorporated into any Agreement developed as a result of this RFP as required and described in Section 4.14. The City reserves the right to revise the terms and conditions to reflect the negotiated terms and conditions after the award of an Agreement.

The purpose of this section is to describe the general descriptions and terms that are applicable to the Services described in each section. Throughout this section there are references to specific locations in the Agreement attached as Exhibit B that contain additional information and detailed specifications related to the scope of work for each Service included in this RFP. Proposer shall carefully review the Agreement provided as Exhibit B for the complete scope of services. Service(s) performed will be in accordance with the Agreement and as negotiated between the City and the Contractor. The Agreement may be adjusted at the City's sole discretion to reflect the specific services to be provided by the Contractor. The following is an overview of the scope of services.

The City is seeking to transition from weekly residential trash collection, residential recycling, bundled brush, or bulky items per pickup under the current contract. Instead, the City is seeking proposals to collect residential trash, residential recycling, brush, bulky waste, and household hazardous waste on a once or twice a week schedule with other options available. Communication and implementation of this transition is a key responsibility of the Contractor.

6.1 Cost Adjustments

The rates proposed in the Financial Proposal (Form 3), or as otherwise agreed to in writing by the City and Proposer shall remain effective for at least the first full Fiscal Year of Services under any Agreement developed as a result of the RFP, unless otherwise agreed to in writing by the City and Contractor.

Cost adjustments may be requested by the Contractor on an annual basis beginning June 1, 2028, and are subject to City Council approval based upon the previous year's performance. Cost adjustment requests must be received by the City by March 1st of each year and take effect on June 1st of each year to align with the City's budget development and approval process, or the Proposer forfeits the right to request a cost adjustment for the upcoming year.

Cost adjustments shall be based on price indices as further described in Section 29.0 of the Agreement and shall not exceed five percent (5%) for any single year or a cumulative increase of fifteen percent (15%) over a four-year period.

[Reference: Section 29.0 of the Agreement]

6.2 Recordkeeping and Reporting

The Contractor shall maintain sufficient records to document fees charged, and services provided, and to demonstrate financial stability, and compliance with all legal requirements and terms and conditions of the Agreement. Such records shall be made available at any time during business hours for inspection by the City throughout the effective period of the Agreement and for a period of five (5) years after the final payment.

The Contractor shall also be required to report certain events to the City within specified timeframes and submit regular monthly no later the two weeks from the ending of the prior month, provide in-person quarterly reports to City Council and in-person annual reports to the City Council as described in the Agreement.

[Reference: Sections 45.0 and 46.0 of the Agreement]

6.3 Contingency Plan

At least ninety (90) days prior to the Service Commencement Date, the Contractor shall submit a Contingency Plan to the City's Representative for approval as described in Section 7.12.B of the RFP. The Contingency Plan shall show the Proposer's detailed arrangements to provide facilities, vehicles, equipment, personnel, subcontracted services, or other resources as required to maintain uninterrupted Service(s) during equipment failures, natural disasters, emergency downtime, outages, labor disputes or any other situation or condition that would impair Proposer's ability to provide Service(s), as applicable to each Service. The final approved Contingency Plan shall be included in the Agreement.

[Reference: Section 32.1 of the Agreement]

6.4 Transition Plan

The Proposer understands, acknowledges, and agrees that smooth transitions between service providers at the beginning and end of the Agreement is essential for the health and safety of the City and its residents and businesses. The Proposer shall cooperate fully with the City to ensure timely, smooth, and uninterrupted transitions between service providers at the beginning and end of the Agreement.

Not later than sixty (60) days after the date of contract award, the Contractor(s) shall submit a Transition Plan to the City's Representative for approval as described in Section 7.12.A of the RFP. The Transition Plan shall describe the Contractor's commitments and capabilities to support the City during transition to Service delivery by the Contractor on the Service Commencement Date and transition to Service delivery by the subsequent Contractor or the by the City upon termination of the Agreement. The final approved Transition Plan shall be included as part of the Agreement.

[Reference: Section 32.2 of the Agreement]

6.5 City's Responsibilities

The City agrees to fulfill the following responsibilities as they relate directly to any Agreement developed as a result of this RFP:

A. Paying invoices in a timely manner;
B. Providing timely review and responses to reports, requests for approval, and other submissions made by the Contractor;
C. Working cooperatively with the Contractor to resolve customer service issues;
D. Providing the Contractor with a customer list of Residential and Commercial Collection Services at least 90 days before Service Commencement;
E. Providing monthly updates on the number of service units;
F. Communicating Cart purchase requirements and specifications (if the Contractor provides Cart Purchase Service); and
G. Performing other duties as described in the Agreement.

6.6 Inspection Rights

The City or any of its duly authorized representatives shall have access, within twenty-four (24) hours of notification, to inspect the Contractor's facilities and equipment, as the City deems reasonably necessary, to verify compliance with the terms of the Agreement. The City shall conduct the inspection of facilities and equipment during regular hours of operation. The Contractor shall make available to the City all reasonable assistance to facilitate performance of inspections.

[Reference: Section 35.0 of the Agreement]

6.7 Days and Hours of Operation

The Contractor shall provide Collection Services between the hours of 7:00AM and 6:00PM, Monday through Friday, with Saturday collection as needed for additional capacity and as required to make up for collection days missed due to holidays and Proposers shall indicate if Commercial Collection Services could be provided weekly on Saturdays. If so, Proposers shall provide pricing for these weekend services. Operating outside of regular approved collection hours is subject to Liquidated Damages.

[Reference: Section of 14.0 the Agreement]

6.8 Holidays

The Proposer shall not be obligated to provide Service on recognized holidays set forth in the Agreement including New Year's Day (January 1), Memorial Day (Fourth Monday in May), Independence Day (July 4), Labor Day (First Monday in September), Thanksgiving Day (Fourth Thursday in November), and Christmas Day (December 25). Holidays may be added, deleted, or changed upon the sole determination of the City.

The Contractor shall not provide Collection Services on Thanksgiving Day and Christmas Day but on other holidays they may choose whether to observe the holiday or to provide Collection Services at their sole discretion. Any collection days missed due

to holiday observances shall be made up on the following Saturday or any day of the week during the week the holiday falls upon.

[Reference: Section 13.3 of the Agreement]

6.9 Personnel Standards

Any Agreement developed as a result of this RFP shall include personnel standards to ensure that the Contractor's employees are qualified, trained, licensed, and equipped to perform all of their duties in a safe, respectful, competent, and courteous manner in compliance with applicable laws and regulations.

Proposers shall submit information with their Proposals about their method of approach for satisfying or exceeding minimum personnel standards further described in Section 7.10 of the RFP.

[Reference: Section 30.2 of the Agreement]

6.10 Nuisance Control

Any Agreement developed as a result of this RFP shall include standards to ensure that the Proposer provides services in a manner that prevents litter, noise, odor, vermin, dust and other nuisances. Proposers shall submit information with their Proposals about their method of approach to meeting or exceeding minimum nuisance control standards as further described in Section 7.10 of the RFP.

[Reference: Sections 34.0 and 27.0 of the Agreement]

6.11 Property Damage

Any Agreement developed as a result of this RFP shall include standards to ensure that the Proposer takes all necessary precautions to protect public and private property during the performance of the Services, promptly notifies the City and the property owner in the event that any property damage occurs, and fully restores the damaged property to its original condition at no cost to the property owner and City in a timely manner.

[Reference: Section 33.0 of the Agreement]

6.12 Liquidated Damages

If the Proposer does not perform Service in a timely manner or pursuant to the terms of any Agreement developed as a result of this RFP, the City will suffer damages which are difficult to determine and adequately specify. The City may apply liquidated damages as further described in Section 38.0 of the Agreement.

[Reference: Section 38.0 of the Agreement]

6.13 Customer Service and Communications

The Proposer understands, acknowledges, and agrees that customer service is important to the City. The Proposer shall work cooperatively with the City to maintain a

high level of customer service and ensure that Collection Services are delivered in an accessible, professional, and responsible manner.

Key customer service requirements include:

A. Meeting with the City's Representative on a quarterly in-person basis to discuss process improvements, performance metrics, performance issues, and service planning
B. Responding to customer complaints within specified timeframes
C. Electronic tracking and reporting of customer service issues and complaint resolution, City to have access to view all data
D. Interactive website and app with live service updates, notifications and residential / commercial accounts access, City to have access to view all data

[Reference: Section 31.0 of the Agreement]

6.14 Residential Trash Collection Services

The Contractor shall Collect two (2) options from each Residential Service Unit, on a scheduled Collection Day, all Trash placed at the Curbside in Carts. The Contractor shall also Collect Trash in Carts from City-approved Alley Service Units and Modified Collection Locations for disabled residents at no additional cost to the City or residents. The City will select 96-gallon Trash Carts for all Residential Service Units and when requested 64-gallon Trash Cart for senior citizens. The Contractor will be responsible for maintaining Trash Cart inventory, Trash Cart sizing, and Trash Cart swapping. Basic service shall include one (1) Trash Cart per Residential Service Unit with additional Trash Carts available for a fee.

Annual cart cleaning provided for each residential cart at no additional cost to City or resident.

Proposers shall enter their proposed Contract Rates for Residential Trash Collection Services on Form 3A.

Table 6.14 Residential Trash Collection Services

Residential Trash Collection Services	Collection Frequency
Residential 96-Gallon	Once Weekly, Twice Weekly
Residential Senior Only 64-Gallon	Once Weekly, Twice Weekly

[Reference: Section 8.1.1 of the Agreement]

6.15 Residential Recycling Collection Services

The Contractor shall Collect two (2) options for each Residential Service Unit all Program Recyclable Materials placed at the Curbside in 96-gallon Carts and haul it to a Recyclable Material Facility provided by the Contractor for Processing. The Contractor shall also Collect Program Recyclable Materials from City-approved Alley Service Units and Modified Collection Locations for disabled residents at no additional cost to the City or residents. The City will select 96-gallon Recycling Carts for all Residential Service

Units and when requested 64-gallon Recycling Cart for senior citizens. The Contractor will be responsible for maintaining Recycling Cart inventory, Recycling Cart sizing, and Recycling Cart swapping. Basic service shall include one (1) Recycling Cart per Residential Service Unit with additional Recycling Carts available for a fee.

The City requests pricing for opt-in and universal Residential Recycling Collection Service. The Contractor's per-Cart fees for Recycling Collection, which shall include the cost of Collection, hauling and Processing at the Contractor's Recyclable Material Facility.

Annual cart cleaning provided for each residential cart at no additional cost to City or resident.

Proposers shall enter their Proposed Contract Rates for Residential Recycling Collection Services on Form 3B.

Table 6.15: Residential Recycling Collection Services

Residential Recycling Collection Services	Collection Frequency
Residential 96-Gallon	Once Weekly, Twice Weekly
Residential Senior Only 64-Gallon	Once Weekly, Twice Weekly

[Reference: Section 8.1.2 of the Agreement]

6.16 Yard, Brush, and Bulky Waste Collection Services

The Contractor shall provide Curbside Collection of Yard, Brush, and Bulky Waste to all Residential Service Units. For Alley Service Units, Yard, Brush, and Bulky Waste Collection shall be at the Curbside in front of the house and not in the alley. Modified Collection Locations for residents with disabilities are not required for Yard, Brush, and Bulky Waste Collection. Residents may set out up to four (4) cubic yards of Yard, Brush, and Bulky Waste per Collection for weekly, monthly, quarterly and by appointment collection.

At no additional cost to the City or residents, the Contractor shall collect natural Christmas trees from Residents on regular Collection Days between December 26 and 2nd Saturday of January. Residents are not required to cut and bundle trees as required for normal Yard Waste collection.

Proposers shall provide pricing for the following Yard, Brush, and Bulky Waste Collection service options on Form 3C.

Table 6.16: Yard, Brush, and Bulky Waste Service Options

Yard, Brush, and Bulky Waste Service Options	Collection Frequency
Option 1	Weekly
Option 2	Monthly
Option 3	Quarterly
Option 4	By Appointment (up to 4 per year)

[Reference: Section 8.1.3 of the Agreement]

6.17 Additional Yard, Brush, and Bulky Waste Collection Services

A Resident may submit requests to the Contractor for Yard, Brush, and Bulky Waste Collection Services in excess of the frequencies and quantities included in the City's basic service as outlined in Section 6.16, Service Options 1-4. Proposers shall enter in the space provided on Form 3C their proposed Contract Rate for each additional Yard, Brush, and Bulky Waste Collection to be charged to the resident on a per-trip basis. The Contractor is required to accept up to four (4) cubic yards on each additional trip charged to a resident. The Contractor shall not perform any Additional Yard, Brush, and Bulky Waste Collection Services without first obtaining agreement in writing from the Resident, including agreement on price. The cost of Disposal shall be included in the price entered on Form 3C.

[Reference: Section 8.1.4 of the Agreement]

6.18 Household Hazardous Waste Collection Services

The City is requesting optional Proposals for weekly collection of Household Hazardous Waste. The City is requesting Contractor to participate in one annual City Cleanup Event which will include the collection of Household Hazardous Waste at a location to be coordinated within City limits. At minimum, the proposed Collection program should include the material defined as Program Household Hazardous Waste in the Agreement and include recommendations for additional materials that can be added at minimum additional cost. If implemented, the Contractor shall Collect, haul, and deliver Program Household Hazardous Waste and deliver it to a Household Hazardous Waste Processing Facility provided by the Contractor and identified in the Proponent's Proposal. The Contractor shall Process Program Household Hazardous Waste in the manner specified in their Proposal.

Proposer shall submit details for Holiday Grease and Oil collection for residents.

Proposers shall submit details about their proposed program as further described in Section 7.10.3. Proposers may enter proposed fees on Form 3D Prices include the cost of Collection, hauling and Processing.

Table 6.18: Household Hazardous Waste Collection Services

Household Hazardous Waste Collection Services	Collection Frequency
	Opt-In Weekly
	Opt-In Monthly
	Opt-In Quarterly
	(1) Annual Event
	On-going Dropoff
	Holiday Grease & Oil Collection

[Reference: Section 8.1.5 of the Agreement]

6.19 Commercial Collection

The Contractor shall offer Trash and Recycling Collection Services to all Commercial Customers within the Service Area. For the purposes of the Agreement, Commercial Customers are defined to include but not be limited to Multi-family Complexes, businesses, industrial, and institutional properties, construction or demolition projects, or private individuals renting roll-off bins at their own residences.

A. Commercial Trash Collection Services. The Contractor shall collect Trash in Carts and compacted or uncompacted Front Load and Roll-Off Containers with sizes and collection frequencies as mutually agreed upon by the Customer and the Contractor. The Contractor shall collect, haul, and dispose of all Commercial Trash at a Disposal Site supplied by the Contractor. The Proposer shall enter proposed Contract Rates for each Container type, which includes the cost of Disposal.

B. Commercial Recycling Collection Services. The Contractor shall collect commingled Program Recyclable Material in Carts and compacted or uncompacted Front Load and Roll-Off Containers with sizes and collection frequencies as mutually agreed upon by the Customer and the Contractor. The Contractor shall Collect, haul, and Process all Commercial Program Recyclable Material at a Recyclable Material Facility supplied by the Contractor. The Proposer shall enter proposed Contract Rates for each Container type, which shall include the cost of Processing at the Contractor's Recyclable Material Facility.

[Reference: Section 9.0 of the Agreement]

6.20 Cart Purchase Service

The City is requesting pricing from the Contractor to purchase new Carts on behalf of the City. Alternatively, the City may elect to purchase new Carts directly from the manufacturer at its sole option. Under all options, the Carts shall be owned by the City, and the City shall retain ownership and possession of the Carts at the end of the Agreement, whether the initial Cart purchase was made by the City or the Contractor.

If the Contractor purchases Carts on behalf of the City, the Contractor shall recover the cost of Cart Purchase through a monthly fee equal the cost of the Carts paid out over five (5) years.

The City reserves the right to refuse all Proposals for Cart Purchase Service without obligation to the Proposer and to purchase Carts on its own behalf.

The following shall apply to all Cart Purchase options.

- If the Contractor purchases Carts on behalf of the City, the Contractor shall be responsible for assembly and initial distribution of Carts to Residential Service Units, Commercial Customers, and City Facilities, and the cost of performing this Service shall be included in the proposed fees entered by the Proposer on Form 3G.1. If the City elects to purchase Carts directly from the manufacturer, the City may, at its sole discretion, contract with the manufacturer for assembly and distribution of the Carts without compensation to the Contractor, or the City may request that the Contractor assemble and distribute City-purchased Carts on behalf of the City for the one-time fee entered by the Proposer Form 3G.2. In all cases the Contractor shall supervise initial Cart distribution.
- Carts shall meet the minimum specifications in Section 22.8 of the Draft Agreement. The Proposer shall provide documentation demonstrating compliance with these specifications and provide a sample of the proposed Carts to the City if requested.
- The Contractor shall be responsible for Cart operations including but not limited to storage, assembly, warranty replacement, repair, maintenance and delivery of repaired, and replacement Carts to customers in accordance with Section 22.0 of the Agreement. The cost of these services shall be included in the proposed collection fees on Form 3A, Form 3B, Form 3E.1, and Form 3F.1.

The City shall determine the appearance of the Carts at its sole discretion. If the Contractor purchases Carts on behalf of the City, the City shall communicate detailed specifications for the appearance of the Carts (e.g. colors and graphics) in accordance with Section 22.9 of the Agreement.

The Contractor shall have computer software capable of supplying the City with detailed Cart information to meet all recordkeeping and reporting requirements in accordance with Section 6.2 of the RFP.

[Reference: Section 22.0 of the Agreement]

6.21 City Facilities

The Contractor shall provide Trash and Recycling Collection to City Facilities in Carts, Front Load Containers, and Roll-Off Containers as designated by the City. Current container types, sizes, and Collection frequencies for existing City Facilities are provided in Section 3.5. The City may designate additional City owned facilities in the future at its sole discretion. Collection Services at City Facilities shall be provided at no cost to the City.

[Reference: Section 10.0 of the Agreement]

6.22 City Events and Special Projects

The Contractor shall provide Collection, Processing, and Disposal services for City events and Special Projects as designated by the City, including but not limited to the following.

- The City may request Trash and Recycling Collection services for City events and projects at the Contract Rates for equipment rentals at contract rates or as an in-kind donation.
- The City requires full participation in the Annual City Cleanup Event at no additional charge to the City or residents. The City shall reserve the right to request a second event with sixty (60) day written notice.
- The City requests an annual contribution to the City of at least $27,000 to go towards City events, adjusted by the cost adjustment process.

Proposers shall enter proposed Contract Rates for equipment rental for City events and Projects on Form 3H. Contract Rates include supply of equipment, a driver, fuel, hauling, disposal, and other incidental costs. If requested by the City, the driver must remain on-site during the event at contract rates.

[Reference: Section 10.1 of the Agreement]

6.23 Collection Location

This section provides an overview of collection location of all Collection Services included in this RFP. Collection location is defined within the Agreement for each of the following services.

A. Residential Collection Services. Collection location for Residential Collection Services shall be Curbside, except for locations with City-approved Modified Collection Locations for disabled residents or City-approved Alley Service Units.
B. Commercial Collection Services. Collection location for Commercial Collection Services shall be at a location agreed upon by the Contractor and the Customer.
C. City Services. Collection location for City Services shall be at City owned buildings, facilities and events or other locations at the discretion of the City.

6.24 Waste Disposal Sites

The Contractor shall have and maintain during the Agreement Term adequate capacity at its Proposed Disposal Site to receive all Trash and Bulky Waste collected under the Agreement from all Residential, Commercial, and City Services sources. The Contractor's Disposal Site shall be properly authorized under all applicable federal, state and local laws.

6.25 Recyclable Material Facility

The Contractor shall be responsible for Processing all Program Recyclable Materials collected under the Agreement at a Recyclable Material Facility provided by the Contractor and identified in the Proposal. The Contractor shall have and maintain

sufficient capacity at its proposed Recyclable Material Facility to receive and Process all Program Recyclable Material collected in the City throughout the Agreement Term. The Contractor may design and construct a Recyclable Material Facility to fulfill the terms of the Agreement or use an existing facility.

The Contractor shall operate the Recyclable Material Facility in compliance with all applicable laws. The Contractor shall use processing equipment at the Recyclable Material Facility capable of complying with product specifications of secondary materials buyers including, but not limited to, product form, size, weight, density, and degree of contamination. In addition, the Contractor shall use processing equipment capable of processing ninety-five percent (95.0%) by weight of Program Recyclable Materials into Recovered Materials monthly. The City reserves the right to review the Contractor's operating records and/or perform material composition audits to verify compliance with these requirements.

The Contractor shall market one hundred percent (100%) of Recovered Materials to secondary markets. Disposal of Program Recyclable Materials or Recovered Materials is strictly prohibited. Upon request by the City, the Contractor shall provide information identifying where Program Recyclable Material is marketed, including location of such markets and whether markets are domestic or international. The Contractor shall also be responsible for Disposal of all Residue generated by processing of Program Recyclable Material. The Proposer shall include the cost of Collection, hauling, and Processing Program Recyclable Materials in its unit prices submitted on Form 3.

The City requires a 50/50 revenue sharing from recycling program.

[Reference: Section 16.0 of the Agreement]

6.26 Transfer Stations

If the Proposer intends to use a transfer station to haul Trash, Program Recyclable Material, Brush and Bulky Waste, or Yard Waste to a Disposal Site or Processing Facility, the transfer station shall be identified in the Proposal and the Proposer shall provide details about the proposed transfer station in accordance with Section 7.10.4. The cost of receiving materials at the transfer station and hauling from the transfer station to the Disposal Site or Processing Facility shall be included in the Proposer's unit prices on Form 3.

[Reference: Section 17.0 of the Agreement]

6.27 Household Hazardous Waste Processing Facility

If a proposer submits a Proposal for Household Hazardous Waste Collection Services, the proposer shall identify the location and permit number of the licensed facility or facilities where collected materials will be processed and a letter from the facility owner confirming availability of capacity to receive materials collected through the program. The City shall have the right to inspect the facility during business hours with reasonable notice in advance.

[Reference: Section 18.0 of the Agreement]

6.28 Commingling of Materials

The Contractor shall be allowed to commingle material collected under the Agreement with material collected from other sources outside the City provided that the City does not contract with the City of Glenn Heights for Disposal of Residential Trash and Brush and Bulky Waste and/or Processing of Yard Waste. If the City does contract with the City of Glenn Heights, then the Agreement shall be updated to prohibit commingling of those materials with Commercial material or material from sources outside the City.

[Reference: Section 19.0 of the Agreement]

6.29 Unaccepted Set-Outs

In the event of an Unaccepted Set-out, the Contractor shall:

- **A.** Take a photograph of the entire set-out;
- **B.** Collect any portion that is properly set-out and can be easily separated;
- **C.** Leave an Unaccepted Set-out Notice stating the reason the set-out or portion of the set-out was designated an Unaccepted Set-out; and
- **D.** Record the location address.
- **E.** Provide a non-compliance daily report to the City.

[Reference: Section 24.0 of the Agreement]

6.30 Carts and Containers

The Contractor, at its sole cost, shall provide a secured area within the City or other mutually agreeable location to store Carts prior to distribution or replacement. The Contractor, at its sole cost, shall deliver Cart(s) to Residential or Commercial customers within two (2) business days of receiving a customer request for repair or replacement.

As discussed in Section 6.20 of the RFP, the City is requesting pricing from the Contractor to purchase Carts on behalf of the City. Alternatively, the City may elect to purchase Carts directly from the manufacturer at its sole option. Carts shall be owned by the City, and the City shall retain ownership and possession of the Carts at the end of the Agreement whether the initial Cart purchase was made by the City or the Contractor. The color and appearance of the Carts shall be at the City's sole discretion. The Carts shall display the City's name, logo, customer service number and any other information requested by the City.

The Contractor shall be responsible for Cart storage, maintenance, repair, and replacement services including pick-up and delivery of repaired and replacement Carts. Carts shall be stored and maintained at a location provided by the Contractor and shall not be stored on City property. The Contractor shall provide such Cart services at no additional cost to the City and all costs shall be included in the Proposer's Financial Proposal (Form 3).

The Contractor shall provide warranty support for the City's Carts and shall have computer software capable of supplying the City with detailed information to meet all

recordkeeping and reporting requirements in accordance with Sections 45.0 and 46.0 of the Agreement.

Contractor shall provide Front Load Containers, Roll-Off Containers, and Compactors to Commercial Customers in sufficient number and of sufficient capacity to perform the Services under this agreement. The Contractor shall maintain Containers or Compactors supplied to Commercial Customers on a rental basis. Commercial Customers shall also have the option of owning their own Containers or Compactors.

[Reference: Sections 22.0 and 23.0 of the Agreement]

6.31 Missed Collection

A missed collection complaint occurs when a customer reports that their material was set out at the correct time and in the manner prescribed by the Agreement and was not collected by the Contractor.

If the City or the Contractor receives a missed collection complaint, the Contractor shall investigate using the collection vehicle's onboard cameras. If the Contractor cannot demonstrate that the material was not set-out, or that an Unaccepted Set-out notice was delivered due to a non-compliant set-out, then the complaint shall be considered confirmed, and the Contractor shall be subject to Liquidated Damages. If the Contractor is notified of a confirmed missed collection prior to 1:00 PM then the Contractor shall return to the property to pick-up the missed collection on the same day that notice is received. If the Contractor is notified of a missed collection after 1:00 PM then the Contractor shall return to the property pick up the missed collection no later than 8:00 AM on the day after the complaint is received.

[Reference: Section 25.0 of the Agreement]

6.32 Storm and Disaster Debris Management

In the event of an emergency declaration by the City, the President of the United States, or Federal Emergency Management Agency (FEMA) affecting the Service Area, the Contractor shall not be responsible for collection of debris generated from or as a result of such emergency, to the extent that such debris is in excess of normal volumes and material types collected through services provided under this Contract.

In the event of such emergency declarations, the Contractor shall be required to continue provisions of services in accordance with this Contract, including collection of all materials and material quantity limits as defined herein. On a non-exclusive basis, the City may negotiate with the Contractor for additional services if required or may negotiate with other service providers for quantities in excess of normal volumes.

The City goal is to provide disaster service collection response within twenty-four (24) hours from the time of the emergency declaration at no additional charge to the resident.

Emergency declaration, as defined in this Section, shall not automatically invoke Force Majeure terms, as defined in Section 41.0 of the Agreement.

[Reference: Section 20.0 of the Agreement]

6.33 Education and Outreach

The Contractor shall have the following responsibilities related to public education and outreach:

- **A.** Cooperate with the City related to education and outreach efforts, including providing outreach about any transition implementation information and information to support messaging
- **B.** Support other public education activities and community events
- **C.** Distribute developed and printed public education materials upon request by the City
- **D.** Maintain copies of information and notices left for Residents and Customers regarding Unaccepted Set Out notices for compliance purposes
- **E.** Provide information regarding recyclable materials and services for recycling-related community events
- **F.** Assist with development or distribution of program introduction or change notices if requested by the City
- **G.** Contractor to provide educational tours of the disposal and recycling facility, upon City or community request
- **H.** Interactive website and app with live service updates, notifications and residential / commercial accounts access, the City shall have access to view all data

[Reference: Section 26.0 of the Agreement]

6.34 Vehicle and Equipment Standards

The Contractor shall provide a fleet of collection vehicles and equipment sufficient in number and capacity to efficiently perform all services proposed and to meet the requirements in Section 21.0 of the Agreement. The Respondent shall equip all Collection Vehicles with onboard electronic equipment and systems such as cameras, internet, GPS, software and communication systems as required to provide real-time positioning and routing of Collection Vehicles, work order management and photo verification of service delivery as further described in Draft Agreement Section 21.0. The City shall have real time read-only access to the onboard data systems. The Respondent shall provide details about the proposed equipment, software, and systems in their Proposals. All costs to install, maintain and operate the onboard technology systems are included in base Contract Rates for Residential Services.

[Reference: Section 21.0 of the Draft Agreement]

6.35 Customer Billing or Option to Bill Customer

The Contractor shall invoice the City for Residential Collection Services on a monthly basis. The invoice shall be based on the number of Service Units multiplied by the applicable Contract Rates. The Contractor shall also invoice residents for any Additional Yard, Brush, and Bulky Waste Collection Services that are requested in in accordance with Section 6.17. Within thirty (30) calendar days of receiving the Contractor's invoice, the City shall remit to the Contractor payment for the amounts on the invoice less

disputed amounts, Liquidated Damages, and payments withheld. The City shall also deduct franchise fees from the Contractor's invoice if applicable.

The Contractor shall invoice the Commercial Customers based on the number, size, and Collection frequency for in-service Carts and Containers charged at applicable Contract Rates. Within ten (10) days of the end of each month, the Contractor shall remit to the City a statement of all fees invoiced for Commercial Collection Services and Additional Bulky Waste Collection Services performed during that month. The City shall deduct the franchise fee payable on Commercial Collection Services and Additional Yard, Brush, and Bulky Waste Collection Services from its payment to the Contractor for Commercial Collection Services.

Contract Rates include Collection, Processing, and Disposal costs except as described in Section 4.7.

[Reference: Section 47.0 of the Draft Agreement]

7.0 PROPOSAL FORMAT

7.1 General Instructions

To provide for ease and uniformity and to aid in the evaluation of proposals, Proposers shall comply with the sequence outlined herein. In numbering proposals, the Proposer shall use the same section numbers and titles and shall provide its responses in the same order as each item is numbered and ordered herein. Failure to comply with this direction may result in rejection of the proposal. The Proposal shall be completed in sections which are described below.

Proposers should be aware that all technical and operational specifications, equipment descriptions and marketing material submitted or made available will be incorporated by referenced into any Agreement developed as a result of this RFP. The City discourages the inclusion of general marketing material, equipment manuals, or large financial statements unless they are used to provide specific information or specifically requested by the City.

The City encourages all submittals be submitted electronically via the provided email. However, the City will also accept paper submittals, if received by the due date and time listed below. The City cannot guarantee, due to internal mail delivery procedures, that any submittal sent priority mail will be picked up from the post office by City mail employees and delivered to the Finance Director by the closing date and time. It is recommended that submittal deliveries be made either in person or via an alternate delivery method ensuring delivery to the physical address. Respondent shall bear full responsibility for ensuring the submittal is delivered to the specified location by the due date and time. Late submittals will be rejected as non-responsive. All hard copy submittals must be clearly addressed to the Finance Director and include the submittal name and number on the outside of the envelope/package. Proposals shall be submitted in accordance with the information included in this RFP and in the proposal format described herein.

7.2 Signatures

All required signatures shall be manual, in ink, by an authorized representative of the Proposer who has legal authority to bind the Proposer in contractual obligations. Proposals by corporations must be executed in the corporate name but the President of Vice President (or other corporate officer if accompanied by evidence of authority to sign) and the corporate seal shall be affixed and attested by the Corporate Secretary. The corporate address and state of incorporation shall be shown below the signature.

Proposals by partnerships must be executed in the partnership name and signed by a partner. His/her Title must appear under his/her signature, and the official address of the partnership must be shown below the signature.

7.3 Typed or Inked Corrections

Proposals shall be typed or in ink. Erasures, interlineations, or other modifications in the Proposal shall be initialed in ink by the person authorized to sign the Proposal as set forth in Section 4.6 of the RFP.

7.4 Proposal Format

Proposals shall be submitted in the format indicated Table 7.4. The content of each section is described in the sections that follow.

Table 7.4: Proposal Format

Proposal Section	Content
Section 1	Letter of Intent
Section 2	Company History and Ownership
Section 3	Statement of Organization
Section 4	Company Experience
Section 5	Proof of Satisfaction of Preferred Minimum Requirements
Section 6	Method of Approach
Section 7	Required Planning Documents
Section 8	Financial Capacity
Section 9	Key Personnel
Section 10	Contractor's Representative
Section 11	Financial Statement
Section 12	Financial Capacity
Section 13	Financial Disclosure and Auditing
Section 14	Litigation, Regulatory Actions, and Payment of Liquidated Damages History
Section 15	Compliance Records
Section 16	Certificate of Insurability
Section 17	Acknowledgement of Addenda
Section 18	Non-Collusion Agreement
Section 19	Conflicts of Interest
Section 20	Suspension or Debarment
Section 21	Exceptions
Section 22	Financial Proposal
Section 23	All Other Forms

7.5 Letter of Intent

The Letter of Intent shall be signed by the person authorized to sign the Proposal and shall:

A. Be presented on company letterhead
B. Identify the submitting organization

C. Identify the name, title, contact number, email address and physical address of the person to be contacted during the RFP process
D. Identify any subcontractors to be utilized

Additionally, the Letter of Intent shall include the following statements:

A. Proposal Binding for One Hundred Eighty (180) Days. The proposal shall be binding for one hundred eighty (180) days pursuant to Section 5.8. Each proposal shall contain a statement that the proposal is a firm offer for a one hundred eighty (180) calendar day period from the Proposal Opening Date specified in Section 5.1 of the RFP.
B. Representation as to Accuracy and Completeness of Proposal. “The information contained in this Proposal or any part thereof, including exhibits, schedules, and other documents and instruments delivered or to be delivered to the City, are true, accurate, and complete to the Proposer’s knowledge. This proposal includes all information necessary to ensure that the statements herein do not in whole or in part mislead the City as to any material facts.”

7.6 Company History and Ownership

In addition to the information provided in the Letter of Intent, Proposers shall provide a brief overview of company history and current ownership in narrative form. If owned by a private equity or investment firm, please provide the name of the private equity or investment firm and when the operating entity was acquired. All subcontractors must be identified, including the role of each subcontractor.

7.7 Statement of Organization

Proposer must complete the Statement of Organization Form (Form 1). Proposers are permitted to supply additional information that will assist the City in understanding the Proposer’s organization.

7.8 Company Experience

Proposer shall briefly describe in narrative format the Proposer’s experience that is relevant to each Service(s). The Proposer shall communicate their company background and history, with a specific focus on history in Glenn Heights, Dallas County, Ellis County, DFW Metroplex area and Texas along with how they plan to meet the needs of a municipality experiencing fast-paced growth.

7.9 Proof of Satisfaction of Minimum Requirements

Proposers shall meet the following minimum requirements to be considered for Contract Award.

A. Ability to Acquire Letter of Credit or Performance Bond. Proposers shall submit with their qualification package a proof of the ability to acquire a Letter of Credit and/or Performance Bond that meets or exceeds the requirements set forth herein and in Section 40.0 of the Draft Agreement. The surety shall be duly authorized to do business in the State of Texas; having an “A” or better rating by

A. M. Best or Standard and Poor's; included on the list of surety companies approved by the Treasurer of the United States of America as reflected on Department of the Treasury Circular 570; and acceptable to the City.

B. Minimum Experience. Proposers shall provide information on Form 2 demonstrating successful experience providing solid waste and recycling services that meets the following minimum requirements.

B.1 Residential Collection Services: The Proposer shall submit the following information

- **a)** References from at least three (3) current or previous municipal customers served for a period of at least two years each.
- **b)** References from municipal customers serving at least 6,000 households in total.
- **c)** At least one reference from a single municipal customer with 6,000 households or more.

For each reference, the Proposer shall provide the following information

- **a)** Name and location of community
- **b)** Number of households served
- **c)** Dates of service and contract expiration date
- **d)** Description of services provided

B.2 Commercial Collection Services: The Proposer shall submit the following information

- **a)** References from at least three current or previous municipal customers where Commercial Collection Services have been provided for at least 2 years.

For each reference, the Proposer shall provide the following information

- **a)** Name and location of community
- **b)** Dates of service and contract expiration date
- **c)** Number of Commercial Service accounts
- **d)** Annual number of pulls
- **e)** Description of services provided

7.10 Method of Approach

Proposers must provide the following information for each Service included in the Proposal.

7.10.1 Service Plan

As further described in Section 3.3, the City of Glenn Heights currently provides Residential Collection Services to approximately 6,439 single-family residences, with the City expected to increase population by another 10,000 residents within the next 10

to 15 years. Proposers shall provide a service plan outlining the estimated staffing requirements and numbers and types of collection vehicles, Carts, Front Load Containers and Roll-Off Containers required to provide the following Services in the first year of the Agreement and in annual increments for a maximum total Agreement Term of 12 years.

A. Residential Trash
B. Residential Recycling
C. Yard, Brush, and Bulky Waste
D. Commercial Trash
E. Commercial Recycling
F. Household Hazardous Waste – Opt-In

At minimum, the service plan shall provide estimates of following information.

- The initial number and type of Collection vehicles and other equipment required to perform the services.
- Number of personnel needed for each collection crew to conduct each service.
- Equipment and collection vehicles that will be utilized to provide collection in alleys.
- Number of front line and spare vehicles to be used to perform each service.
- Sizes and location of facilities where equipment will be stored and maintained.
- Any future equipment to be acquired and a detailed timeline for acquisition of new equipment to accommodate future growth.
- Plan to manage potential on-demand Yard, Brush, and Bulky Wate scheduling requests
- Ability to increase collection capacity of Yard, Brush, and Bulky waste during peak activity periods

7.10.2 Yard Waste and Brush Collection

Proposer shall describe the approach to potentially mulching or composting Yard Waste and Brush materials if feasible at proposers location and at no additional cost to the City, city residents or commercial customer within the city. Composting or mulching the Yard Waste and Brush material is not a requirement, but a preference for the City to enhance diversion efforts.

7.10.3 Residential Household Hazardous Waste Collection

Proposer shall describe the approach to providing optional Household Hazardous Waste Services. Descriptions shall include the following.

A. Identification of all material to be collected. Proposer shall collect, at a minimum, the material defined as Program Household Hazardous Waste in the Agreement.
B. Proposer shall identify any additional materials that can be collected as part of Program Household Hazardous Waste at minimal additional cost.
C. Proposer shall describe approach to collecting Program Household Hazardous Waste including service frequency, scheduling, and collection procedures.

D. Proposer shall describe approach to processing materials that can be collected as part of the Program Household Hazardous Waste service.

7.10.4 Delivery Facilities

Proposers shall identify each Disposal Site, Processing Facility, or transfer station to be used for the performance of Services under the Agreement and provide the following information.

A. Name, location, and description of the facility and type of materials that will be managed at the location.
B. Name of owner and operator of the facility(ities), identifying whether the company that owns and/or operates the facility is the same as the Proposer, a related-party entity, or subcontractor.
C. Contact name and phone number of the site manager.
D. Term of the Proposer's contract with the facility.
E. If the facility is owned and operated by the Proposer, provide a guarantee to the capacity required over the term of any Agreement developed as a result of this RFP. If the facility is not owned and operated by the Proposer, provide a letter from the facility owner and operator that documents their commitment to provide the processing services proposed and guaranteeing the capacity required over the term of the Agreement. If the capacity guaranteed to the City relies on development of a new facility or expansion of an existing facility, describe the development or expansion plans, additional capacity to be constructed, schedule for development/ expansion, and permitting status of the development/expansion plan.

7.10.5 Collection Vehicles

Proposer shall meet the collection equipment requirements as set forth in Section 21.0 of the Agreement. Proposer shall provide a description of all collection vehicles for each Collection Service on a material-by-material basis (e.g., indicate the number of collection vehicles for each separate material collected as part of Residential Collection Services and Commercial Collection Services). Descriptions shall include:

A. Make, model, age, and fuel type of each proposed vehicle. Photos of each type of vehicle should be included.
B. Proposed maintenance program and maintenance facility for all collection Vehicles used to perform services, including a proposed frequency of cleaning vehicles.
C. Proposed location for vehicle storage and fueling.
D. All proposed on-board equipment and systems for collection vehicles to maintain with compliance with the requirements described in Section 21.5 of the Agreement. Proposer shall describe all proposed on-board equipment and systems for collection vehicles, including, but not limited to, internet, GPS, communication systems, spill kit, back-up cameras, and other equipment and systems.

The Proposer shall describe the fuel type of each type of collection vehicle proposed for use and its approach to providing and maintaining any alternative-fueled vehicles.

7.10.6 Residential Collection Schedule and Route Maps

The Proposer shall include proposed route descriptions, schedules, and maps on a material-by-material basis for Residential Collection Service (e.g. indicate the routing for each separate material). The City has a strong preference for residents to maintain the same routing schedule and collection days for residential customers throughout the City. However, the City's primary goal is to provide cost-effective services.

Proposers must identify whether any residential households would have a change in collection days on a material-by-material basis, approximately how many households would be impacted by a change in collection days and provide a detailed description of public education efforts to communicate route changes to impacted residents on a material-by-material basis.

7.10.7 Cart Maintenance

Proposers shall provide the description and address of the planned location where Carts will be managed and maintained. Proposers shall indicate how they will meet the cart maintenance service requirements by providing the following:

- **A.** Description of the Proposer's service capabilities and the service capabilities of any sub-contractors.
- **B.** Detailed description of the process for managing, maintaining, repairing and replacing Carts including any equipment that will be utilized.
- **C.** Description of inspection and quality control policy and procedures
- **D.** Indicate the name and address of the location where Carts that reach the end of their useful lives will be recycled.
- **E.** Description of the Proposer's service capabilities for annual cart washing service provided.

7.10.8 Personnel

Proposer shall meet the personnel standards as set forth in Section 30.2 of the Agreement. Proposer shall describe the following:

- **A.** Number of front line and spare staff to be used to perform each service.
- **B.** Policies and procedures that are in place to ensure that personnel performing services are qualified and proficient.
- **C.** Any training programs for personnel.
- **D.** Dress code that is required for personnel.
- **E.** Procedure for hiring personnel to ensure continuity of service, particularly during labor shortages.

7.10.9 Unaccepted Set-outs

Proposer shall describe its approach to managing Unaccepted Set Outs in accordance with Section 24.0 of the Agreement including a detailed description of its processes for managing and completing work orders.

7.10.10 Missed Collection

Proposer shall describe its approach to documenting and verifying Missed Collection in accordance with Section 25.0 of the Agreement, including a detailed description of its processes for acknowledging Missed Collection reported by the City, servicing Service Units that have reported a Missed Collection, and working with the City identify if any Service Units are in violation of any set-out requirements.

7.10.11 Storm and Disaster Debris

Proposers shall describe its approach to provide sufficient personnel and equipment to collect increased volumes of storm debris material generated including:

- **A.** Any required additional collection crews and equipment to manage surges in volume. Provide information on the additional resources that would be anticipated on a material-by-material basis (e.g., Yard Waste and Brush and Bulky Waste).
- **B.** Engaging a sub-contractor and the number of personnel and equipment that each sub-contractor would provide on a material-by-material basis.
- **C.** Any other approaches to managing surges in volume on a material-by-material basis.
- **D.** Non-Declaration major weather events, Proposer shall collect unlimited brush in four (4) cubic yards at no additional cost to city, resident or commercial customer within five (5) business days of weather event

7.10.12 Program Recyclable Materials to be Collected

Proposer shall confirm they will collect, at a minimum, all Program Recyclable Materials as defined in Section 2.0 of the Agreement and shall identify any additional materials that can be collected as a part of the Collection Services at no additional cost (e.g., dedicated cardboard collection) or other materials that may be collected at no additional cost (e.g., metals outside of Cart).

7.10.13 Customer Service and Communication

Proposers shall include a description of customer service policies and procedures, including the following:

- **A.** Description of customer complaint resolution procedures.
- **B.** Plan describing the Contractor’s approach to recruiting, training, equipping, supporting, and supervising the Customer Service Liaison (Section 6.13 of the RFP) and a description of their role and responsibilities.
- **C.** Description of communication plan with City staff regarding status and resolution of customer complaints.
- **D.** Use of on-board technology as part of customer service and communications.

The Proposers shall describe the means of communication proposed to be utilized for customer communications (submittal by customer and response and resolution by Proposer) including:

- **A.** Customer complaints

B. Customer inquiries
C. Customer service requests

7.10.14 Cart Purchase Service

Proposers shall provide the following information related to Cart Purchase Services.

A. A description of the Carts to be purchased by the Proposer if the City elects for the Proposer to purchase Carts, including, at minimum, the manufacturer, capacity, color options, and methods of affixing the City logo
B. Photos of the proposed Carts
C. Documentation demonstrating compliance with the minimum specifications in Section 22.8 of the Agreement
D. Procedure for obtaining a sample of the proposed Carts if requested by the City
E. Approach to minimize damage to Carts
F. Standard delivery time
G. Required lead time for color selections, graphics or other options
H. Minimum order size, if applicable
I. Warranty information
J. Estimated initial order size and scheduling of future orders

7.11 Financial Statements

Proposer shall furnish a copy of the Proposer's most recent audited financial statement. If in the event the Proposer does not have an audited financial statement, Proposer may substitute non-audited financial statements and complete federal tax returns for the last two (2) years.

If the Proposer intends to purchase Vehicles or equipment or construct a Facility to provide one or more Service(s), the Proposer shall provide proof of financial capacity to provide the vehicles, equipment or facility that meet(s) the minimum requirements of the Agreement.

The proof provided will be at the discretion of the Proposer but must clearly demonstrate the capacity to develop and maintain adequate working capital. The information provided should show both financial resources and a history of strong financial profit and loss performance, indicating the capacity to repay debt. The Proposer should, at a minimum, include the following information:

A. Planned source(s) of funds for the project, including all debt and equity and approximate allocations from each source.
B. Summary financial statements for the operating entity that will develop and operate this project (do not submit annual reports for publicly traded parent companies).
C. Disclosure of whether the Proposer has filed bankruptcy or defaulted on any loans.
D. Letters of support from lenders or other financial partners, including guarantees from parent companies if a parent company will be providing equity for the project.

E. Dun & Bradstreet Credit Report

If the Proposer intends to develop one or more facilities to provide one or more Service(s), they should include a cost estimate broken out by the following categories:

A. Site work and utilities.
B. Facility building.
C. Other buildings (if applicable).
D. Processing equipment.
E. Rolling stock.

7.12 Required Planning Documents

A. Transition Plan(s). Proposer shall describe its proposed strategies to ensure smooth transitions at the start and end of the Agreement. The proposed Transition Plan is of critical importance to the City and must include information for each area of service. In the transition plan, the Proposer must describe, at a minimum, the following:

A. 1 Individual or group of individuals that will oversee the execution of the transition plan.

A. 2 Approach to acquisition of equipment and personnel, training of personnel, etc. The transition plan should include all permitting, construction and commissioning activities, as well as equipment installation and testing, as applicable.

A. 3 Approach to storage and fueling of vehicles and equipment.

A. 4 Confirmation of the Commencement Date for each Service.

A. 5 Approach to customer education regarding transition of service provider and changes to existing or introduction of new Residential Services.

A. 6 Overall schedule for the transition.

B. Contingency Plan(s). Proposers shall describe proposed Contingency Plan(s) to ensure adequate continuity of each Service. Contingency Plan(s) shall meet the requirements of Section 32.1 of the Agreement and must describe, at a minimum, the following for each Service individually:

B. 1 The Contingency Plan if any facility utilized under any Agreement resulting from this RFP falls behind schedule and fails to meet the City's schedule requirement. The City requires that the Proposer be ready to accept any material collected via the City's Collection Service starting on the Commencement Date.

B. 2 The Contingency Plan if any vehicles or equipment experience unplanned downtime, including the capability of providing back-up vehicles or equipment and the capacity to ensure continuity of service in a timely manner and at no added cost to the City.

B. 3 The Hazardous Waste and Special Waste Contingency Plan to detail what actions shall be taken upon discovery of this material type at a facility.

C. Recordkeeping and Reporting Plan(s). Proposer shall provide a Recordkeeping and Reporting Plan describing how it will create and maintain records and reports. Proposer shall provide one or more sample report formats with the Proposal.

D. Fire Prevention Plan(s). Proposer shall provide a Fire Prevention Plan for all Services.

7.13 Key Personnel

Proposer shall provide an organization chart for key personnel and job descriptions indicating the qualifications and experience of key personnel the Proposer would assign to the transition team and to the ongoing management of the services provided under any Agreement developed as a result of this RFP. For positions that are currently unfilled, identify minimum qualifications for that position. Specify the amount of time each individual will be dedicated to work on the contracted for services. Provide one-page résumés, names, and phone numbers of municipal references of the key proposed management team members. In addition, please describe the level of experience and/or familiarity that each of the key personnel have with the City, whether personal or professional. At a minimum, key personnel shall include general manager, operations manager, maintenance manager and other personnel that will have regular contact with the City.

7.14 Contractor's Representative

Identify Contractor's Representative who will be in charge of the Proposer's operations under any Agreements(s) developed as a result of this RFP and who is authorized to make decisions and act on its behalf. Provide a brief description of a communications plan between Proposer and City including expected frequency of in-person coordination meetings and other forms of regular communications.

7.15 Legal Terms and Conditions

7.15.1 Financial Disclosure and Auditing

By submitting a Proposal the Proposer acknowledge the recordkeeping and reporting requirements described in the Draft Agreement and recognizes the right of the City to require such records be made available to the City for a period of five (5) years after last or final payment.

7.15.2 Litigation, Regulatory Actions, and Liquidated Damages History

Proposer shall describe any outstanding lawsuits in State within the United States of America during the last five (5) years, current litigation with the City during the last five (5) years and any outstanding regulatory issues in the last five (5) years involving the Proposer, the Proposer's subcontractor(s), and all subsidiaries owned by Proposer. List the amount of liquidated damages or other damages that were paid, the name of the

jurisdiction to which such damages were paid, and the event(s) that triggered the damages.

7.15.3 Compliance Records

Proposer shall submit copies of all notices of violations, corrective action notices, enforcement actions or orders, warning notices, or other forms of permit violation/non-compliance documentation that the Proposer and Proposer's subcontractor(s) received in the past five years (5) from public agencies for vehicles and other equipment, and vehicle staging, maintenance, recyclables processing, composting, mulching, transfer, and disposal facilities in Texas, which are owned or operated by the Proposer, Proposer's subcontractor(s), or Proposer's parent company and subsidiaries. In addition, provide a statement disclosing any and all fines, penalties, settlements, or damages of any kind paid by Proposer, Proposer's subcontractor(s), Proposer's parent company and subsidiaries, to public agencies in the past five (5) years.

Additionally, identify any agreements in the past five (5) years that have ended prior to the expiration date as they relate to services under the Agreement that involve the Proposer, Proposer's subcontractor(s), or Proposer's parent company and subsidiaries due to any of the following reasons:

A. Assignment of the agreement to another vendor;
B. Termination of the agreement;
C. Mutual agreement with the customer to discontinue service; and/or
D. Any other reason.

7.16 Financial Proposal

Proposers shall complete the Financial Proposal (Form 3) to provide the City with the proposed Contract Rates for each Service. The Contract Rates shall be inclusive of all labor, materials, equipment, taxes, fees, or any other costs whatsoever that are necessary to meet the requirements included in this RFP and shall be the Contractor's sole basis of compensation under any Agreement resulting from this RFP.

The current contract provides an annual cash contribution to the City of at least $27,000. The Proposer shall provide an annual cash contribution of at least $27,000 to the City for the entire term of the contract by May 31 of each year, adjusted annually based on the Cost Adjustment terms.

7.17 Forms

Proposers must complete and submit Forms 1-10 with their Proposals, providing signatures where requested. Failure to submit any of the required forms may result in rejection of the Proposal. Please place N/A in a blank if you are unable to provide a response. Proposer may provide an alternate response to collection frequency and pricing if unable to provide a response in the format requested.

Forms

Form 1

Statement of Organization

Proposer Name: _____

Full Name of Business: _____

Type of Corporate Entity: _____

Tax ID: _____

Principal Business Adress: _____

_____

_____

Local Business Address: _____

(if applicable) _____

Contact Name: _____Title: _____

Telephone Number: _____ Email Address: _____

Authorized Representative(s)

Provide the names of authorized representative(s) of the Proposer who has legal authority to bind the Proposer in contractual obligations:

_____

_____

_____

Subcontractor(s)

List all subcontractors participating on this proposal

Name	Address	Area of Responsibility

Cooperative Purchasing

Is the Proposer willing to allow other governmental entities to purchase goods and services on the same terms and conditions as contained in any Agreement resulting from this RFP in accordance with Chapter 791 of the Texas Government Code and Section 4.15 of the RFP?

Yes: ☐ **No:** ☐

Form 2

Project References and Experience

Form 2A: Residential Collection References and Experience

Part A: References

Proposer shall furnish the following information for at least three (3) active Residential Collection Service customers as described in Section 7.9.

Proposer's Name _____

1. Community Name _____
   Name of Contract _____
   Title of Contract _____
   Present Address _____
   City, State, Zip Code
   _____
   Telephone Number _(_____)_____
   Email Address _____

2. Community Name _____
   Name of Contract _____
   Title of Contract _____
   Present Address _____
   City, State, Zip Code
   _____
   Telephone Number _(_____)_____
   Email Address _____

3. Community Name _____
   Name of Contract _____
   Title of Contract _____
   Present Address _____
   City, State, Zip Code
   _____
   Telephone Number _(_____)_____
   Email Address _____

Part B: Experience

Proposers may copy this form and submit as many as applicable based on the references provided in Form 2A, Part A.

Experience Information:

Name of Community: _____

Location: _____

Experience Overview:

Dates of Service: _____

Contract End Date: _____

Number of Residential Units Served: _____

Additional Experience / Project Description:

Blank sheets with continued additional experience / project descriptions, drawings or photos may be included as attachments to this form.

Form 2B: Commercial Collection References and Experience

Part A: References

Proposer shall furnish the following information for at least three (3) active Residential Collection Service customers as described in Section 7.9.

Proposer's Name _____

1. Community Name _____

   Name of Contract _____

   Title of Contract _____

   Present Address _____

   City, State, Zip Code

   _____

   Telephone Number _(_____)_____

   Email Address _____

2. Community Name _____

   Name of Contract _____

   Title of Contract _____

   Present Address _____

   City, State, Zip Code

   _____

   Telephone Number _(_____)_____

   Email Address _____

3. Community Name _____

   Name of Contract _____

   Title of Contract _____

   Present Address _____

   City, State, Zip Code

   _____

   Telephone Number _(_____)_____

Email Address _____

Part B: Experience

Proposers may copy this form and submit as many as applicable based on the references provided in Form 2A, Part A.

Experience Information:

Name of Community: _____

Location: _____

Experience Overview:

Dates of Service: _____

Contract End Date: _____

Number of Residential Units Served: _____

Additional Experience / Project Description:

Blank sheets with continued additional experience / project descriptions, drawings or photos may be included as attachments to this form.

FORM 3

FINANCIAL PROPOSAL

All fees proposed in Forms 3 are based on a five (5) year initial term for the Contract. Form 4 will allow all Proposers to identify the discount if the City elects a seven (7) initial term for the Contract.

Form 3A: Residential Trash Collection

This form is provided for Proposers to indicate unit prices for once a week and twice a week Residential Trash Collection as further described in Section 6.14. All prices exclude Cart purchase and include Cart set-up, storage, delivery, exchange, and maintenance costs in accordance with RFP Section 6.31. All pricing shall include Collection, Processing, and Disposal and exclude franchise fees.

Table 3A.1: Residential Trash Collection, Once per Week and Twice per Week

Services	Cart Size	Proposed Fee	Unit
1. Once a Week Trash Collection Senior Base Fee 1	64-gallon	$	Per Residential Service Unit per Month
2. Once a Week Trash Collection Base Fee 1	96-gallon	$	Per Residential Service Unit per Month
3. Twice a Week Trash Collection Senior Base Fee 1	64-gallon	$	Per Residential Service Unit per Month
4. Twice a Week Trash Collection Base Fee 1	96-gallon	$	Per Residential Service Unit per Month
5. Additional Trash Cart Fee 2	64-gallon	$	Per Additional Cart per Month
6. Additional Trash Cart Fee 2	96-gallon	$	Per Additional Cart per Month

7. Replacement Trash Cart Fee 3	64-gallon	$	Per Replacement Cart
8. Replacement Trash Cart Fee 3	96-gallon	$	Per Replacement Cart

1. Proposer shall indicate base monthly fee for once per week and twice per week one (1) Residential Trash Cart per Residential Service Unit or one (1) Senior Residential Service Unit as described in Section 6.14 of the RFP. Includes Cart storage, maintenance, monthly Trash Collection, hauling, and Disposal at a Disposal Site provided by the Contractor. Excludes Cart purchase and initial delivery, which is entered separately on Form 3G.
2. Proposer shall indicate the monthly fee to provide weekly Trash Collection for each Cart in addition to one (1) base Cart per Residential Service Unit. Includes Cart storage, maintenance, Collection, hauling and Disposal at the Contractor's landfill. Excludes Cart purchase and initial delivery which is entered on Form 3G.
3. One-time cost to assemble and deliver one (1) Trash Cart to replace a Cart damaged by the customer and remove and repair or dispose of the damaged Cart. Excludes ongoing monthly collection, Disposal, and maintenance costs for the replacement Cart.

Form 3B: Residential Recycling Collection

The Proposer shall enter pricing on this form for Residential Recycling Collection, which includes once per week and twice per week curbside collection of commingled Recyclable Materials and Processing at a Recyclable Material Facility provided by the Contractor as further described in Section 6.15. All pricing shall include Collection, Processing, and Disposal and exclude franchise fees.

Table 3B.1: Residential Recycling Collection

Service	Proposed Fee	Unit
1. Once per Week Recycling Collection Senior 64-Gallon Base Fee 1	$	Per Service Unit per Month
2. Once per Week Recycling Collection 96-Gallon Base Fee 1	$	Per Service Unit per Month
3. Twice per Week Recycling Collection Senior 64-Gallon Base Fee 1	$	Per Service Unit per Month
4. Twice per Week Recycling Collection 96-Gallon Base Fee 1	$	Per Service Unit per Month
5. Additional Recycling Cart Senior 64-Gallon Fee 2	$	Per Additional Cart per Month
6. Additional Recycling Cart 96-Gallon Fee 2	$	Per Additional Cart per Month
7. Replacement Recycling Cart Senior 64-Gallon Fee 3	$	Per Replacement Cart
8. Replacement Recycling Cart 96-Gallon Fee3	$	Per Replacement Cart

1. Proposer shall indicate base monthly unit cost for once per week and twice per week Residential Recycling Collection for one (1) Cart per Residential Service Unit and one (1) Cart per Senior Resident as described in Section 6.15 of the RFP. Includes Cart storage, maintenance, Collection, hauling and Processing at a licensed facility selected by the Proposer. Excludes Cart purchase and initial delivery which is entered on Form 3G.
2. Additional Recycling Cart Rate includes monthly Residential Recycling collection cost for each Cart in addition to one (1) base Cart per Residential Service Unit and one (1) Cart per Senior Resident as described in Section 6.15 of the RFP. Includes Cart storage, maintenance, Collection, hauling and Processing at a licensed facility selected by the Proposer. Excludes Cart purchase and initial delivery which is entered on Form 3G.
3. One-time cost to assemble and deliver one (1) Recycling Cart to replace a Cart damaged by the customer and remove and repair or dispose of the damaged Cart. Excludes ongoing monthly collection, Processing, and maintenance costs for the replacement Cart.

Form 3C: Residential Yard, Brush, and Bulky Waste Collection

This form is provided for Proposers to indicate unit prices for Residential Yard, Brush, and Bulky Waste Collection and Additional Yard, Brush, and Bulky Waste Collection as further described in Section 6.16 and Section 6.17.

Proposers are required to enter unit pricing for all options. All pricing shall include Collection, Processing, and Disposal and exclude franchise fees.

Table 3C.1: Residential Yard, Brush, and Bulky Waste Collection

Service	Proposed Fee	Unit
1. Weekly Collection Fee 1	$	Per Residential Service Unit per Month
2. Monthly Collection Fee 1	$	Per Residential Service Unit per Month
3. Quarterly Collection Fee 2	$	Per Residential Service Unit per Quarter
4. Collection By Appointment	$	Per Residential Service Unit per Appointment
5. Contractor's Price for Additional Yard, Brush, and Bulky Waste Collection per Section 6.17. Fee 3	$	Per each collection in excess of program limits up to four (4) Cubic Yards per additional collection
6. Contractor's Price for Collection of Freezers and Refrigerators Fee 3	$	Per each unit
7. Contractor's Price for Collection of Tires Fee 3	$	Per each unit

1. Monthly fee per Residential Service Unit for once-per-week, once-per-month, once-per-quarter Curbside Collection of up to four (4) cubic yards of Bulky Waste including hauling and disposal at Contractor's landfill site.
2. Quarterly fee per Residential Service Unit for Curbside Collection of up to twelve (12) cubic yards of Bulky Waste including hauling and disposal at Contractor's landfill site.
3. Per Appointment fee per Residential Service Unit for up to four (4) Bulky Waste Curbside Collections per unit per year on a by-appointment basis. Up to four (4) cubic yards per Collection. Fee includes Collection, hauling and disposal at Contractor's landfill site.

Form 3D: Residential Household Hazardous Waste Collection Service

Proposers shall use this form to enter their proposed pricing for Household Hazardous Waste Collection Service as further described in RFP Section 6.18. All pricing shall include Collection, Processing, and Disposal and exclude franchise fees. This service is at the City's option and optional for Proposers.

Table 3D.1: Residential Household Hazardous Waste Collection Service

Service	Proposed Fee	Unit
1. Opt-In Weekly Fee 1	$	Per Service Unit Per Month
2. Opt-In Monthly Fee 1	$	Per Service Unit Per Month
3. Opt-In Quarterly Fee 1	$	Per Service Unit Per Month
4. Annual HHW Collection Fee 2	$	Per Event
5. On-going HHW drop-off at collection Fee 3	$	Per Residential Service Unit per Month
6. Holiday Grease and Oil Collection	$	Per Residential Service Unit Drop Off Only

1. Opt-In Weekly, Monthly, Quarterly fee per Residential Service Unit to provide on-going HHW at residential location. Fee includes Collection and Processing at a Processing Facility provided by the Contractor.
2. Fee per Event to provide one annual HHW Collection Event. Fee includes Collection, Hauling, and Processing at a Processing Facility provided by the Contractor.
3. Monthly fee per Residential Service Unit to provide on-going HHW drop-off at the Contractor's collection site. Fee includes Collection and Processing at a Processing Facility provided by the Contractor.

Form 3E: Commercial Trash Collection Service

This form is provided for Proposers to enter unit prices for Commercial Trash Collection as further described in RFP Section 6.19. All prices include Collection and exclude franchise fees. All prices include Disposal. All prices for Cart-based services exclude Cart purchase and include Cart set-up, storage, delivery, exchange, and maintenance costs in accordance with RFP Section 6.31. See additional details in the footnotes for each form, if applicable. All pricing shall include Collection, Processing, and Disposal and exclude franchise fees.

Form 3E.1: Commercial Trash Cart Collection Service

Service	Proposed Fee	Unit
1. One (1) Commercial Trash Cart collected once per week	$	Per Month
2. Additional Commercial Trash Carts collected once per week	$	Per Additional Cart per Month
3. Cart Replacement Fee	$	One-time Fee per Replacement Cart
4. Additional Yard, Brush, and Bulky Waste Collection	$	One-time Fee per Cubic Yard

Form 3E.2: Commercial Trash Collection Service, Front Load

Container Type	Monthly Cost Per Container					
	Collection Per Week					
	1	2	3	4	5	6
2 CY	$	$	$	$	$	$
4 CY	$	$	$	$	$	$
6 CY	$	$	$	$	$	$
8 CY	$	$	$	$	$	$
10 CY	$	$	$	$	$	$
2 CY Compactor	$	$	$	$	$	$
4 CY Compactor	$	$	$	$	$	$
6 CY Compactor	$	$	$	$	$	$
8 CY Compactor	$	$	$	$	$	$

Form 3E.3: Unscheduled Commercial Front Load Trash Collection

Container Type	Fee Per Unscheduled Collection
2 CY	$
4 CY	$
6 CY	$
8 CY	$
10 CY	$
2 CY Compactor	$
4 CY Compactor	$
6 CY Compactor	$
8 CY Compactor	$

Form 3E.4: Commercial Trash Roll Off Service

Roll Off Type and Size	Container Rental Fee (Per Month)	Initial Delivery Fee (One - time)	Fee Per Collection	Disposal Fee (Per Ton)
20 CY Uncompacted	$	$	$	$
30 CY Uncompacted	$	$	$	$
40 CY Uncompacted	$	$	$	$
15 CY Compacted	$	$	$	$
20 CY Compacted	$	$	$	$
30 CY Compacted	$	$	$	$
35 CY Compacted	$	$	$	$
40 CY Compacted	$	$	$	$
45 CY Compacted	$	$	$	$

Form 3F: Commercial Recycling Collection Services

This form is provided for Proposers to enter unit prices for Commercial Recycling Collection as further described in RFP Section 6.19. All prices include Collection and exclude franchise fees. All prices include Processing of Program Recyclable Materials at a facility provided by the Contractor. All prices for Cart-based services exclude Cart purchase and include Cart set-up, storage, delivery, exchange, and maintenance costs in accordance with RFP Section 6.31. See additional details in the footnotes for each form, if applicable. All pricing shall include Collection, Processing, and Disposal and exclude franchise fees.

Form 3F.1: Commercial Recycling Cart Collection Service

Service	Proposed Fee	Unit
1. One (1) Commercial Recycling Cart collected once per week	$	Per Month
2. Additional Commercial Recycling Carts collected once per week	$	Per Additional Cart per Month
3. Cart Replacement Fee	$	One-time Fee per Replacement Cart

Form 3F.2: Commercial Recycling Collection Service, Front Load

Container Type	Monthly Cost Per Container					
	Collection Per Week					
	1	2	3	4	5	6
2 CY	$	$	$	$	$	$
4 CY	$	$	$	$	$	$
6 CY	$	$	$	$	$	$
8 CY	$	$	$	$	$	$
10 CY	$	$	$	$	$	$
2 CY Compactor	$	$	$	$	$	$
4 CY Compactor	$	$	$	$	$	$
6 CY Compactor	$	$	$	$	$	$
8 CY Compactor	$	$	$	$	$	$

Form 3F.3: Unscheduled Commercial Front Load Recycling Collection

Container Type	Fee Per Additional Collection
2 CY	$
4 CY	$
6 CY	$
8 CY	$
10 CY	$
2 CY Compactor	$
4 CY Compactor	$
6 CY Compactor	$
8 CY Compactor	$

Form 3F.4: Commercial Recycling Roll Off Service

Roll Off Type and Size	Container Rental Fee (Per Month)	Initial Delivery Fee (One - time)	Fee Per Collection	Disposal Fee (Per Ton)
20 CY Uncompacted	$	$	$	$
30 CY Uncompacted	$	$	$	$
40 CY Uncompacted	$	$	$	$
15 CY Compacted	$	$	$	$
20 CY Compacted	$	$	$	$
30 CY Compacted	$	$	$	$
35 CY Compacted	$	$	$	$
40 CY Compacted	$	$	$	$
45 CY Compacted	$	$	$	$

Form 3G: Optional Cart Purchase Services

The Proposer shall enter pricing on Form 3G.1 for Optional Cart Purchase Services as further described in Section 6.20. All fees entered in Form 3G.1 include the cost of ordering and purchase of new Carts, set up and application of logos, labels, or imprinting as requested by the City and initial distribution to Residential Service Units, Commercial Customers, and City Facilities. Excludes cost of ongoing cart management, maintenance, repairs, and exchanges which is included in the monthly collection fees on Form 3A, Form 3B, Form 3E.1, and Form 3E.1. All pricing shall include Collection, Processing, and Disposal and exclude franchise fees.

Form 3G.1: Contractor Purchase of New City-Owned Carts

Service	Proposed Fee	Unit
Option 1: Contractor purchase of new City-owned Carts. City retains Carts at the end of the Agreement Term.	$	One-time fee per Cart payable when a new Cart is delivered to a customer.
Option 2: Carts purchased and owned by Contractor and retained by Contractor at the end of the Agreement Term.	$	Monthly fee per total Cart cost over five (5) years.

On Form 3G.2, the Proposer shall enter the proposed fee for the Contractor to assemble and distribute Carts purchased by the City directly from the manufacturer on behalf of the City at the City's request. Distribution of Carts purchased directly by the City is an optional service, and the City may elect to contract with the manufacturer for Cart distribution without further obligation to the Contractor at its sole discretion.

Form 3G.2: Optional Distribution of City-Purchased Carts

Service	Proposed Fee	Unit
Distribution of City-Purchased Carts at City's request	$	One-time fee payable upon initial assembly and distribution of Carts to Residential Service Units, Commercial Customers, and City Facilities at Service Commencement.

Form 3H: City Events and Special Projects

This form is provided for Offerors to indicate unit prices for Event and Special Projects as described in Section 6.22. Offerors are required to enter proposed unit Contract Rates or state if services are provided as in-kind donations for all items. All unit rates include Processing of Program Recyclable Material and include Disposal. All pricing shall include Collection, Processing, and Disposal and exclude franchise fees. This service is optional.

Rear Load Rental[1]

Material Type	Rear Load Rental Fee (Per Hour)	Disposal Fee (Per Ton)
Trash	$	$
Recycling	$	$

1. Rear Load Rental is inclusive of driver, fuel, hauling to processing facility and other incidental costs. Driver must remain with the vehicle.

Trash Containers

Container Type and Size	Container Rental Fee (Per Day)	Initial Delivery Fee (One-Time)	Fee Per Collection	Disposal Fee (Per Ton)
96 – Gallon Cart	$	$	$	$
6 CY Dumpster	$	$	$	$
8 CY Dumpster	$	$	$	$
20 CY Roll-Off Uncompacted	$	$	$	$
30 CY Roll-Off Uncompacted	$	$	$	$
40 CY Roll-Off Uncompacted	$	$	$	$

1. Rear Load Rental is inclusive of driver, fuel, hauling to processing facility and other incidental costs

Recycling Containers

Container Type and Size	Container Rental Fee (Per Day)	Initial Delivery Fee (One-Time)	Fee Per Collection	Disposal Fee (Per Ton)
96 – Gallon Cart	$	$	$	$
6 CY Dumpster	$	$	$	$
8 CY Dumpster	$	$	$	$
20 CY Roll-Off Uncompacted	$	$	$	$
30 CY Roll-Off Uncompacted	$	$	$	$
40 CY Roll-Off Uncompacted	$	$	$	$

FORM 4

DISCOUNT FOR 7 YEAR INITIAL TERM FOR CONTRACT

In Form 3 fees were based on a five (5) year initial term for the Contract. The City is considering an initial term of seven (7) years. To understand whether it is in the best interest of the City and Customers to have an initial term of seven (7) years, the City requests Proposers to identify the discount to be applied to all fees in Form 3 the city elects seven (7) initial terms: _____%.

FORM 5

ANNUAL FINANCIAL CONTRIBUTION

This form is provided for Offerors to indicate unit prices for an annual financial contribution as described in Section 6.22. Offerors are required to enter a proposed annual financial contribution of at least $27,000: _____.

Form 6

CERTIFICATE OF INSURABILITY

I hereby certify that as a Proposer to the City of Glenn Heights for Solicitation Number _____, I am fully aware the Insurance Requirements contained in the Agreement, located in Exhibit B to this RFP, apply if I am awarded one or more service options pursuant to this RFP. Furthermore, I hereby assure the City of Glenn Heights that I am able to produce the insurance coverage required should I be selected for contract award.

Should I be awarded a contract and then become unable to produce the Insurance coverage specified within fourteen (14) calendar days, I understand that I may not be considered for further projects by the City of Glenn Heights.

_____

Signature of Proposer

_____

Printed Name of Signee

_____

Company Name

_____

Date

Form 7

ACKNOWLEDGEMENT OF ADDENDA

Proposers shall acknowledge each addendum included in this RFP by filling in the addendum number and checking the box to indicate receipt of each addendum.

Addendum Number	Acknowledgement of Receipt of Addenda

Form 8

NON-COLLUSION ACKNOWLEDGEMENT

The undersigned Proposer affirms that they are duly authorized to submit this Proposal, that this company, corporation, firm, partnership or individual has not prepared this Proposal in collusion with any other Proposer, and that the contents of this Proposal as to prices, terms and conditions thereof have not been communicated by the undersigned Proposer, nor by the Proposer's employee, affiliate, representative, partner, subcontractor, or agent, to any other individual or entity engaged in this type of business prior to the official opening of this Proposal, and that neither the Proposer nor their employees nor agents have been for the past six (6) months directly or indirectly concerned in any pool or agreement or combination to control the price of goods or services or to influence any person to propose or not to propose thereon.

_____

Company Name

_____

Signature of Company Officer

_____

Company Officer Printed Name

_____

Title

Form 9

EXCEPTION FORM

Proposer Name: _____

List any exceptions to the RFP, Draft Agreement, or other RFP Documents in the space provided. Proposers shall clearly identify the section reference to which the exception pertains. Proposers shall include the exception, a summary discussion of reasons for the exception, any proposed alternative language, the location in the RFP Documents where they are taking the exception, sections of the Proposal where alternatives are discussed, and any other information required pursuant to Section 5.11 of the RFP.

Exceptions

If additional space is needed, include additional copies of this page.

All Proposers MUST COMPLETE this page.

RETURN with Proposal or Proposal will be considered NON-RESPONSIVE.

Our proposal is submitted according to: _____Proposed exceptions listed above

OR

_____No exceptions

Form 10

SUSPENSION OR DEBARMENT CERTIFICATE

Non-Federal entities are prohibited from contracting with or making subcontract awards under covered transactions to parties that are suspended or debarred or whose principals are suspended or debarred. Covered transactions include procurement for goods or services equal to or in excess of $100,000.00. Contractors receiving individual awards for $100,000.00 or more and all subcontract recipients must certify that the organization and its principals are not suspended or debarred.

By submitting this offer and signing this certificate, the Proposer certifies that no suspension or disbarment is in place, which would preclude receiving a federally funded contract under the Federal OMB, A-102, Common Rule, as may be amended.

_____

Company Name

_____

Signature of Company Officer

_____

Company Officer Printed Name

_____

Title

_____

Date

Form 11

RELEASE AND INDEMNIFICATION

TO THE MAXIMUM EXTENT PERMITTED BY LAW, PROPOSER HEREBY AGREES AND CONSENTS FOR ITSELF, INDIVIDUALLY, AND ON BEHALF OF THE BUSINESS ENTITY, TO FULLY AND UNCONDITIONALLY RELEASE, INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY OF GLENN HEIGHTS, TEXAS, INCLUDING ITS OFFICERS, AGENTS AND EMPLOYEES, AND TO DEFEND AND HOLD IT HARMLESS FROM AND AGAINST ANY AND ALL COSTS, EXPENSES, ATTORNEYS' FEES, CLAIMS, SUITS, DEMANDS, LOSSES, OR LIABILITY FOR INJURIES TO REAL OR PERSONAL PROPERTY AND INJURIES TO PERSONS INCLUDING DEATH, INCLUDING PROPOSER'S EMPLOYEES, AFFILIATES, REPRESENTATIVES, PARTNERS, AGENTS, OR THOSE WORKING ON PROPOSER'S BEHALF, FROM ANY AND ALL OTHER COSTS, EXPENSES, ATTORNEYS' FEES, CLAIMS, SUITS, DEMANDS, LOSSES OR LIABILITIES OF ANY AND EVERY NATURE WHATSOEVER ARISING IN ANY MANNER, DIRECTLY OR INDIRECTLY, OUT OF OR IN CONNECTION WITH ANY CONTRACT AWARDED PURSUANT TO THIS RFP AND IN THE PERFORMANCE THEREOF, REGARDLESS OF CAUSE OR OF THE SOLE, JOINT, COMPARATIVE OR CONCURRENT NEGLIGENCE OR GROSS NEGLIGENCE, SAVE AND EXCEPT THE SOLE AND EXCLUSIVE NEGLIGENCE OF THE CITY. THIS PROVISION SHALL APPLY TO ALL IMPUTED OR ACTUAL JOINT ENTERPRISE AND JOINT VENTURE LIABILITY, IF ANY.

_____

Signature

_____

Printer Name

_____

Title

_____

Date

Form 12

SIGNATURE FORM

The undersigned agrees, if the best and final proposal is accepted, to furnish all goods and services at the price and upon the terms and conditions contained in the RFP Documents. By signing and submitting this Proposal, the Proposer acknowledges that they have inspected the specifications, are capable and willing to perform and/or provide the required services and/or products and shall complete this project within the amount of time and dollar amount specified. The undersigned certifies that the prices contained in this Proposal have been carefully checked and submitted as correct and final. All unit prices include the cost of delivery. The undersigned is authorized to bind themselves or the entity they represent to a contract.

_____	_____
Proposer (Entity Name)	Signature
_____	_____
Street & Mailing Address	Print Name of Signatory
_____	_____
City, State, and Zip	Title of Signatory
_____	_____
Telephone No.	Mobile No.
_____	_____
Email Address	Date Signed

The Proposer is (check one):

_____ An individual proprietorship

_____ A partnership

_____ A corporation chartered under the laws of the State of _____, acting by its officers pursuant to its by-laws or a resolution of its Board of Directors

If not the same as above, indicate the city and state that your principal place of business is located:

Exhibit A

City Map

Map 1

Street Map

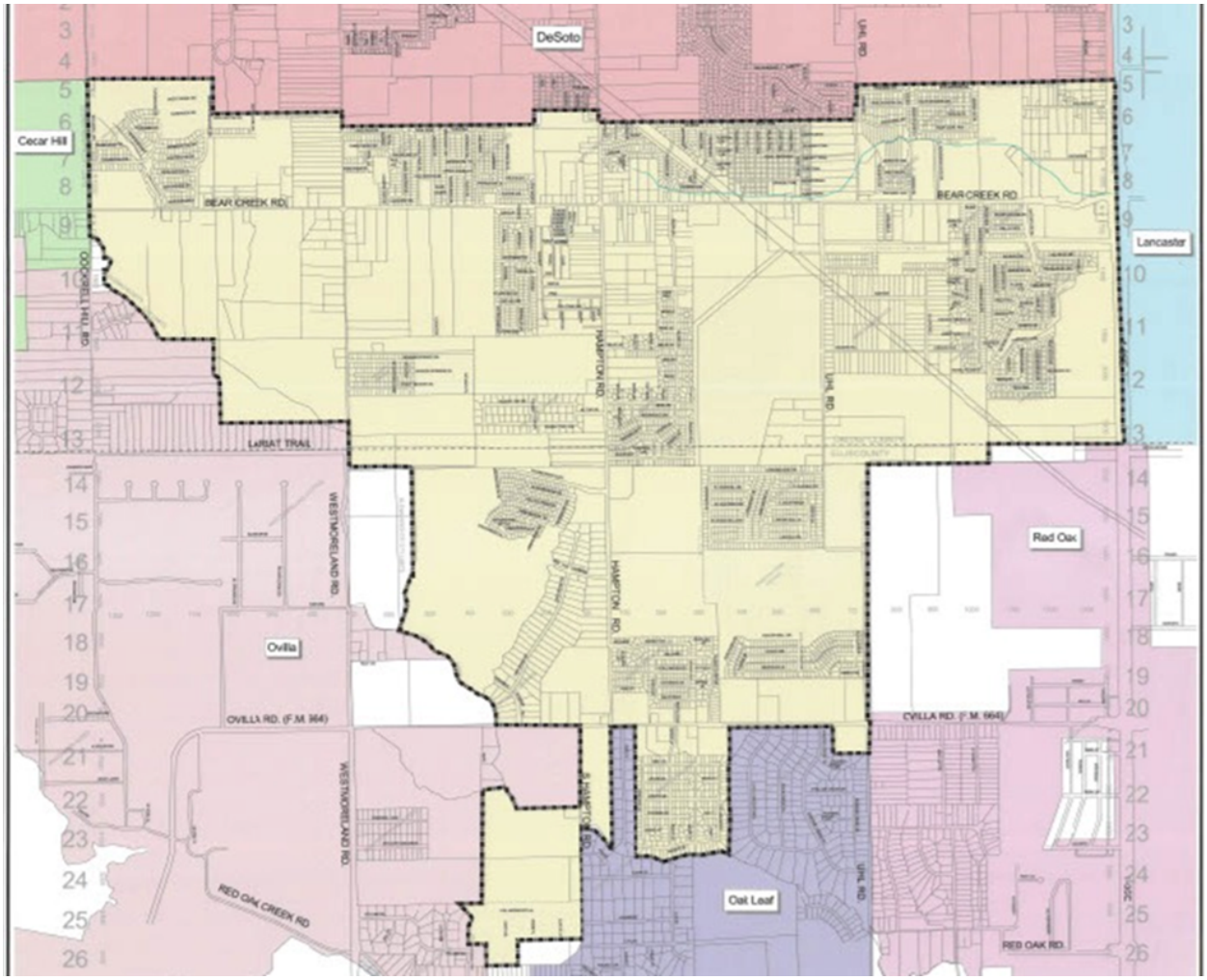


Exhibit B

Draft Agreement

DRAFT SOLID WASTE AND RECYCLING SERVICES AGREEMENT

Between

CITY OF GLENN HEIGHTS,

and

[SELECTED CONTRACTOR]

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Agreement

SOLID WASTE AND RECYCLING COLLECTION SERVICES AGREEMENT

between

CITY OF GLENN HEIGHTS, TEXAS

and [Contractor]

This Agreement is made on [DATE], between the City of Glenn Heights, a Texas municipal home rule corporation, hereinafter referred to as "the City," and [CONTRACTOR], a corporation, hereinafter referred to as "the Contractor."

1.0 RECITALS

WHEREAS, The City issued a Request for Proposals for Solid Waste and Recycling Collection Services (hereinafter "the RFP"); and,

WHEREAS, The Contractor submitted a proposal in response to the RFP on or before [DATE]; and,

WHEREAS, The City received and evaluated proposals from proposers in response to the RFP; and,

WHEREAS, The City and The Contractor have engaged in negotiations regarding the RFP; and,

WHEREAS, The City desires to hire the Contractor to provide those services as specified hereinafter; and,

WHEREAS, the Contractor desires to provide those services specified hereinafter;

NOW, THEREFORE, IN CONSIDERATION of the mutual terms, conditions, promises, covenants and payments hereinafter set forth, the City and the Contractor agree as follows:

1.1 Recitals Incorporation

The foregoing recitals are true and correct and hereby incorporated herein by reference.

2.0 DEFINITIONS

2.1 Definitions

As used herein, the following defined terms, phrases, words, and their derivations shall have the meanings as set forth in this Section. Throughout the Agreement, capitalization is used to indicate use of these defined terms. When not inconsistent with the context, words used in the present tense shall include the future, words importing persons shall include firms and corporations, words used in the plural shall include the singular, words used in the singular shall include the plural, words used in the masculine gender shall include the feminine gender, and word used in the feminine gender shall include the masculine gender.

5G — 5G shall mean fifth-generation broadband cellular software that provides device connectivity and greater bandwidth, faster download speeds, and more robust machine-to-machine communication.

Act of Default or Default — Act of Default or Default shall mean any failure to timely, fully and completely comply with one or more material requirements, obligations, performance criteria, duties, terms or conditions, as stated in this Agreement.

Additional Brush and Bulky Waste Services — Additional Residential Brush and Bulky Waste Services shall mean Residential Brush and Bulky Waste Services that exceed the collection quantity or collection frequency limits specified in Section 8.1.3.

Agreement — Agreement shall mean this document, including any written amendment thereto as agreed upon by the City and the Contractor.

Agreement Term— Agreement Term shall mean the full term of the Agreement, including the Initial Term and any Optional Renewal Term unless sooner terminated.

Alley Service Unit— Alley Service Unit shall mean a Residential Service Unit designated by the City to receive Residential Collection Services in an alley.

Application Programming Interface (API) — API shall mean an interface that supports interactions between multiple software applications or mixed hardware-software applications, intended to provide rapid and reliable electronic communication through the City's data management and/or billing software.

Bag — Bag shall mean a non-dissolvable plastic sack with a capacity of up to approximately thirty-five (35) gallons designed or intended to store Trash with sufficient wall strength to maintain physical integrity when lifted by the top. Total weight of a Bag and its contents that is set-out for collection with Bulky Waste Services shall not exceed forty (40) pounds.

Beyond Contractor's Control — Beyond Contractor's Control shall mean events that materially and adversely affect Contractor's ability to perform the obligations under the Agreement and are not due to Contractor's fault or negligence and

could not be avoided by Contractor's exercise of commercially reasonable efforts. Includes temporary landfill closure or extreme hazardous weather conditions but does not include economic hardship, manpower shortages, or equipment failure.

Brush — Brush shall mean cuttings or trimmings from trees, shrubs, or lawns and similar materials.

Bulky Waste — Bulky Waste shall mean large items such as furniture, appliances, mattresses, carpet, tires, and other items too large to place in 96-gallon Carts. Prohibited items include Construction or Demolition waste, treated wood, fence panels, dead animals, Hazardous Waste, Special Waste, automotive parts, and extra trash bags regardless of the quantity or contents.

Bulky Waste Services — Bulky Waste Services shall mean the collection and disposal of Bulky Waste and the collection and recycling of Bulky Waste by the Contractor pursuant to this Agreement.

Business Day — Business Day shall mean any day, Monday through Friday, from 8:00 AM, CDT until 5:00 PM, CDT.

Cart — Cart shall mean a receptacle with wheels with a capacity of up to approximately sixty (65) gallons and ninety-six (96) gallons designed or intended to be mechanically dumped into a loader-packer type truck and approved for use by the City.

City — City shall mean the City of Glenn Heights, Texas, and shall include the City's elected officials, officers, employees, agents, volunteers and representatives.

City Event — City Event shall mean an event sponsored or co-sponsored by the City and designated by the City to receive City Services. The City has the sole authority to add or eliminate City Events to receive City Services.

City Facility — City Facility shall mean any City owned or operated facility designated by the City as a City Facility to receive City Services. The City has the sole authority to add or eliminate City Facilities to receive City Services.

City's Representative — City's Representative shall mean the person designated to receive written notices and communication on behalf of the City as identified in Section 4.1.

City Services — City Services shall mean Trash, Bulky Waste, and Recycling Collection, Processing, and Disposal Services for City Facilities, and City Events as further described in Section 10.

Council — Council shall mean the City Council, the governing body of the City.

Collect or Collection — Collect or Collection shall mean the act of removing Trash and Bulky Waste and transporting it to a Disposal Site, the act of removing Recyclable Material and transporting it to a Recyclable Material Facility, or the act of removing Yard Waste and transporting it to a Processing Facility.

Collection Day — Collection Day shall have the meaning set out in Section 12.

Collection Services — Collection Services shall mean all duties and responsibilities of the Contractor related to Collection pursuant to this Agreement.

Commercial — Commercial shall mean originating from any structure or activity other than single-family and duplex residential development including but not limited to hotels, motels, residential structures containing three or more dwellings, residential care facilities, businesses, industrial, and institutional facilities, construction projects, or an individual renting one (1) or more Roll-Off Container(s) located at their residence.

Commercial Recyclable Material — Commercial Recyclable Material shall mean Recyclable Material Collected from Commercial buildings, establishments, or activities including multifamily dwellings, other than single-family and duplex residential development.

Commercial Recycling Collection Services — Commercial Recycling Collection Services shall mean Collection and delivery of Commercial Recyclable Materials to a Delivery facility pursuant to this Agreement.

Commercial Trash — Commercial Trash shall mean all normal waste products of Commercial buildings, establishments, or activities, excluding sewage and body waste, manure, dead animals over ten pounds in weight, Special Waste, Hazardous Waste, large tree trimmings, or any other waste material that cannot be broken down to fit into Commercial Trash Containers specified in this Agreement.

Commercial Trash Collection Services — Commercial Trash Collection Services shall mean Collection and delivery of Commercial Trash to a Delivery Facility pursuant to this Agreement.

Compactor — Compactor shall mean any container, regardless of its size, which has a compaction mechanism, whether stationary or mobile, and approved for use by the City.

Comply or Compliance — Comply or Compliance shall mean timely, fully and completely performing or meeting each and every term, requirement, obligation, performance criteria, duty or condition as stated in this Agreement. Compliance shall not mean substantial compliance. Substantial compliance shall be an Act of Default unless waived by the City solely by a written instrument.

Construction or Demolition Waste — Construction or Demolition Waste shall mean Municipal Solid Waste resulting from construction or demolition projects including all materials that are directly or indirectly the by-products of construction work or that result from demolition of buildings and other structures, including, but not limited to, paper, cartons, gypsum board, wood, excelsior, rubber, plastics, concrete, asphalt, and cardboard.

Container — Container shall mean Compactor, Front Load Container, or Roll-Off Container.

Contamination — Contamination shall mean the existence of any other material or substance on or contained in Program Recyclable Materials other than Program Recyclable Materials or the existence of any material or substance on or contained in Yard Waste other than Yard Waste

Contract Rates — Contract Rates shall mean the unit prices for Services as shown in Services as shown in Attachment 3 and Attachment 4 respectively.

Contractor — Contractor shall mean the corporation(s) responsible for performing Services pursuant to the Agreement and includes the Contractor's assignees and subcontractors.

Cubic Yard (CY) — Cubic Yard shall mean a unit of volume equal to the volume of a cube with sides of one (1) yard in length.

Curbside — Curbside shall mean within five (5) feet of the street or alleyway that provides primary access to the Residential Service Unit as designated by the City.

Customer — Customer shall mean the owner of a Commercial property or manager of a construction site located within the Service Area or their representative.

CY — See Cubic Yard.

Delivery Facility — Delivery Facility shall mean any suitably licensed transfer station, Disposal site, or Processing Facility designated by the City where the Contractor delivers Trash, Bulky Waste, Yard Waste or Recyclable Materials pursuant to this Agreement.

Discharge — Discharge shall mean the deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release, or to allow, permit, or suffer any of these acts or omissions.

Disposal — Disposal shall mean the authorized deposit of Solid Waste at a Disposal Site in accordance with the terms of this Agreement.

Disposal Site— Disposal Site shall mean a Solid Waste management facility authorized by the Texas Commission on Environmental Quality to receive such waste for final disposal in accordance with local, state, and federal requirements.

Effective Date — Effective Date shall mean the effective date of the Agreement as defined in Section 7.1.

Excluded Waste — Excluded Waste shall mean Hazardous Waste, Special Waste, and Construction and Demolition Waste.

Fiscal Year — Fiscal Year shall mean the period beginning October 1st of each year and ending on September 30th of the subsequent year for the term of the Agreement.

Force Majeure — Force Majeure shall mean events beyond the City's or the Contractor's control that delay the City or Contractor from performing any of its obligations under this Agreement other than its payment obligations as further described in Section 41.

Front Load Container — Front Load Container shall mean any Container, with a capacity of two (2) cubic yards to ten (10) cubic yards and designed to be lifted and emptied into a standard front load collection vehicles as approved for use by the City.

Generator — Generator shall mean any person, site or location that produces Solid Waste, or Recyclable Materials.

Gross Revenues — Gross Revenues shall mean all revenues received, directly or indirectly, by the Contractor, its affiliates, subsidiaries, parent, and any person in which the Contractor has a financial interest, from or in connection with this Agreement.

GVW — GVW shall mean Gross Vehicle Weight.

Hazardous Waste — Hazardous Waste shall mean any Solid Waste identified or listed as a hazardous waste by the administrator of the United States Environmental Protection Agency under the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, 42 United States Code, §§6901 et seq., as amended. Herein, Hereunder, Hereby, Hereto, Hereof, and any similar terms — shall mean this Agreement.

Initial Term — Initial Term shall mean the initial period that the Contractor shall perform the Services pursuant to the Agreement as further described in Section 7.2.

Marketing — Marketing shall mean identification and developing of end markets for Program Recyclable Material and the selling of Program Recyclable Material to end markets.

May — May shall mean something that is not mandatory but permissible.

Missed Collection — Missed Collection shall mean the Contractor's failure to perform any Collection required by this Agreement within the timeframe specified in the Agreement provided that the material intended for Collection was set out at the time and in the manner specified in the Agreement.

Modified Collection Location —Modified Collection Location shall mean a location other than the Curbside acceptable to both the Resident and the Contractor for providing Residential Trash Collection Services or Residential Recycling Collection Services. The City reserves the right to designate the Modified Collection Location if the Resident and the Contractor cannot agree on an acceptable location or the location agreed upon by the Resident and the Contractor presents or may present health and safety hazards.

Multi-family Complex — Multi-family Complex shall mean a continuous dwelling, including all Multi-family Units therein, under a common roof of three (three) or more units, whether contiguous or multi-level construction, and shall include, but not be limited to, dwellings considered to be apartment houses, grouped housing, or condominiums.

Multi-family Unit — Multi-family Unit shall mean each dwelling unit in a Multi-Family Complex under a common roof of three (3) or more units. Multi-Family Units shall include, but not be limited to, dwelling units in apartment houses, grouped housing, or condominiums.

Optional Renewal Term — Optional Renewal Term means an optional addition to the term of the Agreement that the City can exercise at its sole discretion as further described in Section 7.3.

Person — Person shall mean an individual, corporation, organization, government or governmental subdivision or agency, business trust, partnership, association, or any other legal entity.

Process, Processed or Processing — Process, Processed, or Processing shall mean Recovery of Recyclable Materials, Treatment into Recovered Materials, and marketing of Recovered Materials to end markets; Recovery of Yard Waste, treatment into mulch or compost, and marketing of mulch or compost to end markets.

Processing Facility — Processing Facility shall mean a facility permitted under all applicable local, state, and federal laws and regulations for Processing Yard Waste or Recyclable Material.

Program Aluminum and Steel Recyclable Material — Program Aluminum and Steel Recyclable Material shall mean any beverage container, food can, bi-metal container, or lid with or without paper labels, rings, and lids composed primarily of whole iron, aluminum, steel, or other Recyclable Material of a similar nature.

Program Glass Recyclable Material — Program Glass Recyclable Material shall mean any glass food and beverage bottles, containers, or jars with or without paper labels, rings, and lids. Program Glass Recyclable Material shall not mean window glass, porcelain, or china.

Program Household Hazardous Waste (HHW) Material — Program Household Hazardous Waste Material shall mean paint, motor oil, batteries, cleaners, herbicides, insecticides and other common household hazardous wastes as listed in Attachment 5 and approved by the City for acceptance in its Household Hazardous Waste Collection Services program.

Program Paper Recyclable Material — Program Paper Recyclable Material shall mean any:

i. Kraft paper;

ii. Corrugated containers that have liners of Kraft, jute, or test liner including dry food boxes, beer and soda carriers, shoe boxes;
iii. Old newspaper including slick paper inserts;
iv. Chipboard; and
v. Other mixed paper including but not limited to junk mail, junk mail inserts, residential mixed paper, bagged shredded paper, high-grade paper, white and colored ledger, copier paper, office paper, laser printer paper, computer paper including continuous-formed perforated white bond or green bar paper, book paper, cotton fiber content paper, duplicator paper, form bond, manifold business forms, mimeo paper, note pad paper (no backing), loose leaf fillers, stationery, writing paper, paper envelopes without plastic windows, carbonless (NCR) paper, tabulating cards, facsimile paper, manila folders, magazines, paperback books, small catalogs, telephone books and Yellow Pages.

Program Plastic Recyclable Material — Program Plastic Recyclable Material shall mean any rigid plastic bottle, container, jug, or jar made from #1 through #5 or #7 plastic.

Program Recyclable Material — Program Recyclable Material shall mean Program Paper Recyclable Material, Program Plastic Recyclable Material, Program Glass Recyclable Materials, and Program Aluminum and Steel Recyclable Material.

Program Recyclable Material — Program Recyclable Material shall mean Program Paper Recyclable Material, Program Plastic Recyclable Material, Program Glass Recyclable Materials, and Program Aluminum and Steel Recyclable Material.

Proposal — Proposal shall mean the proposal submitted by the Contractor in response to the Request for Proposals.

Recovered Material — Recovered Material shall mean Program Recyclable Materials that have been processed at the Recyclable Material Facility to market specifications.

Recyclable Material — Recyclable Material shall mean material that has been recovered or diverted from the nonhazardous Solid Waste stream for purposes of reuse, recycling, or reclamation, and is any material or product designated in writing by the City as being suitable for reuse, recycling, or reclamation.

Recyclable Material Facility — Recyclable Material Facility shall mean the facility where the Contractor receives and processes Recyclable Materials, including all contiguous land, structures, other appurtenances, and improvements on the land. A facility may be publicly or privately owned and may consist of several processing or storage units.

Recycling — Recycling shall mean a process by which materials that have served their intended use or are scrapped, discarded, used, surplus, or obsolete are collected, separated, or processed and returned to use in the form of raw materials in the production of new products.

Request for Proposals (RFP) — Request for Proposals shall mean City of Proposer Request for Proposals Number 2026-00 through which the City solicited proposals to provide the Services contemplated in this Agreement.

Resident — Resident shall mean a person who resides at a Residential Service Unit.

Residential Trash — Residential Trash means all normal waste products of single-family and duplex residential development, other than sewage and body waste, manure, dead animals over ten pounds in weight, Special Waste, Hazardous Waste, large tree trimmings, Construction or Demolition Waste, or any other waste material that cannot be broken down to fit into residential Trash receptacles specified in this Agreement.

Residential Service Unit — Residential Service Unit shall mean a residential building with two (2) or fewer dwelling units located within the City occupied by a person or group of persons. A Residential Service Unit shall be deemed occupied when either water or domestic light and power services are being supplied thereto.

Residential Services — Residential Services shall mean Trash Services, Bulky Waste Services, Recycling Services, and Yard Waste Collection Services for Residential Service Units.

Residue — Residue shall mean material that is Processed at the Recyclable Material Facility but is not recovered and is disposed of as Solid Waste, including both Contamination and unrecovered Recyclable Material.

RFP — see “Request for Proposals.”

Roll-Off Container— Roll-Off Container shall mean any container, excluding compactors, with a capacity of ten (10) cubic yards or more which is designed to be loaded onto a standard roll-off truck and transported to a Solid Waste Facility or Recyclable Material Facility and approved for use by the City.

Rubbish — Rubbish shall mean non-putrescible solid waste (excluding ashes), consisting of both combustible and noncombustible waste materials. Combustible rubbish includes paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, brush, or similar materials; noncombustible rubbish includes glass, crockery, tin cans, aluminum cans, and similar materials that will not burn at ordinary incinerator temperatures (1,600 degrees Fahrenheit to 1,800 degrees Fahrenheit).

Scavenging — Scavenging shall mean the unauthorized removal of Recyclable Material after the generators thereof divest control physically or as a matter of appropriate law, rule or regulation.

Service Area — Service Area shall mean the area contained within the limits of the City of Glenn Heights, Texas, as may be amended from time to time.

Services — Services shall mean all duties and responsibilities of the Contractor pursuant to this Agreement.

Service Commencement Date — Service Commencement Date shall mean June 1, 2027, or an alternative date mutually agreed upon by the City and the Contractor in writing.

Service Unit — Service Unit shall mean a property qualifying for Service under the Agreement.

Shall — Shall will always mean mandatory and not merely directory.

Single Stream — Single Stream shall mean Program Recyclable Materials that are commingled and that do not require the generator to subdivide the Program Recyclable Materials prior to collection.

Solid Waste — Solid Waste shall mean Trash, rubbish, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations and from community and institutional activities, but does not include:

i. Solid or dissolved material in domestic sewage or irrigation return flows or industrial discharges subject to regulation by permit issued under Chapter 26, Water Code;
ii. Soil, dirt, rock, sand, and other natural or man-made inert solid materials used to fill land if the object of the fill is to make the land suitable for surface improvement construction.

Solid Waste Facility — Solid Waste Facility shall mean all contiguous land, structures, other appurtenances, and improvements on the land used for disposing of Solid Waste.

Special Waste — Special Waste shall mean any Solid Waste or combination of Solid Wastes that because of its quantity, concentration, physical or chemical characteristics, or biological properties requires special handling and disposal to protect the human health or the environment. If improperly handled, transported, stored, processed, or disposed of or otherwise managed, it may pose a present or potential danger to the human health or the environment. Special Wastes shall include:

iii.i Hazardous waste from conditionally exempt small-quantity generators that may be exempt from full controls under Chapter 335, Subchapter N of Texas Administrative Code, Title 30
iii.ii Class 1 industrial nonhazardous waste
iii.iii Untreated medical waste
iii.iv Septic tank pumpings
iii.v Grease and grit trap waste
iii.vi Wastes from commercial or industrial wastewater treatment plants; air pollution control facilities; and tanks, drums, or containers used for shipping or storing any material that has been listed as a hazardous constituent in 40

Code of Federal Regulations (CFR) Part 261, Appendix VIII but has not been listed as a commercial chemical product in 40 CFR §261.33(e) or (f)

iii.vii Slaughterhouse wastes

iii.viii Dead animals

iii.ix Drugs, contaminated foods, or contaminated beverages, other than those contained in normal household waste

iii.x Pesticide (insecticide, herbicide, fungicide, or rodenticide) container

iii.xi Discarded materials containing asbestos

iii.xii Incinerator ash

iii.xiii Soil contaminated by petroleum products, crude oils, or chemicals in concentrations of greater than 1,500 milligrams per kilogram total petroleum hydrocarbons; or contaminated by constituents of concern that exceed the concentrations listed in Table 1 of §335.521(a)(1) of Texas Administrative Code, Title 30

iii.xiv Used oil

iii.xv Waste from oil, gas, and geothermal activities subject to regulation by the Railroad Commission of Texas when those wastes are to be processed, treated, or disposed of at a solid waste management facility authorized under this chapter

iii.xvi Waste generated outside the boundaries of Texas that contains:

- **a.** any industrial waste
- **b.** any waste associated with oil, gas, and geothermal exploration, production, or development activities
- **c.** any item listed as a special waste in this paragraph
- **d.** Lead acid storage batteries

iii.xvii Used-oil filters from internal combustion engines.

State — State shall mean the State of Texas.

Substantial Compliance — Substantial Compliance shall pertain solely to acts of Contractor being less than full and complete compliance and being ninety percent (90%) or more of full compliance. Substantial compliance shall mean an act of default.

Ton — Ton shall mean a unit of weight equal to 2,000 pounds.

Transition Plan — Transition Plan shall mean procedures established to ensure timely, smooth, and uninterrupted transitions between service providers at the beginning and end of the Agreement as further described in Attachment 2.

Trash — Trash shall mean Residential Trash and Commercial Trash.

Trash Collection Services— Trash Collection Services shall mean Residential Trash Collection Services and Commercial Trash Collection Services.

Unaccepted Set-out — Unaccepted set-out shall mean a set-out for collection that does not comply with the requirements of the Agreement.

Will — Will shall mean mandatory and not merely directory.

Yard Waste — Yard Waste shall mean cuttings or trimmings from trees, shrubs, or lawns, and similar materials such as grass, leaves, flowers, stalks, tree trimmings, Brush, and branches that are set out to be collected as a part of the Yard Waste Collection Service. Any such material set out to be collected with Trash or Bulky Waste Services shall be considered Trash or Bulky Waste.

Yard Waste Bag — Yard Waste Bag shall mean Kraft bag or other sack authorized by the City, designed to store Yard Waste with sufficient wall strength to maintain physical integrity when lifted. Total weight of a Yard Waste Bag and its contents shall not exceed forty (40) pounds.

Yard Waste Bundle — Yard Waste Bundle shall mean limbs or Brush cut into lengths of 4 feet or less and securely tied with no limbs exceeding six inches in diameter and no bundle exceeding 50 pounds in weight.

Yard Waste Collection Service — Yard Waste Collection Service shall mean the Collection of Yard Waste and delivery to the Delivery Facility pursuant to this agreement.

3.0 REPR ESENTATIONS

3.1 Representations

3.1.1 Representations by the City

The City represents to the Contractor that the City is duly organized and existing in good standing under the laws of the State and is duly qualified and authorized to perform governmental functions and operations as contemplated by this Agreement.

3.1.2 Representations by the Contractor

The Contractor makes the following representations to the City.

i. The Contractor is duly qualified and in good standing to do business in the State and is duly qualified and in good standing to do business wherever necessary to carry on the business and operations required to perform all required Services as contemplated by this Agreement.

ii. The Contractor has obtained or will provide the necessary processing and marketing capacity for Program Recyclable Material for the Initial Term and Optional Renewal Terms as defined in Section 7.0 of this Agreement.

iii. The Contractor will obtain at their own expense all applicable environmental and other governmental permits, licenses and authorizations as required under Federal, State, local law, regulation, rule, or ordinance that are necessary to perform the Services.

iv. The Contractor will obtain at their own expense all required insurance coverages specified in this Agreement.

v. The Contractor will obtain at their own expense the required performance bond or letter of credit specified in this Agreement.

vi. To the best of the Contractor's knowledge, there is no action, suit or proceeding, at law or equity, before or by any court or government authority,

pending or threatened against the Contractor, wherein an unfavorable decision, ruling or finding would materially and adversely affect the performance by the Contractor of its obligation hereunder or the other transactions contemplated hereby, or which, in any way, would adversely affect the validity or enforceability of this Agreement, or any other related contract or instrument entered into by the Contractor.

4.0 GENERAL CONDITIONS

4.1 Designated Representative

Any notices or communication required or permitted to be made to either the City or the Contractor under this Agreement shall be made to the Designated Representative in writing:

If to the Contractor: [NOTE: Information will be added to final Agreement upon award by the City to the successful Proposer]

If to the City: City Manager Clifford Blackwell

City of Glenn Heights 1938 S. Hampton Road, Glenn Heights, Texas 75154

The City Manager serves as the City's Representative for this Agreement and

as the sole point of contact for the Contractor(s).

Notice shall be deemed to be given: (a) if personally delivered, when delivered; (b) if mailed, five (5) business days after receipted delivery to the U.S. Mail; (c) if delivered to Federal Express, or any other nationally recognized overnight carrier, one (1) business day after delivery to such overnight carrier. Each party, by similar written notice given five (5) business days in advance to the other Parties in the aforesaid manner, may change the address to which notice may be sent.

4.2 Compliance with Laws and Regulations

The Contractor understands, acknowledges, and agrees the applicability of the Americans with Disabilities Act, the Immigration Reform and Control Act of 1986 and the Drug Free Workplace Act of 1989.

Pursuant to the provisions of A.R.S. §41-4401, the Contractor warrants to the City that the Contractor and all its subcontractors are in compliance with all Federal Immigration laws and regulations that relate to their employees and with the E-Verify Program under A.R.S. §23-214(A).

A breach of this warranty by the Contractor or any of its subcontractors will be deemed a material breach of this Agreement and may subject the Contractor or subcontractor to penalties up to and including termination of this Agreement or any subcontract.

The City retains the legal right to inspect the papers of any employee of the Contractor or any subcontractor who works on this Agreement to ensure that the Contractor or any subcontractor is complying with the warranty given above.

The City may conduct random verification of the employment records of the Contractor and any of its subcontractors to ensure compliance with this warranty.

The City will not consider the Contractor or any of its subcontractors in material breach of this Agreement if the Contractor and its subcontractors establish that they have complied with the employment verification provisions prescribed by 8 USCA §1324(a) and (b) of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. §23-214(A). The "E-Verify Program" means the employment verification pilot program as jointly administered by the United States Department of Homeland Security and the Social Security Administration or any of its successor programs.

The provisions of this Article shall be included in any agreements with subcontractors who provide services under this Agreement. "Services" are defined as furnishing labor, time or effort in the State of Texas by a contractor of subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.

In addition, the Contractor shall comply with the following laws:

i. Occupational Safety and Health Administration (OSHA)

The Contractor warrants that any work performed on City property or in a location partially or entirely under the Contractor’s control will be performed in accordance with OSHA requirements and all applicable labor laws, regulations, and standards.

ii. Equal Employment Opportunity

Contractor will comply with applicable laws, statutes, codes, rules and regulations related to or prohibiting discrimination in employment in the performance of its work under this Agreement.

iii. Fair Labor Standards Act

Contractor is required and hereby agrees by execution of this Agreement to pay all employees not less than the Federal minimum wage and to abide by other requirements as established by the Congress of the United States in the Fair Labor Standards Act, as amended from time to time.

5.0 SERVICE AREA

The Contractor shall be required to perform the Services for all properties located within the Service Area, which includes the area contained within the limits of the City of Glenn Heights, Texas, as may be amended from time to time.

6.0 RIGHT TO PROVISION OF SERVICES

6.1 Right to Operate Collection Vehicles

City hereby grants the Contractor for the Agreement Term, the right and privilege to have, use and operate its vehicles on, over, and along, and across the present and future streets and alleys of the City as reasonably required to perform the Services contemplated under the Agreement.

6.2 Exclusive Right to Provision of Collection Services

The Contractor shall have the exclusive right to provide all Collection Services within the City including providing all Collection Services to Residential Service Units, Multi-family Complexes, and Commercial Service Units including industrial or institutional properties and construction sites. The Contractor, not the City, shall be responsible for defending the rights granted herein against third parties.

Notwithstanding the Contractor's exclusive right to provide Collection Services, it is understood and agreed that a construction contractor may haul and dispose of Construction or Demolition waste generated by a project located within the City that the construction contractor was hired to perform, provided that the construction contractor uses its own equipment to store and haul the Construction or Demolition Waste.

7.0 EFFECTIVE DATE AND TERM OF AGREEMENT

7.1 Effective Date of Agreement

Except as otherwise provided for herein, the obligations of the parties shall take effect on the date of execution hereof.

7.2 Initial Term

Unless sooner terminated in accordance with Section 42.0, the Initial Term of the Agreement shall be for a [CONTRACT TERM LENGTH] year period commencing on [DATE & TIME] and continuing in effect until [DATE & TIME].

7.3 Optional Renewal Terms

After the Initial Term, the City may, at its sole discretion, specify one or more Optional Renewal Terms for the Agreement with a combined total length of not more than [RENEWABLE TERM LENGTH] years such that the total length of the Agreement including the Initial Term and Optional Renewal Terms shall not be longer than [MAX YEARS] years.

Optional Renewal Terms shall be on the same terms and conditions that were in effect on the date that the Initial Term or previous Optional Renewal Term expired. The City shall provide written notice to the Contractor of its intention to exercise any Optional Renewal Term not later than one-hundred-eighty (180) calendar days prior to the scheduled expiration date of the Initial Term or the then current Optional Renewal

Term of this Agreement. This provision in no way limits the City's right to terminate this Agreement at any time during the Initial Term or any Optional Renewal Term pursuant to the provisions in this Agreement.

8.0 RESIDENTIAL COLLECTION SERVICES

8.1 Residential Collection Services Scope

8.1.1 Residential Trash Collection Services Scope

The Contractor shall collect [Collection frequency], on a scheduled Collection Day, all Trash contained in Trash Carts. Each Residential Service Unit shall have a minimum of one (1) Trash Cart. A Trash Cart Set-Out shall not weigh more than 150 pounds, inclusive of the Cart and contents. A Resident may request that the Contractor increase the number of Trash Carts at their Residential Service Unit for an additional charge. Upon the Contractor's receipt of a Resident's request to increase the number of Trash Carts at their Residential Service Unit, the Contractor shall collect, once per week on the same scheduled day as the first Trash Cart, all Trash contained in the number of Trash Cart(s) specified by the Resident.

8.1.2 Residential Recycling Collection Services [The following assumes universal service, will be updated if the City selects opt in]

The Contractor shall collect [Collection frequency], all Recyclable Materials in one (1) Recycling Cart. Each Residential Service Unit shall have a minimum of one (1) Recycling Cart. A Resident may request that the Contractor increase the number of Recycling Carts at their Residential Service Unit for an additional charge. Upon the Contractor's receipt of a Resident's request to increase the number of Recycling Carts at their Residential Unit, Contractor shall collect, one (1) time every other week on the same scheduled day as the first Recycling Cart, all Recyclable Materials contained in the number of Recycling Cart(s) specified by the Resident. Residential Service Units shall not be required to separate Recyclable Materials by type prior to Collection.

8.1.3 Residential Yard, Brush, and Bulky Waste Collection Services

The Contractor shall provide Curbside Collection of Brush and Bulky Waste to all Residential Service Units. Residents may set out up to [four (4) cubic yards] of Brush and Bulky Waste per [Collection frequency]. Residents may request Additional Brush and Bulky Waste Collection Services in accordance with Section 8.1.4.

8.1.4 Additional Residential Yard, Brush, and Bulky Waste Collection Services

A Resident may submit a request to the Contractor for Additional Residential Brush and Bulky Waste Collection Services. Upon receipt of a request from a Resident for Additional Residential Brush and Bulky Waste Services, the Contractor shall Collect, on a Collection Day agreed upon by the Contractor and Customer, all Brush and Bulky Waste as specified by the Resident for an additional charge.

8.1.5 Household Hazardous Waste Collection Services

The Contractor shall provide [AN ANNUAL COLLECTION EVENT OR DROP-OFF AT DISPOSAL SITE]. The Contractor shall collect the material, transport it to a pre-approved HHW Processing Facility, and manage the materials in an environmentally responsible manner in accordance with applicable law. All Contractor costs associated with Collection and Processing of Program HHW Material shall be included in the Contract Rates.

8.2 Residential Collection Services Location

Except as described below, Residential Collection Services shall be provided at the Curbside.

If the City deems that all Residents of a Residential Service Unit are unable due to age or verified physical limitations to safely move a Cart to the Curbside, the Contractor shall provide Residential Trash Collection Services and Residential Recycling Collection Services at a Modified Collection Location acceptable to the Resident and the Contractor. The City reserves the right to designate the Modified Collection Location if the Resident and the Contractor cannot agree on an acceptable location or the location agreed upon by the Resident and the Contractor presents or may present health and safety hazards. Residential Yard Waste Collection Services and Residential Brush and Bulky Waste Collection Services shall be provided at the Curbside for such Residential Service Units.

In limited areas, as identified by the City, the Contractor shall collect Trash, Recycling, and Yard Waste in alleys. Brush and Bulky Waste Collection shall be at the Curbside in front of the house and not the alley. Alley Service Units may not be conducive to operation of the Contractor's regular collection vehicles. The Contractor shall collect from Alley Service Units using modified equipment or operations if its regular collection vehicles are unable to safely operate in alleys.

The Contractor shall provide Residential Collection Services from City-approved Modified Collection Locations and Alley Service Units at no additional cost to the City.

9.0 COMMERCIAL COLLECTION SERVICES

9.1 Commercial Collection Services Scope

The Contractor shall offer Trash and Recycling Collection Services to all Commercial Customers within the Service Area. For the purposes of the Agreement, Commercial Customers are defined to include but not be limited to Multi-family Complexes, businesses, industrial, and institutional properties, construction projects, and individuals renting one (1) or more Roll-Off Containers located at their residence.

The Contractor shall provide Trash and Recycling Collection Service to Commercial Customers using Container types, sizes, and collection frequencies specified by the Customer. The Contractor shall provide collection frequencies up to six days per week using the following Commercial Container options.

Container Type	Size Options
Cart	96 Gallon
Front Load (Uncompacted)	2 CY, 4 CY, 6 CY, 8 CY, 10 CY
Front Load (Compacted)	2 CY, 4 CY, 6 CY, 8 CY
Roll-Off (Uncompacted)	20 CY, 30 CY, 40 CY
Roll-Off (Compacted)	15 CY, 20 CY, 30 CY, 35 CY, 40 CY

A Trash or Recycling Cart Set-Out shall not weigh more than 150 pounds, inclusive of the Trash Cart and contents.

9.2 Commercial Collection Service Location

Upon commencement of a new Commercial Collection account, the Contractor and the Customer shall agree upon a location that can be accessed by collection vehicles and that does not interfere with or endanger vehicles or pedestrians.

9.3 Unscheduled Extra Collection

The Contractor shall accommodate requests from Customers for additional Front Load Container Collection on days other than their regularly scheduled Collection Days provided that the request is received at least 48 hours before the additional collection is scheduled to occur. The Collection Service Contractor shall invoice Customers for unscheduled extra collection at the Contract Rates.

10.0 CITY FACILITIES

The Contractor shall provide Collection and Disposal of Trash and Collection and Processing of Program Recyclable Materials to all City Facilities as designated by the City. The City shall decide on the number and size of Carts and Containers and collection frequencies at each designated City Facility.

10.1 Commercial Collection Days

Commercial Collection Services occur at a frequency and on Collection Days that are mutually agreed upon by the Customer and the Contractor up to six (6) times per week, Monday through Saturday.

11.0 CITY EVENTS AND SPECIAL PROJECTS

The Contractor shall provide Collection, Processing, and Disposal services for City events as designated by the City, including but not limited to the following.

- The City may request collection services for City events and projects at the Contract Rates for equipment rentals in Attachment 4. Rental rates include supply of equipment, a driver, fuel, hauling, Disposal, Processing, and other incidental costs. If requested by the City, the driver must remain on-site during the event at no additional cost to the City.

The City shall endeavor to provide reasonable notice in advance of not less than seven (7) days in pre-planned, non-emergency circumstances. The Contractor shall make all reasonable efforts to accommodate requests with less notice in situations that could not reasonably have been foreseen by the City.

12.0 CASH DONATION

The Proposer shall provide an annual cash contribution for City event sponsorship of no less than $27,000 to the City for the entire term of the contract by May 31 of each year, adjusted annually based on the Cost Adjustment terms.

13.0 COLLECTION DAYS AND HOLIDAYS

13.1 Residential Collection Days

Each Residential Service Unit shall receive Trash and Recycling Collection Services on the same day each week according to a published schedule.

13.2 City Services Collection Days

City Services Collection occurs at a frequency and on Collection Days that are mutually agreed upon by the Contractor and the City.

13.3 Holidays

The Proposer shall not provide Service on Thanksgiving and Christmas. Holidays may be added, deleted, or changed upon the sole determination of the City.

The Contractor shall not provide Collection Services on Thanksgiving and Christmas but may choose to provide Collection Services on other Holidays at their sole discretion. Any collection days missed due to holiday observances shall be made up on the following Saturday or any day of the week during the week the holiday falls upon. Any costs of Holiday observances are included in the Contact Rates.

14.0 HOURS OF OPERATION

Collection operations shall not be conducted outside the hours specified in the following table without written approval from the City's Representative. Operating outside of approved hours will subject the Contractor to Liquidated Damages in accordance with Section 38.0.

Hours of Operation

Collection Service Type	Approved Operating Hours
Residential Collection Services	7:00AM TO 6:00PM, Monday through Friday

	Saturday Collection 7:00AM TO 6:00PM permitted as required to provide make-up Collection for observed Holidays only.
Commercial Collection Services and City Services	7:00AM TO 6:00PM, Monday through Saturday

15.0 DISPOSAL SERVICES

The Contractor shall deliver all Trash and Brush and Bulky Waste collected under this agreement to [Pre-Approved Disposal Site Location] (the Disposal Site) for management in accordance with good environmental practice and compliance with applicable law. The Disposal Site shall not be changed without approval from the City, which approval shall not be unreasonably withheld. The cost of Disposal is included in the Contract Rates for Collection. The Contractor shall maintain sufficient capacity at the Disposal Site(s) to manage all Trash and Bulk Waste collected in the Town throughout the Agreement Term. The City shall have the opportunity to inspect operations at the Disposal Site upon request. If Contractor changes the Disposal Site and it provides a lower cost (based on distance to the City and/or lower disposal cost), the Contractor shall pass on a proportional savings to the City.

16.0 RECYCLABLE MATERIAL PROCESSING SERVICES

16.1 Recyclable Material Facility Requirements

The Contractor shall deliver all Program Recyclable Material to the Recyclable Material Facility located [Pre-Approved Disposal Site Location]. The Contractor shall maintain sufficient capacity at the Recyclable Material Facility to receive and Process all Program Recyclable Material collected in the City throughout the Agreement Term.

The Contractor shall utilize a Recyclable Material Facility in compliance with all applicable laws. The Recyclable Material Facility shall use processing equipment at the Recyclable Material Facility capable of complying with product specifications of secondary materials buyers including, but not limited to, product form, size, weight, density, and degree of contamination. In addition, the Recyclable Material Facility shall use processing equipment capable of processing ninety-five percent (95.0%) by weight of Program Recyclable Materials into Recovered Materials monthly. The City reserves the right to review the Recyclable Material Facility's operating records and/or perform material composition audits to verify compliance with these requirements.

The Recyclable Material Facility shall market one hundred percent (100%) of Recovered Materials to secondary markets. Disposal of Program Recyclable Materials or Recovered Materials is strictly prohibited and will subject the Contractor to Liquidated Damages in accordance with Section 38.0. Upon request by the City, the Contractor shall provide information identifying where Program Recyclable Material is marketed, including the location of such markets and whether markets are domestic or international. The Contractor shall also be responsible for Disposal of all Residue

generated by processing of Program Recyclable Material. The cost of performing all Recyclable Material Processing Services is included in the Contract Rate.

The City requires a 50/50 revenue sharing from recycling program.

16.2 Addition and Deletion of Program Recyclable Materials

The City reserves the right to add other Program Recyclable Materials to the program if the processing facility accepts such material from other customers or if the City and Contractor agree it is economically and technically feasible. In addition, the City reserves the right to delete Program Recyclable Materials from the program if the parties agree it is economically and technically prohibitive.

17.0 TRANSFER STATION PROCESSING SERVICES

If the Contractor uses a transfer station to transport solid waste materials to an approved Disposal site, the Contractor shall obtain pre-approval from the City, which approval shall not be unreasonably withheld.

Transfer Station operations shall be conducted in accordance with good environmental practice and compliance with applicable law. The cost of using any transfer station is included in the Contract Rates. The City shall be allowed to inspect operations at any transfer station used pursuant to this Agreement upon request.

18.0 HOUSEHOLD HAZARDOUS WASTE PROCESSING SERVICES

The Contractor shall deliver all Program HHW Material collected under this Agreement to [Pre-Approved Processing Facility] (the Program HHW Material Processing Facility) for Processing in accordance with good environmental practice and compliance with applicable law. The Program HHW Material Processing Facility shall not be changed without approval from the City, which approval shall not be unreasonably withheld. The cost of Processing is included in the Contract Rates for Collection and shall be paid directly to the Program HHW Material Processing Facility by the City. The Contractor shall maintain sufficient capacity to manage all Program HHW Material collected pursuant to this Agreement throughout the Agreement Term. The City shall have the opportunity to inspect operations at the Program HHW Material Processing facility upon request.

19.0 COMMINGLING OF MATERIALS AND DISPOSAL OF PROGRAM RECYCLABLE MATERIALS PROHIBITED

19.1 Commingling of Materials

The Contractor shall be allowed to commingle material collected under the Agreement with material collected from other sources outside the City.

19.2 Disposal of Program Recyclable Materials Prohibited

The Contractor shall not dispose of any Program Recyclable Material or market Program Recyclable Materials to markets that the Contractor knows or reasonably should have anticipated will dispose of the Program Recyclable Material except when approved in writing by the City.

20.0STORM AND DISASTER DEBRIS MANAGEMENT

In the event of an emergency declaration by the City, the President of the United States, or Federal Emergency Management Agency (FEMA) affecting the Service Area, the Contractor shall not be responsible for collection of debris generated from or as a result of such emergency, to the extent that such debris is in excess of normal volumes and material types collected through services provided under this Contract.

In the event of such emergency declarations, the Contractor shall be required to continue provisions of services in accordance with this Contract, including collection of all materials and material quantity limits as defined herein. On a non-exclusive basis, the City may negotiate with the Contractor for additional services if required or may negotiate with other service providers for quantities in excess of normal volumes.

The City goal is to provide disaster service collection response within twenty-four (24) hours from the time of the emergency declaration at no additional charge to the resident.

Emergency declaration, as defined in this Section, shall not automatically invoke Force Majeure terms, as defined in Section 41.0.

21.0 COLLECTION VEHICLES

21.1 Inspection of Collection Vehicles

The City may inspect the Contractor’s equipment at any time to ensure compliance with this Agreement. Upon notification form the City, the Contractor shall be required to repair or replace equipment that is no longer in acceptable condition for its intended purpose. The Contractor shall, upon notification from the City, sanitize, wash, or repaint equipment that is unsightly.

21.2 Appearance of Collection Vehicles

The Contractor shall paint all collection vehicles uniformly as approved by the City and with the Contractor’s name, customer service office telephone number and the unique identification number of the vehicle in letters not less than six (6) inches high on each side and the rear of the vehicle. All collection vehicles shall be uniquely numbered, and a record kept of the vehicle to which each number is assigned.

The Contractor shall use vehicles to which wrap graphics may be applied and shall apply wrap graphics upon request by the City. Wrap graphics may be for the purpose of City-related education, events, announcements, or other content approved by the City.

Application of wrap graphics to collection vehicles shall be performed by the Contractor and production and application shall be City's sole cost.

No advertising shall be permitted on vehicles for persons other than the Contractor. No advertising shall be permitted on vehicles for third parties.

21.3 Age of Collection Vehicles

Upon commencement of the Agreement, the Contractor shall use vehicles that are not more than 36 months old. Throughout the Initial Term and any Optional Renewal Terms the average age of the Contractor's collection vehicle fleet shall not exceed 7 years.

21.4 Purchase, Operation, Maintenance, Storage and Replacement of Collection Vehicles

The Contractor, at its sole cost, shall purchase, operate, maintain, store and replace all collection vehicles as required for the provision of Collection Services. The Contractor shall maintain collection vehicles according to industry standards including, but not limited to compaction, prevention of leakage, and other industry standard performance requirements.

All collection vehicles shall be equipped with back-up cameras and spill kits for oil and hydraulic fluids.

21.5 Collection Vehicle Specifications

The Contractor shall use [Collection Vehicle Type] as the standard collection vehicle type to provide all Cart-based collection services (Residential Trash Collection Services and Residential Recycling Services). The City recognizes that there may be areas within the Service Area that are not conducive to safe operation of [Collection Vehicle Type] collection vehicles. In these areas, the Contractor may use collection vehicle type(s) other than [Collection Vehicle Type].

All collection vehicles used by the Contractor to provide Collection Services under the Agreement shall be designed to prevent leakage, spillage or overflow. All such vehicles shall comply with U.S. Environmental Protection Agency noise emission regulations and other applicable noise control regulations. The Contractor shall also ensure that Gross Vehicle Weights (GVW) do not exceed vehicle license limitations.

The Contractor shall equip all Collection Vehicles with onboard electronic equipment and systems such as cameras, internet, GPS, software and communication systems as required to provide real-time positioning, route monitoring, work order management and photo verification of service delivery. All collection vehicles shall include both in-cab and exterior cameras that are able to document set outs and provide any service verification needs as determined by the City and the Contractor. Cameras shall be supported by a data management platform that is 5G enabled and compatible with the City's data management system.

Contractor's onboard technology systems and cameras on each Collection Vehicle shall be available for at least ninety (90) percent of the hours that the Collection Vehicle is on route on a calendar month basis. Additionally, all collection vehicles shall have the capability to have routing and in-field re-routing capabilities and contain an Application Programming Interface (API) that is interoperable with the City's data management system. The City reserves the right to request that the Contractor provide technology improvements from time to time as appropriate to maintain performance. The cost to supply, install, maintain, and operate these electronic systems is included in the Contract Rates, including the cost of any software licenses required by the City.

The City's technology systems and the Contractor's onboard technology systems shall be able to communicate in real time to allow the following transactions to occur:

i. Transmission of open work orders to Collection Vehicles for completion,
ii. Transmission of completed work orders from Collection Vehicles to the City,
iii. Transmission of current location, route completed and route remaining from Collection Vehicles to the City, including a graphical route map clearly identifying the route and providing colored lines indicating if the vehicle has travelled the street in one or both directions,
iv. Generation and transmission of automated reports identifying any sections of any routes where a Collection Vehicle did not pass,
v. Generation and transmission of automated reports identifying the address of any Unaccepted Set-outs with a photograph of the Unaccepted Set-Out,
vi. Review of camera data for service verification,
vii. Access to stored geolocation data.

22.0 CARTS

22.1 Ownership of Carts

[This section will be updated and included in the final awarded Agreement, based on final financial terms negotiated between the City and the successful Proposer at the conclusion of the RFP.]

22.2 Cart Operations

The Contractor shall be responsible for Cart operations, as defined herein, at no additional cost to the City. The City shall retain ownership of all Carts, in accordance with Section 22.1.

The Contractor shall be required to provide Trash Services and Recycling Services utilizing Carts for all Residential Service Units and any other Service Units receiving service using Carts. The Contractor shall be responsible for Cart operations whether the Carts are owned by the Contractor or the City.

The Contractor shall be responsible for storage, assembly, repair, and maintenance of all Carts, and delivery of repaired and replacement Carts to Residential and Commercial Customers. The Contractor shall have computer software capable of supplying the City with detailed information as to the performance of the of the required services under this

Section of the Agreement, including Cart purchase and delivery history, service times, types of service performed, types of repairs being made, and other reports as requested by the City. The Contractor shall also be required to provide additional data and reports as required herein.

22.3 Cart Inventory Data

22.3.1 Cart Inventory Database

The Contractor shall develop and maintain a database which contains the following information. The Contractor shall make the then current database, or any data contained therein, available to the City upon request by the City.

Each Cart purchased or managed under the Agreement shall have an associated Cart ID or serial number, unique to that Cart, which shall be used to track all Cart information as required under the Agreement, including:

- **i.** Location (address) and date of delivery of each Cart, including current and historical locations where Cart has been in-service;
- **ii.** Occurrences of maintenance, repair, and replacement performed for each Cart; and
- **iii.** Number and type of Carts at each Residential Service Unit, Commercial Service Unit, and City Facility.

22.3.2 Requirements for Cart Inventory Report and Collection of Excess Carts

Upon commencement of the Agreement, and once every three (3) years thereafter for the duration of the Initial Term and any Optional Renewal Term, the Contractor shall be required to provide the City with a comprehensive report summarizing current Cart inventory information from the database in accordance with Section 22.322.3.1. The initial report shall be submitted to the City within three (3) months of the Service Commencement Date and shall be based upon information gathered during initial Cart distribution. Subsequent Cart inventory reports shall be submitted once every three (3) years thereafter, on the same month in which the Agreement commenced. Subsequent Cart inventory reports shall be based on in-field Cart data collection activities by the Contractor to verify the number of Trash and Recycling Carts being serviced at each Residential Service Unit, Commercial Service Unit, and City Facility and update the database if required.

The City shall use the comprehensive report to identify the number of Trash Service Carts and Recycling Service Carts that are collected at each Residential Service Unit, to determine the cost of Additional Carts to be paid to the Contractor by the City, in accordance with the rates established in the Agreement.

Upon notification and request by the City, the Contractor shall be required to collect from Residential Service Units, Commercial Service Units, City Facilities, and City Events any unwanted excess Carts. The Contractor will be responsible for storing these Carts until they can be used.

22.4 Cart Inventory Replacement

At Service Commencement, the City may require the Contractor to assemble and distribute Carts to Residential and Commercial Customers at no additional cost. The number of Trash or Recycling Carts to be distributed shall be equal to the number of each type of Cart in use by each Residential Service Unit or Commercial Customer or City Services location at that time.

Throughout the Agreement Term, the Contractor shall be responsible for delivery of repaired, replacement or new Carts to Residential Service Units, Commercial Customers, and City Facilities and Events. The Contractor shall deliver repaired or replacement Carts at no additional cost to the City provided that the delivery occurs due to addition of a new Service Unit, warranty replacement, or replacement due to normal wear and tear or damage due to Contractor fault. If a replacement is required due to loss or damage of a Cart by the Customer, then the Contractor may charge the City a one-time fee for delivery of a replacement Cart.

22.5 Cart Operations Facility and Location

The Contractor shall use its own facilities for Cart operations required including but not limited to Cart storage, maintenance, and repair. The Contractor's Cart operations facility shall be used for receipt and storage of all Carts and replacement parts used in provision of Services under this Agreement.

22.6 Cart Purchase

The [Contractor/City] shall be responsible for sourcing and purchasing Carts meeting the specifications in Section 22.8 and delivering them to the Contractor's designated maintenance and storage facility to be managed by the Contractor in accordance with Section 22.0. The Contractor and City shall work cooperatively to maintain inventories of Carts at appropriate levels. The Carts shall be owned by the [Contractor/City] and retained by the [Contractor/City] at the end of the Agreement Term.

22.7 Cart Maintenance, Repair, and Replacement

i. The Contractor shall maintain and repair Carts for the collection of Trash and Program Recyclable Materials, in accordance with the Agreement
ii. The Contractor shall maintain, repair, and deliver repaired, and replacement Carts as needed. Contractor responsibilities shall include picking up damaged Carts, processing warranty replacements, repairing, and delivering repaired, replacement Carts to Residential Service Units, Commercial Customers, and City Facilities and Events.
iii. The turn-around time for the maintenance, repair, or replacement of a Cart shall not exceed two (2) business days from the time a request for service is received by the Contractor. Maintenance and repair shall not interfere with normal collection of the Cart.
iv. The Contractor shall purchase and use replacement parts as specified by the Cart manufacturer as required to repair and maintain Carts.

v. The Contractor shall make the necessary repairs or replacement within forty-eight (48) hours of receipt of request. The Contractor shall be responsible for maintaining records of such customer service requests and their resolution.

vi. Contractor shall be responsible for and incur all costs for the disposal or recycling of Carts damaged beyond repair.

22.8 Cart Specifications

The following represent the minimum specifications for Carts used to provide Collection Services under this Agreement.

i. Carts shall be purchased new for this contract.

ii. Carts shall have a minimum 10-year warranty in accordance with Section 22.10.

iii. The Cart shall be compatible with both standard American semi-automated, bar-locking lifters (ANSI type B) as well as automated arm lifters (ANSI type G). All Carts should be rotationally or injection molded using linear high or medium density polyethylene that contains resin with an ultraviolet stabilizer and color shall be non-fading throughout the warranty period.

iv. The body of the Cart shall be composed of first quality recyclable (25% PCR of total) medium or high-density polyethylene with a BCSR rating of not less than 500 hours.

v. The resin shall meet or exceed the following American Society for Testing Materials (A.S.T.M) molded property specification: Environmental Stress Crack Resistance (E.S.C.R) Condition “A” for rotational Carts or Condition “B” for injection molded Carts.

vi. The capacity of Carts shall be approximately [65 or 96 U.S. gallons].

vii. The Cart is provided with adequate wheels (minimum ten-inch (10") diameter with five-eighth inch (5/8’) diameter solid axle) and handles so that it can be pushed or pulled with little effort.

viii. Carts shall be furnished complete with all hardware needed for assembly and use. Contractor shall establish an inventory stock of replacement parts for field repairs. Replacement parts should be available upon request of repair to ensure repairs are made in a timely manner in accordance with Section 22.7 of the Agreement. The following are considered replacement parts:

- **a.** Wheels and assemblies;
- **b.** Lids and assemblies;
- **c.** All associated fasteners and brackets.

ix. The Cart is designed to accommodate a load of three hundred thirty-five (335) pounds for a 96-gallon Cart and two hundred twenty-five (225) pounds for a 64-gallon Cart excluding the weight of the Cart, without permanent damage, deformation or structural failure. Carts and all components shall be capable of withstanding temperature extremes ranging from negative thirty (-30) degrees Fahrenheit to one hundred and fifty (150) degrees Fahrenheit, when under two hundred (200) pounds per square inch compression, applied from opposite sides by the gripping arms of a Vehicle without permanent damage, deformation or structural failure.

x. Carts shall be made with plastic material using hot melt compounding that is specifically prepared to be colorfast so that the Carts do not alter appreciably in normal use. Carts shall be stabilized against ultraviolet light attack with UV 531 or equivalent.

xi. Cart lids shall have the following specifications:
- **a.** Shall be designed to facilitate water run-off.
- **b.** Design prevents the lid from being flung open by the wind.
- **c.** Shall be closed by the weight of the lid only. No latches are used or required.
- **d.** The lid is designed in such a manner as to allow opening without having to touch the bottom edge of the lid.

xii. The Cart is designed to prevent being turned over by winds of up to 40 mph in any direction.

xiii. In the event of any recall notice, technical service bulletin, or other important notification affecting any Carts or replacement parts purchased under this Agreement, a notice shall be sent to the City. It shall be the responsibility of the Contractor to assure that all recall notices are sent directly to the City.

xiv. If the Carts include a bar code system, bar codes should be located on the front of the container above the serial number. The bar code should be readable with the devices that meet industry standards. The scanned value of each code should match each Cart's serial number. The bar code shall remain scannable throughout the warranty period.

22.9 Cart Appearance

i. Carts shall have an appearance as specified by the City, including, but not limited to:
- **a.** Color.
- **b.** Labels, logos, and other identifying information, including size and color of letters, numbers, and markings.
- **c.** Serial numbers or other numbering system of City's choosing.
- **d.** Size and color of the Carts are Navy Blue, Brown, Forest Green or other color as directed by the City, and are stabilized against ultraviolet light attack with UV 531 or equivalent. Color of Trash and Recycling carts shall be different.
- **e.** Upon request, cart lids shall have a hot stamp informational message educational message, and/or In-Mold Label (IML) option as needed by the City.
- **f.** Non-Residential Carts shall have a different lid color from Residential Carts to distinguish Service Unit type.

ii. Carts shall have no markings or advertising for any entity other than the City.

22.10 Cart Warranty

The following Cart warranty specifications represent the warranty requirements for Cart maintenance, repair and replacement. All Carts and hardware furnished shall be unconditionally warranted for a period of a minimum ten (10) years against defects

including, but not limited to: cracking, chipping, peeling, distortion, failures at attachment, weathering degradation, defective or insufficient material, poor material workmanship on the part of the manufacturer and lowered ultraviolet resistance to aging in the process or normal operational use. If at any time during the warranty period, a defect should occur with any Cart, the Cart shall be replaced by the Contractor at no cost or obligation to the City. The Contractor expressly warrants all items to be new, free from defects in design, materials and workmanship, and to be fit and sufficient for their intended purpose. All warranties shall survive acceptance and payment by the City. The City reserves the right to have any or all Carts submitted for consideration evaluated by an independent testing facility to ensure full compliance with specifications. Warranty includes, but is not limited to, the factors listed below:

- **i.** Failure of the lid to prevent rainwater from entering the Cart when closed on the Cart body.
- **ii.** Damage to the Cart body, the lid, or any component parts through opening or closing the lid.
- **iii.** Does not continuously perform in the intended manner as set forth in Section 22.8 (including smooth maneuverability).
- **iv.** Failure of the lid hinge to remain fully functional and continually hold the lid in the originally designed and intended position when either is opened or closed.
- **v.** Failure of any plastic component to be resistant to damage in the event of contact with common household or residential product/chemicals.
- **vi.** Failure of any plastic component resulting from rodents or other wildlife damage.
- **vii.** Failure of any portion of the bottom of the Cart to remain impervious to wear-through after repeated contact with rough and abrasive surfaces. The Cart shall remain free of holes or penetrations that will cause the container to leak throughout the warranty period with the Cart in normal use.

Cart or lid failures during the warranty period shall constitute failure of the Cart and require replacement with a new and complete Cart (including shipping and assembly), at no cost to the City. The determination of failure will be at the sole discretion of the City. Warranty replacement will be due to the City within sixty (60) days from the time the City submits the claim.

23.0 OTHER COLLECTION EQUIPMENT

Contractor shall provide other collection equipment and vehicles sufficient in number and capacity to perform the work required by this Agreement including, but not limited to Front Load Containers, Roll-Off Containers and any vehicles used to service Commercial Service Units, City Facilities and City Events.

23.1 Appearance of Other Collection Equipment

The Contractor’s name, local telephone number, call center telephone number shall be displayed in letters and numbers no less than four (4) inches high and the vehicle identification number shall be displayed in letters and numbers no less than two and one-half (2.5) inches high on all other collection equipment. Contractor shall not place

the City's logo on other collection equipment vehicles. Contractor shall paint all other collection equipment uniformly as approved by Contractor shall maintain all containers in a clean manner.

Other collection equipment used in the collection of materials under the Agreement shall be thoroughly washed on a regular basis to present a clean appearance. City may inspect Vehicles at any time to determine compliance with cleaning and maintenance requirements.

23.2 Other Collection Equipment Specifications

All other collection equipment and vehicles used by Contractor in providing collection of materials under the Agreement shall be designed to prevent leakage, spillage or overflow. All such vehicles shall comply with U.S. Environmental Protection Agency noise emission regulations and other applicable noise control regulations. Contractor shall also ensure that GVW of all vehicles, even when loaded, does not exceed vehicle license limitations to protect the roadways of the City.

23.3 Purchase, Operation, Storage and Replacement of Other Collection Equipment

Unless otherwise stated in this Agreement, Contractor, at its sole cost, shall purchase, operate, and maintain other collection equipment pursuant to this Agreement.

The City, at its sole discretion, shall determine whether the Contractor is or is not properly maintaining the collection equipment. If the City determines the Contractor is not properly maintaining the collection equipment, Contractor shall replace such equipment in accordance with this Agreement and City may assess administrative charges in accordance with this Agreement.

Unless otherwise stated in this Agreement, Contractor, at its sole cost, shall replace collection equipment if such equipment is lost, stolen or damaged beyond normal wear and tear. If Contractor or City determines that other collection equipment requires replacement, Contractor shall replace such equipment within fourteen (14) calendar days with comparable equipment.

Contractor shall be responsible to make the appearance of the replacement equipment in adherence with the requirements of this Agreement.

23.4 Other Collection Equipment Inspection and Maintenance

Contractor shall furnish and maintain other collection equipment in accordance with all standards in this Agreement and any maintenance considered to be necessary for execution of the work in an acceptable manner and at a satisfactory rate of progress. Contractor shall inspect each vehicle and each piece of equipment daily to ensure that all equipment is operating properly and complies with Applicable Law. Vehicles which are not operating properly or do not comply with Applicable Law shall be taken out of service until they are repaired and operate properly and comply with Applicable Law.

23.5 Ownership of Collection Equipment other than Carts

Ownership of collection equipment other than Carts shall rest with Contractor.

24.0 UNACCEPTED SET-OUTS

The Contractor may designate a set-out as an Unaccepted Set-out only for the following reasons.

- **i.** A set-out of Recycling that contains more than thirty percent (30%) materials that are not Program Recyclable Materials
- **ii.** A set-out exceeds quantity limits as established in this Agreement
- **iii.** A set-out is not placed at the Curbside or is inaccessible due to barriers
- **iv.** A set out is placed in bags or other non-standard containers
- **v.** Waste materials are placed on top of a Cart or a Cart cannot be closed
- **vi.** A set-out presents a substantial danger to the Contractor's employees or the public
- **vii.** A set-out contains Hazardous Waste or other prohibited materials that cannot be easily separated

In the event of an Unaccepted Set-out, the Contractor shall:

- **i.** Take a photograph of the entire set-out
- **ii.** Collect any portion that is properly set-out and can be easily separated
- **iii.** Leave an Unaccepted Set-out Notice stating the reason the set-out or portion of the set-out was designated an Unaccepted Set-out
- **iv.** Record the location address

For Brush and Bulky Waste set-outs that are Unaccepted Set-outs due to exceeding the quantity limit the Contractor shall, if possible, collect a portion of the set-out approximately equal to the quantity limit. The Unaccepted Set-outs shall be tagged with a notification explain why the Set-out was unacceptable, how to address the issue for future collection, and how to contact the Contractor for payment and removal.

The Contractor shall provide a list of the Unaccepted Set-outs including the address, and reason for non-acceptance to the City by 10:00 AM the next business day. If the Contractor fails to provide notice to the customer and to the City in accordance with this Section, the Contractor shall be subject to Liquidated Damages in accordance with Section 38.0.

25.0 MISSED COLLECTION

A missed collection complaint occurs when a customer reports that their material was set out at the correct time and in the manner prescribed by the Agreement and was not collected by the Contractor.

If the City or the Contractor receives a missed collection complaint, the Contractor shall investigate using the collection vehicle's onboard cameras. If the Contractor cannot

demonstrate that the material was not set-out, or that an Unaccepted Set-Out notice was delivered due to a non-compliant set-out, then the complaint shall be considered confirmed, and the Contractor shall be subject to Liquidated Damages in accordance with Section 38.0. If the Contractor is notified of a confirmed missed collection prior to 1:00 PM then the Contractor shall return to the property to pick-up the missed collection on the same day that notice is received. If the Contractor is notified of a missed collection after 1:00 PM then the Contractor shall return to the property pick up the missed collection no later than 5:00 PM on the day after the complaint is received.

26.0 PUBLIC EDUCATION NOTICES

The Contractor shall provide the following services associated with public education notices at no additional cost to the City or the customer. The Contractor shall submit all public education notices to the City for approval at least thirty (30) days prior to distribution. Contractor will at no time place public education notices inside customers' mailboxes. Contractor shall not distribute any public education notices within the City without written approval from the City.

i. Transition Notice

The Contractor shall develop, print, and distribute a Transition Notice informing customers of the change in service provider, if applicable. The final City-approved Transition Notices shall be delivered to Customers by the Contractor between one (1) and fourteen (14) days after the Service Commencement Date.

ii. Program Introduction Notice

Contractor shall develop, print, and distribute a Program Introduction Notice for each Residential Service Unit describing all Residential services that will be provided, including new services and changes to services. Program Introduction notice shall include, at a minimum:

- Types of Residential Services that will be provided;
- Service frequency or procedure for requesting each service; and
- Set-out requirements (types of materials accepted, configuration, and limits).

Final City-Approved Program Introduction Notices shall be distributed 10 to 15 days prior to the Service Commencement Date.

iii. Unaccepted Set-out Notices

The Contractor shall develop, print, and distribute, at Contractor's own expense, an Unaccepted Set-out Notice. The Unaccepted Set-out Notice shall be approved by the City and shall include one (1) original with two (2) carbon copies. The Unaccepted Set-out shall include the date, reason for non-collection, Contractor's customer service telephone number, and any other information the City requests. The Contractor shall attach the original Unaccepted Set-out Notice via a non-adhesive means to the Cart, or Container. Contractor shall take a digital photo of set-out that receives an Unaccepted Set-out. Contractor shall

maintain carbon copies of Unaccepted Set-out Notices and digital photos in a format Contractor can immediately retrieve a requested notice or photo by address. Contractor shall provide a daily report of Unaccepted Set-out Notices as set forth in this Agreement.

vi. Development, Printing and Distribution of Additional Public Education Notices

At the request of the City, the Contractor shall develop, print, and distribute, at Contractor's own expense, other Public Education Notices to Residential Service Units for purposes and needs identified by the City.

The Contractor shall be required to provide to the City at no cost any existing public educational materials previously developed and used for Residential services, including, but not limited to flyers, mailers, informational or instructional videos, etc. The City shall be permitted to use such materials for public education purposes within the City at the City's discretion.

27.0 SPILLAGE, LEAKAGE AND LITTER

The Contractor shall conduct all operations in a manner that does not allow leaks, spills, or blowing litter to occur. The Contractor shall be responsible for cleanup of any spillage, leakage, or blown litter caused by its operations within two (2) hours of the earlier of either (i) receiving notification of spillage, leakage or blown litter or (ii) knowledge of spillage, leakage, or blown litter by the Contractor or Contractor's employees. The Contractor's vehicles shall carry spill containment kits with supplies for containing and cleaning up small spills of engine fluids or other hazardous materials. The Contractor shall also be required to maintain an on-call subcontractor for the purpose of cleaning up larger spills in a timely manner. Failure by the Contractor to adequately prevent or clean up spills, leakage, or blown litter may result in assessment of Liquidated Damages by the City in accordance with Section 38.0.

28.0 CUSTOMER LIST

At least one month prior to the Service Commencement Date, the City shall provide the Contractor with a customer list for Residential and Commercial Collection Services. The Contractor will report in writing to the City any Residential set-outs and Commercial accounts or service requests that are not on the then current customer list, and the City will thereafter update the customer list as applicable. The Contractor shall work cooperatively with the City to keep the Residential and Commercial customer lists up to date throughout the term of the Agreement. Regardless of the customer list, the Contractor shall provide services to all properties in accordance with this Agreement.

29.0 COST ADJUSTMENT

29.1 Annual Cost Adjustment Process

The Contract Rates shall remain effective from the execution of this Agreement through [June 1, 2032]. Thereafter, cost adjustments may be requested by the Contractor(s)

each new Fiscal Year and are subject to approval by the City Council. Cost adjustments shall meet the following requirements for each Service offered under the Agreement:

i. Cost adjustments will be based on annual changes to indices agreed to by the City Council and the Contractor.
ii. Cost adjustment requests must be received by March 1st of each year (taking effect the following June 1st to align with the City's budget development and approval process) or the Contractor forfeits the right to request a cost adjustment for the upcoming year.
iii. The City may implement cost decreases (based on the cost adjustment indices for each service described below) even if the Contractor does not submit the request by March 1st of a year.
iv. The Contractor shall receive no other financial compensation outside the terms of the Agreement(s). Further, costs shall not be adjusted other than as explicitly authorized in the Agreement.
v. Cost adjustments will be based on previous years' performance and agreed to by the City Council and the Contractor.

The annual cost adjustment shall neither exceed five percent (5%) in any single year nor exceed a cumulative increase of fifteen percent (15%) over a four-year period. The approval of an annual cost adjustment shall be based upon prior year of service performance.

29.2 Annual Cost Adjustment Index

Subject to City approval, the Contract Rates shall be adjusted on June 1, 2028, and every June 1st thereafter for the term of the Agreement. The adjustment shall be based on the year-over-year change in the average value of the U.S. Consumer Price Index: Urban Consumer – Trash and Trash Collection over the 12-month period ended May.

30.0 PERSONNEL

30.1 Contractor's Representative

The Contractor shall assign a qualified person or persons to oversee its operations and performance of Services, and shall provide the name, office telephone number, mobile phone number, email address, and fax number of the Contractor's representatives and key personnel to the City. Such records shall be updated as personnel or contact information changes.

The Contractor shall have a competent and reliable representative on duty at all times that is authorized to make decisions and act on its behalf. The Contractor agrees that the City shall have twenty-four (24) hour access to said representative via non-toll call from the City. Answering machines, pagers or other devices that do not provide for immediate contact with the Contractor's said representative(s) shall not meet the requirements.

30.2 Personnel Standards

i. The Contractor shall hire and maintain qualified personnel to provide service under this Agreement. The Contractor is responsible for ensuring that all personnel are supplied with all equipment and have obtained any training, licenses, or certifications required by law to perform their work. As for personnel operating commercial vehicles, the Contractor shall ensure such personnel have a valid commercial driver's license while operating commercial vehicles in the City or in connection with this Agreement. If deemed qualified, the Contractor is encouraged to hire City residents to fill vacant positions at all levels.

ii. The Contractor shall furnish each employee involved in the performance of this Agreement with a uniform and safety vest, shirt or jacket which clearly displays the name of the Contractor. Such uniforms and safety equipment shall make the employee readily visible and identifiable. The Contractor's employees shall wear complete uniforms and safety vest, shirt, or jacket at all times.

iii. Contractor shall not, nor shall it permit its employees to demand or solicit, directly or indirectly, any additional compensation or gratuity from members of the public for Service(s) provided under the Agreement.

iv. The Contractor shall provide regularly scheduled, on-going operating and safety training for all employees. In addition, the Contractor's employees shall be trained to perform their duties to maximize the City's recycling rate, minimize contamination, and promote recycling at all times. Such meetings shall be mandatory for all collection and supervisory personnel and held not less than once per month. Training manuals and schedules shall be maintained at the local office of the Contractor and available for review at any time by the City.

v. All employees involved in the performance of this Agreement including office and all front-line personnel, shall be provided adequate training before and during their employment with the Contractor. This training shall familiarize employees with the required duties, standards of performance, and specific requirements of their roles. All front-line, administrative, supervisory and customer service personnel shall receive customer service training prior to and during the time they are employed by the Contractor

vi. The Contractor's employees shall treat all customers, co-workers, City employees and any person with whom they come in contact in the performance of their duties in a polite and courteous manner. Rudeness, belligerence, and the use of profanity are strictly prohibited.

vii. In performance of all Services, the Contractor's employees shall adhere to municipal, City, State and federal laws.

The City reserves the right to make a complaint regarding any employee of the Contractor who violates any provision herein, or who is wanton, negligent or discourteous in the performance of his/her duties. The City reserves the right to have

the Contractor remove employees who fail to meet these criteria from providing service to the City.

31.0 CUSTOMER SERVICE

31.1 Customer Service Responsibilities

The Contractor understands, acknowledges, and agrees that customer service is important to the City. The Contractor shall work cooperatively with the City to maintain a high level of customer service and ensure that Services are delivered in an accessible, professional, and responsible manner. The Contractor shall meet

with the City's Representative on a regular basis to discuss process improvements, performance metrics, performance issues, and service planning. The Contractor shall be responsible for fielding, responding to, and addressing customer service issues. The Contractor shall provide a telephone customer service number to field customer service requests.

The Contractor shall at all times supply labor, information, and resources as reasonably required to respond to customer service issues, including but not limited to following protocols for missed collection, Unaccepted Set-outs, property damage, and other events as described elsewhere in the Agreement.

The Contractor will log any service requests, complaints or inquiries. The Contractor shall inform the City of any service requests, complaints, or inquiries that it receives from residential customers. At minimum, the Contractor shall supply the City with the following information:

i. Customer name, address, and phone number;
ii. Description of request, complaint, or inquiry;
iii. Date and time the request, complaint, or inquiry was received;
iv. Summary of any investigations or actions taken to address the issue; and
v. Name of Contractor employee responsible for follow-up.

The Contractor shall be the primary point of contact for commercial service requests, commercial billing, and related inquiries.

32.0 PLANNING DOCUMENTS

32.1 Contingency Plan

No later than 90 days after the Effective Date, the Contractor shall submit a final Contingency Plan to the City for approval describing their response to unplanned events that can disrupt service and/or pose a risk to human health and safety which shall be consistent with the draft Contingency Plan submitted with the Proposal. Upon approval by the City, the Contingency Plan shall be incorporated into the Agreement by reference as Attachment 1.

At minimum, the Contingency Plan will address the following topics.

i. Notification procedures
ii. Alternate facilities or equipment that can be used during unplanned downtime
iii. Fire prevention and response
iv. Spill prevention and response including an on-call contract or dedicated internal resources that can be dispatched to clean up spills on public roadways
v. Hazardous waste response
vi. Collection vehicle collision response

The Contractor shall be prepared to provide facilities, vehicles, equipment, personnel, subcontracted services, or other resources as required to maintain uninterrupted Services during equipment failures, natural disasters, emergency downtime, outages, labor disputes or any other situation or condition that impairs the Contractor's ability to provide Service in accordance with the Contingency Plan. The Contingency Plan shall also describe the actions that will be taken by the Contractor upon any discovery of Hazardous Waste and/or Special Waste in a vehicle or facility. The Contractor shall include in the plan a copy of a signed contract(s) with a permitted Hazardous Waste and Special Waste transporter(s) to handle any Hazardous Waste and Special Waste discovered during operations. The plan shall comply with all State and Federal regulations regarding the handling of Hazardous Waste and Special Waste. The Contingency Plan shall be implemented in a timely manner and at no additional cost to the City. The Contractor shall follow the notification procedures in the Contingency Plan prior to implementing contingency measures.

32.2 Transition Plan

The Contractor understands, acknowledges, and agrees that smooth transitions between service providers at the beginning and end of the Agreement is essential for the health and safety of the City and its residents and businesses. The Contractor shall cooperate fully with the City to ensure timely, smooth, and uninterrupted transitions between service providers in accordance with the Transition Plan in Attachment 2.

The Contractor shall make all preparations necessary to provide Services beginning on the Service Commencement Date and provide the City with such information prior to the Service Commencement Date as reasonably required for a smooth transition from the previous service provider. At the end of the Agreement, whether by expiration or termination, the Contractor shall continue to diligently provide Services until the final day of the Agreement and provide the City with such information as reasonably required to ensure a smooth transition to the successor service provider.

If the Contractor fails to fully and completely comply with the transition requirements in Section 32.0 or the Transition Plan, the City may engage the services of another provider to perform the required services, and the reasonable expenses incurred by the City shall be paid by the Contractor. Alternatively, the City may terminate the Agreement and employ other remedies in accordance with Section 42.0.

33.0 DAMAGE TO PROPERTY

The Contractor shall take all necessary precautions to protect public and private property during the performance of this Agreement. Except for reasonable wear and tear, the Contractor shall repair or replace any private or public property which is damaged by the Contractor. The damaged property shall be restored to its original condition through repair or replacement at no charge to the property owner, within seven (7) days. The Contractor shall notify the property owner and the City of any damaged property as soon as possible after the damage occurs and provide the property owner and the City with the anticipated schedule for repair or replacement.

If the Contractor fails to address the repair or replacement of damaged property within seven (7) days, the City may, but shall not be obligated to, repair or replace such damaged property, and the cost of doing so shall be deducted from payment to be made to the Contractor.

34.0 NUISANCE CONTROL

For all Services the Contractor(s) shall be conduct operations as quietly as possible and shall conform to applicable Federal, State, County and City noise level regulations. The Contractor shall maintain facilities and equipment that is used to provide services in a manner that prevents odor, noise, vermin, dust, and other nuisances. The Contractor shall routinely clean equipment used to collect, transport, or process waste.

35.0 CITY'S RIGHTS TO INSPECT FACILITIES AND EQUIPMENT

The City or any of its duly authorized representatives reserves the right to inspect the Contractor's facilities and equipment, as the City deems reasonably necessary, to verify compliance with the terms of the Agreement either on a continuing or random inspection basis. The City shall conduct the inspection of facilities and equipment during regular hours of operation. The Contractor shall make available to the City all reasonable assistance to facilitate performance of inspections.

36.0 OWNERSHIP AND RISK OF LOSS FOR TRASH, BRUSH AND BULKY WASTE, YARD WASTE AND PROGRAM RECYCLABLE MATERIALS

Title to Trash, Brush and Bulky Waste, Yard Waste, Program Recyclable Material, and Household Hazardous Waste Material shall pass to the Contractor once the Contractor takes possession of the materials, and responsibility for its proper management in accordance with the Agreement and applicable law remains with the Contractor.

37.0 INSURANCE REQUIREMENTS

Before commencing performance of Services pursuant to this Agreement, the Contractor shall, at its own expense, procure, pay for and maintain the following

insurance written by companies approved by the State and acceptable to the City. The Contractor shall furnish to the City certificates of insurance executed by the insurer or its authorized agent stating coverages, limits, expiration dates and compliance with all applicable required provisions. Certificates shall reference the project/contract number and provide proof of coverage in the following amounts.

i. Commercial General Liability insurance, including, but not limited to Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractors and Contractual Liability, with minimum limits of $1,000,000 per-occurrence and $2,000,000 general aggregate. Coverage shall be written on an occurrence form. The General Aggregate shall apply on a per project basis.
ii. Workers' Compensation insurance with Texas statutory limits; and Employer's Liability coverage with minimum limits for bodily injury: a) by accident, $500,000 each accident, b) by disease, $500,000 per employee with a per policy aggregate of $500,000.
iii. Business Automobile Liability insurance covering owned, hired and non-owned vehicles, with a minimum combined single limit of $1,000,000.

With reference to the foregoing required insurance, the Contractor agrees to the following:

i. A waiver of subrogation in favor of the City, its officials, employees, and officers shall be contained in the Workers' Compensation insurance policy.
ii. The City, its officials, employees and officers shall be covered as additional insureds on the Commercial General Liability and Business Automobile Liability policies.
iii. Policies of insurance shall not be cancelled, non-renewed, terminated, or materially changed unless and until thirty (30) days' notice has been given to the City.

Insurance limits can be met with a combination of primary and excess/umbrella coverage. All insurance shall be purchased from insurance companies that meet a financial rating of A-VI or better as assigned by A.M. Best Company or equivalent. The Contractor shall require any contractors, sub-contractors, and other persons doing business with or for the Contractor related to the work to maintain at least the insurance as required, or their liability shall be covered by the Contractor.

38.0 LIQUIDATED DAMAGES

If the Contractor does not perform its obligations in a timely manner pursuant to the terms of this Agreement, the City will suffer damages which are difficult to determine and adequately specify. The Contractor hereby agrees, in addition to any other remedies available to the City, that the City may withhold payment from the Contractor in the amounts specified below as Liquidated Damages for failure of the Contractor to fulfill its obligations.

The Contractor shall be given a grace period of thirty (30) calendar days from the Service Commencement Date during which missed collection will be noted but no Liquidated Damages will be assessed for up to five

(5) service units missed on any route. Any misses of over five (5) Service Units on any route will not be covered by the grace period. To receive relief from Liquidated Damages during the grace period the Contractor shall be required to demonstrate continual and satisfactory efforts to resolve all issues.

The Contractor shall be liable for Liquidated Damage amounts upon determination by the City that performance has not occurred consistent with the provisions of the Agreement. The City shall notify the Contractor in writing or electronically of each act or omission in this Agreement reported to or discovered by the City. It shall be the duty of the Contractor to take whatever steps or action may be necessary to remedy the cause of the complaint.

The City may deduct the full amount of any damages from any payment due to the Contractor. The remedy available to the City under this paragraph shall be in addition to all other remedies which the City may have under law or at equity and is mutually agreed upon due to the difficulty of determining the City's actual damages to find, secure and fund immediate assistance to prevent public health and safety hazards.

The Contractor shall not be deemed liable for Liquidated Damages where the inability to perform the Services is the result of conditions of Force Majeure as set forth in this Agreement.

38.1 Liquidated Damages - General

i. Violation of any local, State, or Federal regulations

$500 each incident

ii. Failure to clean up leakage, spills, or litter caused by the Contractor within two (2) hours of receiving notification or becoming aware of the leakage spills or litter, whichever is earlier

$250 each incident

iii. Failure to maintain vehicles or other equipment in manner which prevents leaks, spills, litter, odor or other nuisances

$100 each incident

iv. Failure to notify the property owner and the City of damage to private or public property or restore the damaged property to its previous condition by repair or replacement within 7 days as required by this Agreement

$250 each incident

v. Failure to provide a timely or complete monthly or annual report

$250 each incident

38.2 Liquidated Damages -Collection Services

i. Missed Collection

$50 for each missed collection above two (2) misses per Collection Day, to be assessed at the end of each collection month. A missed collection occurs when a customer reports that their material was set out at the correct time and was not collected provided that the address was not reported and documented by the Contractor as a Non-Set-out or Unaccepted Set-out

ii. Missed Block Collection

$500 for each incident of the Contractor failing to pick up material on a block containing multiple service units. A missed block is defined as one side of a street between cross streets or an entire cul-de-sac where at least three service units report that their material was set out before at the correct time and was not picked up and the address was not reported and documented by the Contractor as a Non-Set-out or Unaccepted Set-out

iii. Failure to Provide Collection Services within specified Hours of Operation

$250 for each Contractor vehicle providing Collection Services up to 2 hours before or 2 hours after the specified start and end times for that type of Collection Service

$500 for each for each Contractor vehicle providing Collection Services 2 hours or more before or after the specified start and end times for that type of Collection Service

$500 each incident

iv. Failure to perform proper billing procedures and/or failure to obtain customer approval before performing and billing for Additional Brush and Bulky Waste Services

$250 each incident

v. Failure to Complete a Majority (50%) of the collection on a given day

$2,500 each incident

vi. Failure or to collect materials from a Missed Collection location within the amount of time specified in the Agreement

$250 each incident

vii. Failure to maintain Carts or Containers in proper working order ten (10) calendar days after notice has been provided by the City

$100 each incident

viii. Failure to return Cart or Container to approximately original location

$50 each incident

ix. Placing Recyclable Material in Solid Waste containers or vehicles

$1,000 each incident

x. Failure to provide updated route maps to City after change in routing

$50 per day each day beyond thirty (30) calendar days after change in routing

xi. Failure to leave an education tag when material that is inappropriately prepared is not collected

$100 each incident

xii. Distributing Carts or other Containers that do not meet specifications in this Agreement

$100 each incident

xiii. Failure to respond to any customer complaint received by the close of the following business day

$100 per business day thereafter per incident

xiv. Failure to provide the City with the required resolved customer complaint documentation

$50 per business day after the close of the business day following the date of the incident

xv. Failure to provide Collection Services on any scheduled Collection Day on or after the Service Commencement Date

$3,000 each day

xvi. Failure for three or more consecutive calendar days to collect Trash or Recyclable Materials from at least 95% of Residential Service Units or 95% of Commercial Customers

$50,000 as a one-time cost and $15,000 per calendar day from the inception of such failure to perform for as long as such failure to perform continues

38.3 Liquidated Damages -Processing and Disposal Services

i. Failure to accept materials during hours of operation

$250 per hour, up to $2,500 per day

ii. Failure to market Recovered Materials

$2,500 per occurrence

iii. Disposal of Program Recyclable Materials

$2,500 per occurrence.

39.0 PAYMENT WITHHELD

In addition to express provisions contained elsewhere in this Agreement, City may withhold from any payment otherwise due the Contractor such amount as determined necessary to protect the City's interests, or, if it so elects, may withhold or retain all or a portion of any monthly payment on account of:

- **i.** Unsatisfactory progress of the work not caused by condition Beyond Contractor's Control
- **ii.** Defective work not corrected
- **iii.** Contractor's failure to carry out instructions or orders of the City or its representative
- **iv.** A reasonable doubt that the Agreement can be completed for the balance then unpaid
- **v.** Execution of work not in accordance with the Agreement
- **vi.** Claim filed by or against Contractor or reasonable evidence indicating problem filing of claims
- **vii.** Failure of Contractor to make payments to any subcontractor for material or labor
- **viii.** Damage to another contractor
- **ix.** Unsafe working conditions allowed to persist by Contractor
- **x.** Failure of Contractor to provide required reports and other reports as required by City
- **xi.** Use of any subcontractors without the City's prior written approval
- **xii.** Failure of Contractor to provide accurate invoices and supporting data as describe elsewhere in this agreement.

When the above grounds are removed, payment shall be made for amounts withheld because of them and the City shall never be liable for interest on any delayed or late payment. The City's right to withhold payments under this Section will be reasonable considering the nature of the claim and the amount of available performance bond pursuant to this Agreement.

40.0 LETTER OF CREDIT OR PERFORMANCE BOND

At least one (1) month prior to the Service Commencement Date, the Contractor(s) responsible for performing Collection Services shall each (1) make, execute and deliver to the City a good and sufficient letter of credit (preferred) or performance bond (alternate) to secure the full, complete and faithful performance of the terms and conditions of the Agreement. Such letter or credit or performance bond shall be in an amount based on six (6) months projected fees and shall be renewed each year thereafter throughout the Agreement Term.

41.0 FORCE MAJEURE

Except for any payment obligation by either party, if the City or Contractor is unable to perform, or is delayed in its performance of any of its obligations under this Agreement by reason of any event of force majeure, such inability or delay shall be excused at any time during which compliance therewith is prevented by such event and during such period thereafter as may be reasonably necessary for the City or Contractor to correct the adverse effect of such event of force majeure.

An event of "Force Majeure" shall mean the following events or circumstances to the extent that they delay the City or Contractor from performing any of its obligations (other than payment obligations) under this Agreement:

- **i.** Acts of God, tornadoes, hurricanes, floods, sinkholes, fires, and explosions (except those caused by negligence of Contractor, its agents, and assigns), landslides, earthquakes, epidemics, quarantine, pestilence, and extremely abnormal and excessively inclement weather;
- **ii.** Acts of public enemy, acts of war, terrorism, effects of nuclear radiation, blockades, insurrection, riots, civil disturbances, or national or international calamities; or
- **iii.** Suspension, termination or interruption of utilities necessary for performance of the Services.

To be entitled to the benefit of this Section, a party claiming an event of Force Majeure shall be required to give prompt written notice to the other party specifying in detail the event of Force Majeure and shall further be required to use its best efforts to cure the event of Force Majeure. The parties agree that, as to this Section, time is of the essence.

42.0 TERMINATION

42.1 Termination for Cause

City may terminate this Agreement without liability to Contractor and pursue all of its legal and equitable remedies for default upon any of the following events or actions of the Contractor.

- **i.** Suffering an Event of Bankruptcy or Insolvency;
- **ii.** Suffering the appointment of receiver of all or any substantial part of its property, and the failure of such receiver to be discharged within sixty (60) thereafter;
- **iii.** Being adjudicated as a bankrupt;
- **iv.** Filing of a petition or an answer seeking bankruptcy, receivership, reorganization, or admitting the material allegations of a petition filed against it in any bankruptcy or reorganization proceeding;
- **v.** Committing an act of default; or
- **vi.** Failing to timely and fully pay any or all impositions.

If the City elects to terminate this Agreement prior to expiration for any of the reasons listed above, the City shall provide written notice to the Contractor and specify at its sole discretion the revised date when the Agreement will end. The Contractor shall continue to be obligated to diligently perform Services until the Agreement end date specified by the City, and provide information and assistance as reasonably required to ensure a smooth transition to a successor service provider in accordance with Section 32.2 and the Transition Plan.

If the Contractor refuses or is unable to continue providing Services, the City shall have the right, at its sole option and in addition to its rights under the Performance Bond, to immediate possession of all vehicles, equipment, containers, facilities, or other instrumentalities in possession of the Contractor as may be necessary to permit the City to provide and perform uninterrupted service until such a time as a satisfactory substitute contractor may be put into place or the parties hereto otherwise agree, in which event the City shall fairly compensate the Contractor for the fair market rental value of such vehicles, equipment, containers, facilities or other instrumentalities, subject to any offsets or claims by the City against the Contractor. Contractor shall obtain any necessary agreements from lien holders to insure City of its rights hereunder.

43.0 ACTS OF DEFAULT OR DEFAULT

Failure of the Contractor to comply with each material obligation pursuant to this Agreement in a full, complete, and timely manner shall be an act of default. Substantial compliance short of full compliance shall be an act of default unless waived in writing by City. The Contractor specifically understands, acknowledges, and agrees that non-material breach(s) of this Agreement shall constitute a material default when the breaches, even if different breaches, are frequent or regular or repetitive. Contractor specifically understands, acknowledges, and agrees that non-material breaches shall include, but not be limited to, the acts and omissions subject to administrative charges in accordance with this Agreement. City may terminate this Agreement and pursue all legal and equitable remedies upon a material default of this Agreement.

44.0 DISPUTE RESOLUTION

44.1 Interpretation of Agreement

Except as provided otherwise in this Agreement and to the extent permitted by law, the City shall be responsible for interpreting this Agreement to resolve disputes that may arise hereunder.

44.2 Definition of Claim

As used herein "claim" means a written demand or assertion by one of the parties seeking, as a legal right, the payment of money, adjustment or interpretation of the Agreement terms, or other relief, arising under or relating to this Agreement. A voucher, invoice, or request for payment that is not in dispute when submitted is not a claim under this clause. However, where the submission is subsequently not acted upon in a

reasonable time, or disputed either as to liability or amount, it may become a claim for the purpose of this clause. A claim by the Contractor or the City shall be submitted in writing to the other party.

When a controversy cannot be resolved by mutual agreement, the Contractor shall submit a written request for final decision to the City. The written request shall set forth all the facts surrounding the controversy.

44.3 Process for Dispute Resolution

In connection with any claim under this Agreement, the Contractor and the City agree that the Contractor and the City shall, as a condition precedent to the institution of any action regarding claims arising under this Agreement, first submit any claim to the City. The City shall render a written decision on all claims within thirty (30) business days of receipt of the Contractor's written claim, unless the City determines that a longer period is necessary to resolve the claim. The decision shall be furnished to the Contractor by certified mail, return receipt requested, or by any other method that provides evidence of receipt. If a decision is not issued within thirty (30) calendar days, the City shall notify the Contractor of the time within which a decision shall be rendered and the reasons for such time extension.

Upon the written decision of the City, the Contractor and the City agree that the Contractor and the City shall, as a condition precedent to the institution of any action regarding claims arising under this Agreement, first submit any claims to the City Council. The City Council shall render a written decision on all claims within thirty (30) business days of receipt of the Contractor's written appeal, unless the City Council determines that a longer period is necessary to resolve the claim. The decision shall be furnished to the Contractor by certified mail, return receipt requested, or by any other method that provides evidence of receipt. If a decision is not issued within thirty (30) calendar days, the City Council shall notify the Contractor of the time within which a decision shall be rendered and the reasons for such time extension.

Upon the written decision of the City Council, the Contractor and the City agree that the Contractor and the City shall, as a condition precedent to the institution of any action regarding claims arising under this Agreement, first submit any claims to mediation before a professional mediator selected by the Contractor and the City, at a mutually agreed time and place, and with the mediator's fees split equally between the Contractor and the City. If mediation is unsuccessful within forty-five (45) calendar days of the date of the initial mediation, the Contractor and the City agree that if the Contractor and/or the City elect to institute any action regarding claims arising under this Agreement such claims shall be submitted to the exclusive jurisdiction of the courts in Dallas and/or Ellis County, Texas.

44.4 Operations During Dispute

In the event that any dispute arises between City and Contractor relating to this Agreement performance or compensation hereunder, Contractor shall continue to render service and receive compensation in full compliance with all terms and

conditions of this Agreement as interpreted, in good faith, by the City, regardless of such dispute.

The Contractor expressly recognizes the paramount right and duty of City to provide adequate services to its residents and further agrees that in the event of a dispute, it will not seek injunctive relief in any court without first negotiating with City in good faith in accordance with the dispute resolution process described in Section 44.3.

Notwithstanding the other provisions in this Section, the City reserves the right to terminate this Agreement if the service provided by Contractor fails to meet reasonable standards of the trade, after the City provides written notice to Contractor pursuant to Section 42.0 of this Agreement. Upon termination, City may call the performance bond (Section 40.0) to cover excess costs of engaging a firm to provide services for the balance of the Agreement period.

45.0 RECORDKEEPING

The Contractor shall maintain at the local customer service office adequate records relating to the performance of their respective duties under this Agreement. The Contractor shall maintain separate records in a form sufficient to identify its investment, revenues, and expenses related to its performance under this Agreement, intending thereby to separate the accounting records of the City's operation from its other operations. The records of the Contractor applicable to its performance under this Agreement shall be made available at any time during reasonable business hours for inspection by the City and for a period of five (5) years after last or final payment. At a minimum, the Contractor shall create, maintain, and make available records as defined herein and/or required by Applicable Law, and any reports as are reasonably necessary to:

- **i.** Document services provided by type of service, container type, container size, collection frequency, fees charged, and other information as requested by the City
- **ii.** Document deliveries of materials by type of material, time delivered to facility, tonnage of material delivered, source of material, route, and other information as requested by the City
- **iii.** Document missed collection and photographic evidence of Unaccepted Set-outs on a daily basis by address, time and date for each and the reason and notice for Unaccepted Set-outs or missed collection
- **iv.** Document damaged Carts by address, description of damage, and other information as requested by the City
- **v.** Document the number of Carts that have been lost, stolen, destroyed, or damaged beyond repair and other information as requested by the City
- **vi.** Document complaints by address, date and time of receipt of complaint, date and time of resolution of complaint, description of complaint resolution, and other information as requested by the City
- **vii.** Document inactive accounts by address and other information as requested by the City

viii. Document damage to City-owned or private property as a result of conducting Service(s) within two (2) hours of damage occurring
ix. Document monthly tonnage collected by material type as part of Residential Services, Commercial Services, and City Services
x. Document spills and property damage by date and time of incident, description of incident, date and time of resolution, description of resolution, and other information as requested by the City
xi. Document loads delivered by time delivered to all Disposal Sites and Processing Facilities, tonnage of material delivered, Unaccepted Loads by weight and date collected, and other information as requested by City. A monthly and annual summary shall also be submitted to City
xii. Provide written notice and photographs for any load designated as an Unaccepted Load prior to the collection vehicle departing the Delivery Facility and/or Material Recovery Facility to the driver and the City
xiii. Any missing criteria, data, guidance, information or other such other documents and reports as City may reasonably require to verify compliance with the Agreement or to meet the City's reporting requirements.

46.0 REPORTING

The Contractor shall provide the City with a monthly report within seven (7) calendar days following the end of the month and an annual report within thirty (30) calendar days following the end of the calendar year summarizing the following information.

i. Services provided by type of service, container type, container size, collection frequency, fees charged, and other information as requested by the City.
ii. Tonnages delivered to all Disposal Sites and Processing Facilities by material type, source of material, and other information as requested by the City.
iii. Missed collection and Unaccepted Set-outs on a daily basis by address, time and date for each and the reason and notice for Unaccepted Set-outs.
iv. Damaged Carts by address, description of damage, and other information as requested by the City.
v. Number of Carts that have been lost, stolen, destroyed, or damaged beyond repair and other information as requested by the City.
vi. Complaints by address, date and time of receipt of complaint, date and time of resolution of complaint, description of complaint resolution, and other information as requested by the City.
vii. Inactive accounts by address and other information as requested by the City.
viii. Document spills and property damage by date and time of incident, description of incident, date and time of resolution, description of resolution, and other information as requested by the City. Additionally, the Contractor shall promptly notify the City and the property owner in the event that any property damage occurs.
ix. Such other documents and reports as City may reasonably require to verify compliance with the Agreement or to meet City's reporting requirements.

47.0 CUSTOMER BILLING

The City shall be responsible for all billing of Residential Service Units under the Agreement. The Contractor shall invoice Commercial Customers directly.

The Contractor shall invoice the City monthly for all Services on a monthly basis. The invoice shall be based on the Contract Rates multiplied by the number of applicable units. Within thirty (30) calendar days of receiving the Contractor's invoice, the City shall remit to the Contractor payment for the amounts on the invoice less disputed amounts, Liquidated Damages, and payments withheld. Franchise Fees equal to ten percent (10%) of gross monthly receipts from all collections for all residences, businesses, customers, and accounts within the City Service shall be shown as a credit on the Contractor's invoices to the City. Within ten (10) days of the end of each month, the Contractor shall provide the City with a statement of all fees invoiced for Residential, City, and Special Event Collection Services for the month and a calculation of the franchise fee credit amount.

The Contractor shall invoice Commercial Customers based on the number, size, and Collection frequency for in-service Carts and Containers charged at applicable Contract Rates. The Contractor shall also invoice residents for any Additional Brush Bulky Waste Collection Services that are requested in in accordance with Section 8.1.4. of the Draft Agreement. The Contractor shall be required to divide billings for a single shared Container or enclosure between multiple Commercial Customers if instructed to do so by the City.

48.0 MISCELLANEOUS

48.1 Indemnification

The Contractor shall defend, indemnify and save harmless the City and all its officers, agents and employees from all suits, actions, or other claims of any character, name and description brought for or on account of any injuries or damages received or sustained by any person, persons, or property on account of any negligent act or fault of the Contractor, or of any agent, employee, subcontractor or supplier in the execution of, or performance of Services pursuant to the Agreement. The Contractor shall pay any judgment with cost which may be obtained against the City growing out of such injury or damages.

48.2 Assignment and/or Subcontracting

This Agreement and any permits required for performance of the Agreement may not be assigned, subcontracted, conveyed, or otherwise disposed of without the written permission of the City, which will not be unreasonably withheld. No such assignment or subcontracting shall relieve Contractor of its liability under this Agreement. In the event Contractor elects to use any subcontractors, this does not relieve Contractor from any prime responsibility of full, complete satisfactory and acceptable performance.

However, the Agreement may be assigned for the purpose of financing after notification and approval of the terms of such assignment by the City's Representative.

48.3 Taxes

Contractor shall be responsible for and shall pay all sales, consumer, use, and other taxes. When equipment, materials or supplies generally taxable to the Contractor are eligible for a tax exemption due to the nature of the item and services performed as part of this Agreement, Contractor shall assist the City in applying for and obtaining such tax credits and exemptions which shall be paid or credited to the City.

48.4 Succession of Agreement

This Agreement and the rights and obligation contained herein shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

48.5 Survival

Any rights either party may have in the event it terminates this Agreement pursuant to the terms hereof shall survive such termination.

48.6 Joint Preparation

The preparation of this Agreement has been a joint effort of the parties, and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

48.7 No Penalties

No provision of this Agreement is to be interpreted as a penalty upon any party to this Agreement. The parties hereby agree that the rights of the City in the event the Contractor takes or fails to take certain actions pursuant to this Agreement, are reasonable, and that the parties desire certainty with regard to such matters.

48.8 Relationship

Nothing contained in this Agreement shall constitute or be construed to be or create a partnership, joint venture or any other relationship between the Contractor and the City.

48.9 Further Assurance

The Contractor and the City agree to execute, acknowledge and deliver all such further documents and perform such actions as may reasonably be requested to carry out this Agreement and give effect hereto. Accordingly, without in any manner limiting the specific rights and obligations set forth in this Agreement, the parties declare their intention to cooperate with each other in effecting the terms of this Agreement.

48.10 Time of the Essence

For purposes of this Agreement, the parties agree that time shall be of the essence and the representations and warranties made herein are all material and of the essence.

48.11 Captions and Section Headings

Captions and section headings contained in this Agreement are for convenience and reference only and in no way define, describe, extend, or limit the scope or intent of this Agreement, nor the intent of any provision hereof.

48.12 No Waiver

No waiver of any provision in this Agreement shall be effective unless it is in writing, signed by the party against whom it is asserted, and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.

48.13 Entire Agreement and Modification

This Agreement constitutes the entire understanding and agreement between the parties and may not be changed, altered or modified except by an instrument in writing signed by all parties against whom enforcement of such change would be sought.

48.14 Severability

In case any one or more of the provisions contained in the Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be considered as if such invalid, illegal, or unenforceable provision had never been contained herein.

48.15 Knowledge

The Contractor agrees that it has investigated and examined all streets, alleys, overhead trees, wires and such other conditions and requirements of the City that may affect its full and complete performance of Services under this Agreement and enters into this Agreement having completed such investigations and examinations to its full satisfaction and solely relying on such investigations and examinations.

48.16 Attachments

All Attachments to this Agreement contain additional terms and are incorporated by reference. Typewritten provisions inserted in this form or attached hereto shall control all printed provisions in conflict therewith.

[NOTE: Attachments will be included as a component of the final awarded Agreement.]

48.17 Governing Law

This Agreement shall be construed and interpreted according to the laws of the State of Texas and venue with respect to any litigation shall be Lockhart, Texas.

48.18 Attorney Fees

In the event of arbitration or litigation between the parties regarding this Agreement, each party shall be responsible for their own attorney's fees and costs.

48.19 Anti-Boycott and Anti-Discrimination

In accordance with Chapter 2271, Texas Government Code, a Texas governmental entity may not enter into a contract with a company for the provision of goods or services unless the contract contains a written verification from the company that it:

- **i.** Does not boycott Israel; and
- **ii.** Will not boycott Israel during the term of the contract.

Chapter 2271 does not apply to (1) a company that is a sole proprietorship; (2) a company that has fewer than ten (10) full-time employees; or (3) a contract that has a value of less than One Hundred Thousand Dollars ($100,000.00). Unless the Contractor is not subject to Chapter 2271 for the reasons stated herein, the signatory executing this Agreement on behalf of the Contractor verifies by its signature on this Agreement that the Contractor does not boycott Israel and will not boycott Israel during the term of this Agreement.

In accordance with Senate Bill 13, 87th Leg., R.S., to be codified in Chapter 2274, Texas Government Code, a Texas governmental entity may not enter into a contract with a company for the provision of goods or services unless the contract contains a written verification from the company that it:

- **i.** Does not boycott energy companies; and
- **ii.** Will not boycott energy companies during the term of the contract.

Chapter 2274 does not apply to (1) a company that has fewer than ten (10) full-time employees; and (2) a contract that has a value of less than One Hundred Thousand Dollars ($100,000.00). Unless the Contractor is not subject to Chapter 2274 for the reasons stated herein, the signatory executing this Agreement on behalf of the Contractor verifies by its signature on this Agreement that the Contractor does not boycott energy companies and will not boycott energy companies during the term of this Agreement.

In accordance with Senate Bill 19, 87th Leg., R.S., to be codified in Chapter 2274, Texas Government Code, a Texas governmental entity may not enter into a contract with a company for the provision of goods or services unless the contract contains a written verification from the company that it:

- **i.** Does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and
- **ii.** Will not discriminate during the term of the contract against a firearm entity or firearm trade association.

Chapter 2274 does not apply to (1) a company that has fewer than ten (10) full-time employees; and (2) a contract that has a value of less than One Hundred Thousand

Dollars ($100,000.00). Unless the Contractor is not subject to Chapter 2274 for the reasons stated herein, the signatory executing this Agreement on behalf of the Contractor verifies by its signature on this Agreement that the Contractor does have a practice, policy, guidance, or directive that discriminate against a firearm entity or firearm trade association and will not discriminate during the term of the Agreement against a firearm entity or firearm trade association.

Notwithstanding the foregoing, such provision does not apply to a governmental entity that:

i. Contracts with a sole-source provider; or
ii. Does not receive any bids from a company that is able to provide the required written verification.

49.0 AUTHORIZATION

Each party hereby warrants and represents that it has full power and authority to enter into and perform this Agreement, and that the person signing on behalf of each has been properly authorized and empowered to enter this Agreement. Each party further acknowledges and agrees that it has read this Agreement, understands it, and agrees to be bound by it.

50.0 SIGNATURES

IN WITNESS WHEREOF, the parties have made and executed this Agreement on the respective dates under each signature:

CITY OF GLENN HEIGHTS

By: _____

Printed Name: _____

City Name: _____

Attest: _____

Approved in Form and Content

By: _____

Printed Name: _____

City Name: _____

CONTRACTOR

By: _____

Printed Name: _____

Company Name: _____

Attest: _____

Attachment 1 Contingency Plan

[NOTE: The successful Proposer's Contingency Plan (Draft Agreement, Section 32.1), upon approval by the City, shall be included as an attachment to the final awarded Agreement.]

Attachment 2 Transition Plan

[NOTE: The successful Proposer's Transition Plan (Draft Agreement, Section 32.2), upon approval by the City, shall be included as an attachment to the final awarded Agreement.]

Attachment 3 Residential Collection Services Unit Prices

[NOTE: This attachment will be updated and included in the final awarded Agreement, based on final financial terms negotiated between the City and the successful Proposer at the conclusion of the RFP.]

Attachment 4 Commercial Collection Services Unit Prices

[NOTE: This attachment will be updated and included in the final awarded Agreement, based on final financial terms negotiated between the City and the successful Proposer at the conclusion of the RFP.]

Attachment 5 Program Household Hazardous Waste Materials

[NOTE: This attachment will be updated to include any additional materials acceptable materials as identified by the Proposer through the RFP Process.]

Acetone	Insect spray
Adhesives	Light ballast
Aerosol cans full	Lighter fluid
Aerosols	Mercury Containing Devices
Antifreeze	Metal polish, solvent-based
Asbestos	Mothballs
Auto-body repair products	Motor Oil
Batteries, Gel and AGM (marine-type)	Nail polish
Batteries, Lead acid batteries (automotive, marine)	Nail polish remover
Batteries, rechargeable (NiMH, NiCad)	Other HHW (Liquids)
Battery acid	Other HHW (Solids)
Brake fluid	Other oils
Bulk flammable liquids	Oven cleaner
Bulk Mercury	Oxidizer
Car wax, solvent-based	Oxidizing Liquid
Cleaners, Ammonia-based and solvent-based	Paint (oil-based paint, latex paint, lacquer, enamel, stain, shellac, varnish, liquid aluminum, liquid bronze, liquid gold, liquid wood filler, and liquid lacquer base)
Contact cement	Paint related material (paint thinning, drying, reducing, or removing compound)
Corrosive Liquid Acidic	Parts cleaner
Corrosive Liquid Basic	Pesticides
Corrosive Solid Acidic	Pesticides (Liquids)
Corrosive Solid Basic	Pesticides (Solids)
Driveway sealer	Photographic chemicals
Dry cleaning solvent	Pool chemicals
Fertilizer	Propane tanks
Fiberglass epoxy	Rat poison
Fire extinguisher	Resins
Flammable solid	Shoe polish
Floor care products	Spot remover
Fluorescent Bulbs	Stump remover
Fungicide	Transmission fluid
Furniture polish	Weed killer
Gasoline and other fuels	Wood preservative
Glue, solvent-based	
Hair remover	
HID bulbs	
Ink	

AGENDA SUMMARY SHEET
July 7, 2026

AGENDA, ITEM 5

Discussion and take action to approve Resolution R-28-26, designating PlainsCapital Bank as the official Depository Bank for the City and authorizing the Mayor and/ or City Manager to execute all necessary agreements and documents related thereto. (Sherry Roberts, Finance Director)

Motion	
Second	
For	Brown, Bruton, Mosley, Allen, Hobbs, Lightfoot, Washington
Against	Brown, Bruton, Mosley, Allen, Hobbs, Lightfoot, Washington
Abstain	
Approve/ Deny/ Table	

CITY OF GLENN HEIGHTS
CITY COUNCIL REPORT

Date: July 7, 2026

SUBJECT

Resolution R-28-26, designating PlainsCapital Bank as the official Depository Bank for the City and authorizing the Mayor and/or City Manager to execute all necessary agreements and documents related thereto.

DISCUSSION / BACKGROUND

The City first opened the Prosperity accounts in April 1990. The current five-year contract term ends on August 31, 2026. A city council may approve any depository services contract whose term does not exceed five years in length *Tex. Loc Gov't Code §105.017.* Cities are required to go through the Request for Applications (RFA) at least once every five (5) years.

Three (3) responses were received.

- Prosperity Bank
- Credit Union of Texas
- PlainsCapital Bank

PRIOR COUNCIL OR BOARD ACTION

Council approved the current agreement on July 30, 2019.

PUBLIC CONTACT

RFA was published in the Ellis County Press on May 28 and June 4, 2026. It was published on the City's website and Public Purchase on May 28, 2026.

FINANCIAL IMPACT

Depending on level of banking activity, approximately $2,000/annually.

RECOMMENDATION / ALTERNATIVES

The Evaluation Committee is recommending the City change its banking depository to PlainsCapital Bank at 2010 N. Hampton Road, DeSoto, TX 75115.

ATTACHMENTS

1. Presentation - Banking Depository
2. Resolution R-28-26
3. Bank Depository Agreement with PlainsCapital Bank
4. Request for Applications - Issued May 28, 2026
5. RFA Response by PlainsCapital Bank

PREPARED BY

Sherry Roberts, Finance Director

REVIEWED BY

City of Glenn Heights
Banking Depository Agreement

July 7, 2026

Sherry Roberts
Finance Director

Discussion/Background

- Cities are required to go through the Request for Applications (RFA) process at least once every five (5) years.
- The current five-year contract term with Prosperity ends on August 31, 2026. Original Prosperity accounts were first opened in April 1990.
- The current agreement with Prosperity was approved by Council on July 30, 2019.
- A city council may approve any depository services contract whose term does not exceed five years in length *Tex. Loc Gov't Code §105.017.*

Discussion/Background (con't)

- The RFA was placed on the City website and Public Purchase (solicitation portal) on May 28, 2026.
- The RFA (solicitation) was published in the Ellis County Press on May 28 and June 4, 2026.
- Three (3) responses were received:
  - Prosperity Bank
  - Credit Union of Texas (did not meet qualifications)
  - PlainsCapital Bank

Cost Factors

- The RFA included information about the average monthly transactions for a five-month period and requested responders to perform an account analysis example for the Cost Service element of the Evaluation Criteria.

PLAINS CAPITAL BANK		PROSPERITY BANK	
Total Fees Analyzed:	$ 784.34	Total Fees Analyzed:	$1,585.80
Total Fees Waived:	$(404.00)	Total Fees Waived:	$ (711.96)
Total Fees Due:	**$ 380.34**	**Total Fees Due:**	**$ 873.84**

*All fees waived for 1st six months of agreement

Scores & Bid Tabulation

EVALUATION CRITERIA

CITY OF GLENN HEIGHTS
Banking Depository Evaluation Sheet
Bank Name: **XXXXXXXXXX**
June 25, 2026

Pass / Fail Criteria

Meets minimum requirements	YES / NO (circle one)

Evaluation Criteria	Rating Score (0-5)	Weight (must total 100)	Weighted Score (Rating * Weight / Maximum
Time Deposit Interest Rates		20%	
Cost of Service		40%	
Service Availablity		20%	
Safety & Creditworthiness of Bank		20%	
TOTAL		**100%**	

EVALUATOR

Print Name _____

Signature _____

Date _____

BID TABULATION

CITY OF GLENN HEIGHTS
Banking Depository Services
BID TABULATION
June 25, 2026

BANK NAME	Keith Moore	Noel Johnson	Sherry Roberts	AVG
Prosperity Bank	4.00	4.00	3.60	3.87
Credit Union of Texas	-	-	-	-
PlainsCapital	5.00	5.00	5.00	5.00

Contract Details

- Contract will begin September 1, 2026.
- Contract is for three years, with two (2) – one (1) year extensions, for a total of five(5) years.

This application is submitted for consideration and acceptance for the Banking Service Depository with the City of Glenn Heights for a period of three (3) years with an option to renew for two (2) additional one-year terms. The successful Respondent agrees to enter into the agreement on the attached form in accordance with the provisions set forth in Chapter 105 Local Government Code, or the City shall proceed to the selection of another Depository as provided in section 105.015 of the Texas Local Government Code.

Recommendation

- Staff recommends the approval of Resolution #R-28-26 PlainsCapital Bank as the official Depository Bank for the City and authorizing the Mayor and/ or City Manager to execute all necessary agreements and documents related thereto.

PlainsCapital Bank

QUESTIONS



COMMENTS

CITY OF GLENN HEIGHTS, TEXAS

RESOLUTION NO. R-28-26

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GLENN HEIGHTS, TEXAS, DESIGNATING PLAINSCAPITAL BANK AS THE CITY'S DEPOSITORY FOR A PERIOD BEGINING JULY 7, 2026 AND ENDING JULY 1, 2031, IN COMPLAINCE WITH THE CITY'S INVESTMENT POLICY; AND AUTHORIZING THE CITY MANAGER TO ACT AS THE EXECUTIVE OFFICER AND AUTHORIZED REPRESENTATIVE OF THE CITY IN ALL MATTERS PERTAINING TO SAID AGREEMENT; PROVIDING A REPEALING CLAUSE; AND PROVIDING A SEVERABILITY CLAUSE.

WHEREAS, pursuant to Section 105.016(a) of the Local Government Code, the city council of every municipality shall designate, by an order recorded in its minutes, the bank. credit union, or savings association which will serve as the depository for the municipality's funds; and

WHEREAS, the City Manager of the City of Glenn Heights has been designated by the City Council of the City of Glenn Heights, Texas to be the designated officer for the City's municipal funds under Section 105.0101(8) of the Local Government Code. In compliance with Section 105.012(a) of the Local Government Code, the City Manager has given notice to banks, credit unions and savings associations requesting the submission of applications for the performance of depository services: and

WHEREAS, the City Manager and or his authorized representatives have reviewed the applications and considered the terms and conditions for the performance of depository services, including the types and costs of services to be provided to the City of Glenn Heights, Texas, consistent with policy guidelines adopted by the City Council the Investment Policy.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GLENN HEIGHTS, TEXAS:

SECTION 1 That the above findings are true and correct and are hereby approved by the City Council of the City of Glenn Heights, Texas and incorporated herein.

SECTION 2. The City Manager and or his authorized representatives have reviewed the depository applications and recommends that the City Council of the City of Glenn Heights, Texas designate PlainsCapital Bank as the City's Depository for a period beginning July 7, 0226 and ending July 1, 2031 and authorize an additional one-year extension in compliance with the City's Investment Policy.

SECTION 3. The City Manager is authorized, after approval of the City Attorney, to execute a Despoitory Agreement with PlainsCapital Bank.

SECTION 4. The Chief Financial Officer is hereby authorized to disburse funds as required, in amounts to be determined by the City Manager (subject to annual appropriations), to PlainsCapital Bank.

SECTION 5. The City Council of the City of Glenn Heights Texas hereby designates the City Manager as the Executive Officer and authorized representative of the City of Glenn Heights, Texas in all matters pertaining to said designation.

SECTION 6. All resolutions heretofore passed and adopted by the City Council of the City of Glenn Heights, Texas, are hereby repealed solely to the extent that said resolutions, or parts thereof, are in conflict herewith.

SECTION 7. Should any word, sentence, clause, paragraph, or provision of this resolution be held to be invalid or unconstitutional, the remaining provisions of this resolution shall remain in full force and effect.

SECTION 8. This Resolution shall take effect immediately upon passage.

DULY RESOLVED AND ADOPTED by the City Council of the City of Glenn Heights, Texas, this the 7th day of July, 2026.

ATTEST:

_____
Brandi Brown, City Secretary

APPROVED:

_____
Sonja A. Brown, Mayor

APPROVED AS TO FORM:

_____
Kellie McKee, City Attorney

DEPOSITORY AGREEMENT BETWEEN
THE CITY OF GLENN HEIGHTS, TEXAS AND
PLAINSCAPITAL BANK

The City of Glenn Heights, Texas (the "City") has selected PlainsCapital Bank, duly organized and authorized by law to provide banking services in the State of Texas and now carrying on such business in said State, (the "Bank").

This Depository Agreement Between the City of Glenn Heights, Texas and Plains Capital Bank (this "Agreement") is entered into as of this ____ day of_____, 20__ (the "Effective Date"), by and between PlainsCapital Bank, a Texas state banking association and the City of Glenn Heights, Texas, a municipal corporation.

WHEREAS, pursuant to the Public Funds Collateral Act, Title 10, Chapter 2257 of the Texas Government Code (the "Act"), City qualifies as a Public Entity;

WHEREAS, City has designated Bank as a depository institution for certain of its funds and Bank has agreed to act as a depository institution for such funds in accordance with the Act, which Act requires that Bank secure such deposited funds, to the extent not insured by the Federal Deposit Insurance Corporation (the "FDIC"), by pledging certain securities ("Eligible Securities") of any type permitted by the Act to be held by Custodian (as defined below) as set forth herein; and

WHEREAS, City and Bank wish to enter into this Agreement to set forth the terms applicable to the aforementioned depository relationship.

NOW, THEREFORE, for and in consideration of the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Bank and City hereby agree as follows:

1. Defined Terms. Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the Act.

2. Designation of Depository. The City Council of the City of Glenn Heights, Texas, through its City Manager hereby designates Bank as a depository of funds for the period beginning on the Effective Date and continuing through and including _____ (the "Term").

3. Designation of Authorized Representatives. Attached hereto as Exhibit A is a copy of City's Resolution, which has been provided to Bank, containing the names and signatures of those City authorized representatives (each a "City Authorized Representative" and collectively the "City Authorized Representatives"), as designated by the Board, who may transact business pursuant to this Agreement on behalf of City, which Resolution may be changed or modified from time to time at the discretion of City; provided, however, that any such changes or modifications shall not be effective until Bank has received notice of any such changes or modifications and has had a reasonable opportunity to incorporate the same.

4. Grant of Security Interest. Bank hereby grants to City a security interest in all Eligible Securities held by Custodian and reflected on Custodian's records as being pledged to City (the "Collateral"). Until City has the right to compel sale of the Collateral under Section 9 hereof, Custodian shall act only in accordance with the joint instructions of Bank and City with regard to the Collateral; provided, however, that Bank shall be permitted to unilaterally substitute Eligible Securities for the Collateral in accordance with Section 7 hereof. All funds on deposit with Bank to the credit of City, inclusive of any applicable interest, in excess of FDIC insurance shall be secured at all times by the Collateral.

5. Custodian. City acknowledges and agrees that The Federal Reserve Bank of Dallas, and/or any such other entity as may be designated by Bank from time to time in its sole and absolute discretion, shall serve as Custodian hereunder. City hereby agrees to complete the custodial agreement attached hereto as Exhibit B and to deliver such completed custodial agreement to Bank simultaneously with the delivery of its executed copy of this Contract. City further agrees to complete such additional custodial agreements or other similar and/or related documents as may be provided by Bank from time to time in accordance with this Section 5.

6. Authorized Collateral. City time and demand deposits, inclusive of accrued interest, in excess of the Federal Deposit Insurance Corporation insurance, shall be secured at all times by collateral, acceptable to the City and in accordance with the Public Funds Collateral Act (Texas Government Code 2257) and the City Investment Policy, pledged by the Bank and held in trust by the Custodian in a market value amount equal to at least 102% of the total of those funds. Custodian will provide a monthly report of the collateral directly to the City with a full description of the securities.

   Acceptable collateral includes:
   - United States Treasury Bills, Notes and Bonds
   - Notes and Bonds of United States Agencies and Instrumentalities
   - Collateralized Mortgage Obligations of US Government Agencies and instrumentalities which pass the bank test
   - Other evidences of indebtedness of the US Government which are guaranteed as to principal and interest by the US Government
   - Municipal bonds rated continuously A or better
   - FHLB Letters of Credit

   Such pledged securities shall be subject only to the joint written instructions of both (a) authorized representatives of the City and (b) specifically authorized representatives of the BANK. The Bank shall have the right, with the prior written consent of the City, to substitute or replace, any or all of the pledged securities with collateral acceptable to the City. Newly pledged collateral will be received by the Custodian before release of existing collateral by the Custodian. Custodian shall promptly forward to City original safekeeping or trust receipts covering all collateral pledged. Receipts or reports shall be clearly marked that as pledged to the City.

7. Amount of Collateral. The aggregate market value of Eligible Securities held by Custodian at all times during the Term hereof must be in an amount not less than ____ percent (__%) of

    (a) the amount of the collected funds on deposit, increased by
    (b) the amount of accrued but uncredited interest,
    (c) reduced by that portion of the funds insured by the FDIC.

    Such amount is hereinafter called the "Required Collateral Value".

8. Substitution of Collateral. Bank may substitute Eligible Securities for any of the Collateral held by Custodian at any time by providing Custodian with a substitution notice signed by an authorized representative of Bank, provided that the market value of the Collateral following such substitution would equal or exceed the Required Collateral Value. City may require Bank to obtain prior authorization from City for any such substitution of Collateral by providing Bank with written notice of such requirement; provided, however, that (a) in no event shall City unreasonably withhold, condition or delay its authorization of any such substitution of Collateral, and (b) Bank shall have a reasonable time to act upon any such written notice once received by Bank.

9. Bank's Obligations. Bank shall perform all the duties and obligations required of a depository institution under applicable law with respect to the collateralization of the funds of City on deposit with Bank, including the duties and obligations required under the Act. At the expiration of the Term of this Contract, Bank shall turn over to any successor depository designated by City all funds held by Bank as depository. Bank with furnish to City a monthly statement listing a description of the Collateral, which shall specify the par value, the market value and the maturity date of each component of the Collateral.

10. Default and Remedies. If Bank (a) fails to perform its obligations under Section 8 hereof, (b) is declared insolvent, or (c) has a receiver is appointed for Bank (whether (a), (b) and/or (c), a "Default"), City may instruct Custodian to sell the Collateral or any part thereof at public or private sale, after providing Bank not less than seven (7) business days' prior written notice of such Default with an opportunity to cure the same within such seven (7) day period, and if Bank fails to cure such Default, Custodian shall proceed to sell the specified Collateral in accordance with City's instructions and upon receipt of sufficient evidence from City showing (x) the alleged Default, (y) the giving of proper notice to Bank and (z) Bank's failure to cure such Default. The proceeds of any such sale shall be applied to satisfy any indebtedness owed by Bank to City, and any excess proceeds shall be returned to Bank.

11. Termination. This Agreement may be terminated at any time by either party following the expiration of the Term by giving sixty (60) days' prior written notice to the other party.

12. Assignment. This Agreement may not be assigned in whole or in part by either party without the prior written consent of the non-assigning party.

13. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without regard to its conflicts of laws rules. The venue for all actions concerning this Agreement will be Dallas County.

14. Controlling Documents. The controlling documents for the relationship between the Bank and the City and all services to be provided in that relationship including applicable fees for all services are, in priority order:

    - This Agreement;
    - City's RFA #2026-03 - Bank Depository Services Issued Thursday, May 28, 2026, (the "RFA");
    - The Bank's Response to the RFA dated, June 17, 2026, (the "PROPOSAL"); and
    - Applicable Bank agreements, PlainsCapital Bank Commercial Deposit Account Agreement and those certain Treasury Management Services Terms and Conditions (together, the "Additional Account Documents"), in effect from time to time, and as modified from time to time by Bank in accordance with the provisions of such Additional Account Documents.

    These documents are attached to and made part of this Agreement. Should any conflict arise among the terms of two or more Controlling Documents, such Controlling Documents will govern in the order set forth above.

15. Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws effective during the Term hereof, such provisions shall be fully severable; this Agreement shall be construed and enforced as if such severed provision had never comprised a part hereof; and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the severed provision or by its severance from this Contract.

16. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

17. Waiver. No waiver of any provisions or of any right or remedy hereunder shall be effective unless in writing and signed by both parties' authorized representatives. No delay in exercising, or no partial exercise of any right or remedy hereunder, shall constitute a waiver of any right or remedy, or future exercise thereof.

18. INDEMNIFICATION. ANY SERVICE AGREEMENTS OR OTHER SUBSIDIARY AGREEMENTS, SCHEDULE AND DISCLOSURE IS HEREBY MODIFIED TO REMOVE THEREFROM ANY AGREEMENT BY CITY TO INDEMNIFY THE BANK AND ITS AFFILIATES, DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS AND REMOVE REMEDIES AVAILABLE UNDER LAW IN THE EVENT BANK NEGLIGENCE OR BREACH OF CONTRACT.

BANK SHALL HOLD CITY HARMLESS FROM AND SHALL INDEMNIFY CITY AGAINST ANY AND ALL CLAIMS, DEMANDS, AND CAUSES OF ACTION OF WHATEVER KIND OR NATURE ASSERTED BY A THIRD PARTY AND OCCURRING OR IN ANY WAY INCIDENT TO, ARISING OUT OF, OR IN CONNECTION WITH ANY NEGLIGENT OR WRONGFUL ACT OR OMISSION OF THE BANK , ITS AGENTS, EMPLOYEES, OR SUBCONTRACTORS DONE IN CONDUCT OF THIS AGREEMENT (HEREINAFTER COLLECTIVELY REFERRED TO AS "CLAIMS"). AND ALL LOSSES, COSTS, PENALTIES, DAMAGES AND EXPENSES, INCLUDING BUT NOT LIMITED TO ATTORNEYS' FEES AND OTHER COSTS OF DEFENDING AGAINST, INVESTIGATING AND SETTLING THE CLAIMS; PROVIDED HOWEVER IF THE INJURIES OR DAMAGES RESULT FROM THE NEGLIGENCE OR WILLFUL MISCONDUCT OF BOTH BANK, ITS AGENTS, EMPLOYEES OR SUBCONTRACTORS, AND THE CITY, ITS OFFICERS, EMPLOYEES, OR AGENTS (OTHER THAN BANK AND AGENTS AND SUBCONTRACTORS HEREUNDER), THIS INDEMNITY SHALL APPLY TO THE PERCENTAGE OF SUCH INJURIES OR DAMAGES THAT ARE CAUSED BY THE CONCURRENT NEGLIGENCE OF EACH PARTY.

NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT STATING THAT CITY WAIVES OR LIMITS CITY RIGHT TO MAKE A CLAIM AGAINST BANK OR EXCULPATES BANK FROM LIABILITY OR LIMITS BANK'S LIABILITY, SUCH A WAIVER, LIMITATION, OR EXCULPATION SHALL BE EFFECTIVE ONLY TO THE EXTENT AUTHORIZED BY THE LAWS OF THE STATE OF TEXAS. NOTWITHSTANDING ANY PROVISION IN ANY EXHIBIT TO THIS AGREEMENT STATING THAT CITY WILL INDEMNIFY OR HOLD HARMLESS BANK CITY SHALL BE OBLIGATED TO INDEMNIFY AND HOLD HARMLESS ONLY TO THE EXTENT AUTHORIZED BY THE LAWS OF THE STATE OF TEXAS. NOTWITHSTANDING ANY PROVISION IN ANY EXHIBIT TO THIS AGREEMENT STATING THAT CITY WILL PAY ATTORNEYS' FEES INCURRED BY BANK, CITY SHALL BE OBLIGATED TO PAY REASONABLE ATTORNEYS' FEES ONLY TO THE EXTENT AUTHORIZED BY THE LAWS OF THE STATE OF TEXAS.

19. Default and Remedies Should Bank at any time fail to pay and satisfy, when due, any check, transfer, draft or voucher lawfully drawn against City's deposits, or in any manner breach its agreement with City, City shall give written notice of such failure or breach and Bank shall have three (3) business days to cure such failure or breach. In the event Bank shall fail to cure such failure or breach within the three (3) days or should the Bank be declared insolvent by a Federal bank regulatory agency, or if a receiver is appointed for the Bank (each an 'Event of Default') it shall be the duty of the Custodian, upon demand by the City (supported by proper evidence of an Event of Default) to surrender the collateral to City. City may sell all or any part of such collateral and out of the proceeds thereof, pay ity all damages and losses sustained together with any expenses incurred by it of any kind on account of such failure. Collateral may be sold by City at public or private sale provided however that Bank shall have one business day notice of the time and place of the sale and

Bank and Custodian shall have the right to bid at such sale.

20. Notice. Any notice given by either party hereunder shall be deemed served, if delivered in person to the office of the representative authorized and designated in writing to act for the respective party, or upon receipt on a regular business day of recipient if via fax with an electronic confirmation; or three business days after deposit in the U.S. mail, return receipt requested, properly stamped with the required postage and addressed to the office of such representative, at the respective addresses set forth below.

If to Bank:	If to City:
PlainsCapital Bank	Clifford Blackwell City of Glenn Heights 1938 S Hampton Road. Glenn Heights, TX 75154

21. Headings. The headings used in this Agreement are for convenience and reference purposes only and may not be used in interpreting this Contract.

22. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter addressed herein and may not be amended or modified except by writing signed by both parties.

23. Multiple Counterparts. This Agreement may be executed in separate or multiple counterparts by the parties, and all such counterparts shall be considered as one and the same instrument notwithstanding the fact that various counterparts are signed by only one of the parties. An electronic or facsimile transmission of a signed counterpart of this Agreement shall be sufficient to bind the party or parties whose signature(s) appear thereon.

Remainder of Page Intentionally Left Blank. Signature Page Follows.

IN WITNESS WHEREOF, Bank and City have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date hereof.

BANK:

PlainsCapital Bank,
a Texas banking association

By: _____

Name: _____

Title: _____

CITY:

City of Glenn Heights, Texas, a municipal corporation

By: _____

Clifford Blackwell
City Manager

RFA #2026-03
BANK DEPOSITORY SERVICES

CITY OF GLENN HEIGHTS
SHERRY ROBERTS, FINANCE DIRECTOR

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City of Glenn Heights

RFA #2026-03 Bank Depository Services

Issued Date: Thursday, May 28, 2026

Issued By: City of Glenn Heights
1938-C S. Hampton Road
Glenn Heights, Texas 75154

NOTICE OF REQUEST FOR APPLICATIONS

The Finance Director of the City of Glenn Heights, Texas, will accept sealed depository applications from financial institutions within seven miles of the City of Glenn Heights, city limits, electronically via Public Purchase (https://publicpurchase.com/gems/browse/home) until 2:00 p.m., Thursday, June 18, 2026. The City will also accept sealed applications in paper copy. Paper applications must be delivered to the Office of the Finance Director, City of Glenn Heights, 1938-C, S. Hampton Road, Glenn Heights, TX 75154 and must be clearly marked **"RFA 2026-03; Bank Depository Services."** All depository applications will be publicly opened on that date at 2:00 p.m. in the Council Chambers of Glenn Heights City Hall, 1938-C S. Hampton Rd, Glenn Heights, Texas 75154, for the performance of depository services for the City of Glenn Heights, Texas, for the three-year period beginning September 1, 2026, and ending August 31, 2029.

It is the sole responsibility of the Respondent to ensure that the application is received by the Office of the Finance Director of the City of Glenn Heights, Texas, prior to the expiration of the time and date above first written. Applications may be mailed or delivered by hand or common courier. Application envelopes should include the following notation: "**DO NOT OPEN – BANKING DEPOSITORY SERVICES – RFA 2026-03."**

Copies of the depository application may be obtained from the City's website at https://glennheightstx.gov/Bids.aspx or from the office of Sherry Roberts, Finance Director, City of Glenn Heights, 1938-C S. Hampton Rd, Glenn Heights, Texas 75154. Technical questions should be addressed in writing to the Finance Director at the address stated above or via email at sherry.roberts@glennheightstx.gov.

It is anticipated that the City Manager is to receive authorization to negotiate the Depository contract for the performance of depository services by the City of Glenn Heights Council on or about Tuesday, July 7, 2026. The City of Glenn Heights reserves the right to reject any and all applications, to waive any and all technicalities, and to accept any application which it deems to be in its best interest. Each respondent agrees to waive any claim it has or may have against the City of Glenn Heights, Texas, and its respective employees, arising out of or in connection with the administration, evaluation, or recommendation of any application.

The City of Glenn Heights is subject to the Texas Public Information Act, a state law, which may require the City to make the information provided in response to this request for applications available to the public upon request.

Sherry Roberts, CGFO
Finance Director
City of Glenn Heights, Texas

1. INTRODUCTION

The City of Glenn Heights is requesting applications from qualified financial institutions to provide comprehensive, consistent, and quality bank depository services at a competitive price. To be considered, a qualified financial institution (hereafter referred to as "Bank") an entity must meet the minimum qualifications outline in the Minimum Qualification section below.

The successful respondent will work with the City and assume responsibility for the services. Through this contract, the City intends to minimize banking costs, improve operational efficiency, and maximize investment capabilities. This Request for Applications (RFA) represents the cash management goals, specifies all banks' required qualifications, the bank depository services required, the estimated activity volumes on all accounts, the method and terms of compensation, submission instructions, and the contract award provisions.

For the purpose of this RFA, responses must be relevant to city and county government and must not include data, statistics, or examples from school systems or business applications.

2. INSTRUCTIONS

A. Local Presence

To assure a close working relationship, to facilitate available services, and to support local business, the City may give priority to those institutions with full depository capabilities within seven (7) miles of the City of Glenn Heights.

B. Proposal Format

In order to fully and equitably evaluate each bank's ability to meet the bank depository services needs of the City, a standard reply format is required. Each application must include a response to each item in the RFA in the order given. Only applications submitted in the prescribed format and using the exhibit forms provided will be evaluated for contract award.

C. Proposal Objectives

The City wishes to communicate the primary objective of the Depository RFA, an important component of the overall treasury program of the City is:

1. To seek a financial institution that is capable of providing excellent banking services and willing to be attentive to the City's financial matters.
2. To maximize the total dollars earned by the City on account balances in order to be prudent and effective custodians of financial matters.
3. To maintain an excellent working relationship with the Depository.
4. To adequately compensate the Depository for services provided, subject to competitive forces in the marketplace; and
5. To fully comply with the requirements of the Texas Local Government Code Chapter 105, as amended.

D. Schedule for Application Submission

The City will make every effort to adhere to the following schedule:

DATE	DESCRIPTION OF EVENTS
Thursday, May 28, 2026	First Public Advertisement
Thursday, June 4, 2026	Second Public Advertisement
Friday, June 12, 2026	Deadline to Submit Questions
Monday, June 15, 2026	Response to Question(s) Deadline
Thursday, June 18, 2026	Bids Due & Opened
Thursday, June 25, 2026	Evaluation Committee Meets
Tuesday, July 7, 2026	Contract Awarded by Council

E. Submission Requirements

The City of Glenn Heights PREFERS sealed proposals to be submitted electronically via Public Purchase (https://publicpurchase.com/gems/browse/home). The City will also accept sealed applications in paper copy. Paper applications must be delivered to the office of the Finance Director, City of Glenn Heights, 1938-C, S. Hampton Road, Glenn Heights, TX 75154 and must be clearly marked:

"RFA 2026-03; Bank Depository Services"

Paper applications must include one (1) original document in a sealed opaque envelope bearing the respondent's company name, address, RFA title, City of Glenn Heights RFA number, date, and time stated for the RFA deadline. Email or Facsimile (FAX) proposals will not be accepted.

F. Public Opening

City staff will publicly open applications and read aloud the names of all respondents on Thursday, June 18, 2026, at 2:00 p.m. in the Council Chambers at Glenn Heights City Hall, 1938-C, S. Hampton Rd, Glenn Heights, TX 75154. The public is welcome to attend, but no decisions or discussion will occur at that time.

G. RFA Questions

There will be **no pre-application conference**. Questions regarding this RFA or the service requested will be accepted in written form at the address below before 5:00 p.m. CST, Friday, June 12, 2026. Responses to all material questions will be communicated in one (1) document and posted as an addenda item on the City's website at https://glennheightstx.gov/Bids.aspx and via Public Purchase (https://publicpurchase.com/gems/browse/home) by 5:00 p.m., Monday, June 15, 2026

Sherry Roberts,
Finance Director
City of Glenn Heights
1938-C S. Hampton Rd.
Glenn Heights, TX 75154
sherry.roberts@glennheightstx.gov

3. RESTRICTIONS ON COMMUNICATIONS

To ensure fair and equitable evaluation and selection of a proposal, the City of Glenn Heights prohibits ex parte communication initiated by the proposer, or proposer's officer, employee or representative, to an Elected Official, or any City employee or any representative of the City involved in the evaluation and selection of a proposal prior to the final determination and contract award.

Ex parte communication includes lobbying on behalf of the proposer, or unsolicited contact from the proposer or the proposer's officer, employee or representative to discuss details of a proposal off record before negotiations have concluded and a contract award has been made.

Ex parte communication may be grounds for disqualifying the offending proposer from consideration or contract award.

The anti-lobbying term does not apply to questions of process and procedure, including oral communications with the Finance Director, provided the communications are strictly limited to matters of process or procedure already contained in the solicitation document. Ex parte communication does not include a request for a status update.

All communications between the proposer and the City shall be made in writing to Sherry Roberts, Finance Director. sherry.roberts@glennheightstx.gov. A list of questions and answers will be posted to this RFA as an addenda item.

4. EVALUATION AND SELECTION CRITERIA

Texas Local Government Code §252.043

The City of Glenn Heights Evaluation and Selection Committee will review applications on the basis of professional qualifications, experience, background, references, contents of the application and best value to the City. The best value criteria includes:

- Ability to perform and provide the required and requested services.
- Ability to meet the legal qualifications and the terms and conditions specified in the RFA.
- Reputation of the Respondent and quality of services provided to similar entities.
- Financial strength and stability of the Respondent.
- All rates and fees for services.
- Completeness of bid and submission of all required information.
- Securities clearance and safekeeping procedures.
- Funds availability.
- Earnings credit on positive average available balances.
- Quality and efficiency of the Respondent's reporting services and reports; and/or
- Ability to provide sufficient collateral for deposits.

Each application must clearly cover all items in this RFA and supply complete responses to all items mentioned. Additional information may be included, and a clear table of contents must make all information easily referenced.

Each application must indicate a contact person for the purpose of discussion related to this application evaluation and selection process. Additionally, this person must be one authorized to negotiate and make commitments on behalf of the financial institution and should indicate the institution's overall intentions toward this contract in a signed cover letter accompanying the financial institution's proposal.

After consideration of all factors, the City will choose the respondent submitting the most advantageous application to the City. Award may not be made to the respondent submitting the lowest priced proposal.

5. QUALIFICATIONS

The bank must be an eligible public depository as defined in *Texas Local Government Code §105.001(4).* To assure a close working relationship, to facilitate available services, and to support local business, the entity may give priority to those banks with full-service capabilities within seven (7) miles of the City limits. Any required statement regarding equal opportunity and affirmative action should be included if required/desired. The application submitted will become part of the final contract.

6. OTHER CONSIDERATIONS

A. City Rights

The City reserves the right to consider historical information and facts, whether gained from the application, references, or any other source, in the evaluation process, including the Respondent's past working or business relationship with the City, if any. The City further reserves the right to consider a Respondent's background, personnel, experience, financial and other references, management practices, exceptions to the RFA or subsequent contract, and any working relationships, past or present, a Respondent may have with its other clients.

B. Proprietary Information

To the extent permitted by law, applications will be opened in a manner that avoids disclosure of the contents until after award of the contract. Proprietary information contained in the application should be designated as such on each page containing the restricted information.

C. Right to Reject

The City is entitled to reject any and all RFA responses under *Texas Local Government Code §271.027.* The City may consider the criteria described in the Evaluation and Selection Criteria and Other Considerations section of the RFA to determine the best value for the City. *Texas Local Government Code §252.021.*

D. Award of Bid and Service Initiation

The contract is to be awarded by City Council at its meeting on July 7, 2026.

E. Term of Contract

Services will begin on September 1, 2026, and extend through August 31, 2029, with an option to renew for two (2) additional one-year terms. The total term of this contract may not exceed five (5) years from the date services begin except for a six-month extension period for transition to the new depository bank at the end of the term, if needed.

7. SELECTION CRITERIA

The Evaluation & Selections Committee will evaluate the merit of the applications submitted in accordance with *Texas Local Government Code §2269.055*. The sole objective of this evaluation will be to determine the financial institution whose application is most responsive to the City's bank depository needs. Evaluations of applications will be made on the basis of the following objectives:

Criteria	Weight
Time deposit interest rates	20%
Cost of Service	40%
Service availability	20%
Safety and creditworthiness of bank	20%
TOTAL	**100%**

8. REQUIRED FINANCIAL INSTITUTION INFORMATION

All Respondents must provide, as part of the application:

1. Audited financial statements and call reports for the past year that includes the auditor's opinion and appropriate not to the financial statements.
2. A statement by the Respondent that addresses the following:
    - Any recent or foreseen merger or acquisition, and
    - If Respondent has been cited for violation of any State or Federal banking laws in the past two years.
3. A list of three (3) other Governmental Entities in the State that the City can call for reference checks.

Entity	Contact Person	Title	Contact Information

9. REQUIRED BANKING SERVICES

The City of Glenn Heights currently maintains five (5) checking accounts.

1. Consolidated Cash
2. Chamber of Commerce
3. Glenn Heights Housing Finance Corporation
4. Glenn Heights Housing Finance Corporation Co-Dev, LLC.
5. Seizure Hold Account

The Consolidated Cash account is the City's operating account. It handles all disbursements for the City and receives ACH deposits from credit card processing centers, manual and Remote Deposit Capture deposits for utility billing, court payments, miscellaneous cash receipts, and transfers to investment accounts.

The other accounts see very little activity.

A. General Description of Services

Attachment "A" lists the services to be provided by the Depository under this agreement. Respondent should use this Attachment to provide the specific cost price for each service if applicable.

The following identifies and describes the services to be provided and the requirements to be met.

1. Standard Disbursement Services – standard disbursing services for all accounts are required to include the payment of all checks upon presentation. No funds or fees may be withdrawn from the Depository except by properly drawn warrants that have been approved and signed by appropriate authorities as designated on signature cards.
2. Standard Deposit Services – the Depository must guarantee immediate credit on all incoming wire transfers and U.S. Treasury checks upon receipt and all other checks based on the Depository's availability schedule. All deposits received before the Depository's deadline will be credited daily. All deposits will be mixed containing cash, check and coin. Processing of all deposited items on checks and cash to include encoding services and return of a stamped duplicate deposit slip to the City at the time of the deposit. The Depository will notify the City as soon as possible for any deposit adjustments.
3. Wire Transfers – the Depository shall have the wire transfer capability of using online service with security features. The Respondent shall include a copy of their standard transfer procedures and wire transfer agreement. The City requires adequate security provisions and procedures. If wire transfer requests are available online, full information should be submitted detailing the use.
4. Automatic Clearing House (ACH) Services – the City has various ACH credits and debits from approved agencies and companies such as State and Federal agencies, investment pools, and credit card processing centers.
5. Fraud Protection – the Depository should have a detailed check fraud detection service.
6. Stop Payments – at times, the City will require the Depository to issue "stop payments." Respondent shall include a statement on the proposed stop payment process on an automated or manual basis.
7. Online Banking Services – the Depository shall offer Internet access for the inquiry of account balances and activity for all City's accounts. This access should be available by using a password set by the City. In addition, the Depository shall offer online

transfer of City monies between accounts held within the Depository. The transfers should be credited and debited to the related accounts on the same business day of the transfer, if the request is received by 5:00 p.m.

8. Direct Deposit – the City offers its employees an automatic payroll deposit service. Currently payroll is processed by and through the City's payroll software. Employees are paid on a bi-weekly basis. Respondent shall describe their procedures for direct deposit of payroll.

9. Statements – monthly account statements will be provided within five (5) working days after the close of the calendar month. Each statement will contain optical images of the checks. Statements shall include transaction activity made on the last day of the period.

10. Insufficient Funds (NSF)/Returned Items – should be submitted twice before being returned to the City. Returned items that do not clear on the second attempt shall be returned to the City within three (3) business days with a complete description of nonpayment. The City shall receive same day telephone notification of all return items more than $1,000.

11. Investment of Idle Funds and Safekeeping of City Securities – all certificates of deposit purchased by the City will be on a competitive basis. The City has no obligation to invest its funds with or through the Depository.

All securities will be handled on a delivery versus payment (DVP) basis as they are cleared into and out of account. All clearing and safekeeping will be with the Depository or its correspondent. All correspondent and safekeeping arrangements will be stipulated in the application.

12. Fees and Charges – the City reserves the right to utilize either a fee basis or compensating balance basis (or a combination of each) for payment of depository services under the contract. A complete monthly account analysis will be required regardless of the payment basis.

All item and account charges will remain at the application cost price quoted on **"Attachment A"** for the duration of the contract period regardless of changes in service volumes during the period. Should new services not included in this RFA be required during the contract period, those services will be provided at fees not more than the Depository's then-current published rate and approved by the City's Finance Director and City Manager.

13. Overdrafts – the City does not intend to have an overdraft position on any of its accounts (singly or net) throughout the course of the depository contract. In the event a check or checks are presented for payment on any account with insufficient funds available for payment, the City will require Depository to pay said check(s) and promptly notify the City's Finance Director of the situation. The City agrees to cover the overdraft within a maximum of one (1) business day after notification.

14. Account Analysis – statements shall be prepared each month by the Depository and shall clearly show volume counts, fees charged (as set forth on Attachment "A"), and total prices for services on the accounts. The account analysis shall also show average ledger balances, interest rates, and earning credit rate and amounts. Fees charged to the City are not subject to change for the length of this contract.

15. Account Executive – an account executive must be assigned to the City's accounts to coordinate the account services and expedite the solution of any problem. A trained and competent backup for the account executive, familiar with the accounts, should be assigned in the application. Stipulate the names and a brief biography of the account executive and their secondary personnel to be assigned to the City's accounts.

B. Collateralization of Deposits

Authorized collateral, as defined below, must be pledged against the total time and demand deposits net of the FDIC insurance, with a 102% margin on the collateral maintained at all times by the Depository. All the requirements, including those beyond the Public Funds Collateral Act (*Texas Local Government Code Chapter 2257*), must be met by the Depository.

The Respondent must state agreement in their application to the following terms and conditions:

1. All collateral pledged to the City must be held in an independent, third-party bank outside the Depository's holding company.
2. A safekeeping agreement shall be executed between the City, the Depository, and the safekeeping bank for custody of pledge securities in full compliance with the Financial Institution Reform, Recovery, and Enforcement Act (FIRREA) requiring a bank resolution (or completion of Circular 7 if the Federal Reserve is acting as custodian).
3. All time and demand deposits above FDIC coverage shall be collateralized at a minimum of 102% of the principal plus accrued interest at all times.
4. The Depository shall be contractually liable for the daily monitoring and maintaining of collateral at the City's required margin levels.
5. Pledged collateral shall be evidenced by safekeeping receipts/report sent directly to the City by the custodian within one business day of receipt of the asset.
6. City requires a monthly report of collateral pledged including:
    a. name, type, and description of security;
    b. safekeeping receipt number;
    c. par value;
    d. current market value;
    e. maturity date; and
    f. Moody's or Standard & Poor's rating (both if available).
7. Substitution rights shall be granted if the Depository obtains the City's prior approval and if substituting securities are received before previously pledged securities are removed from safekeeping.
8. Authorized collateral shall be those securities identified in the Public Funds Investment Act as eligible investments for both CDs and City deposits. The City must approve all securities pledged and reserves the right to accept or not accept the securities to be pledged as collateral. Repurchase agreements or Collateralized Mortgage Obligations are not acceptable as collateral to the City.
9. The City shall accept the following securities as collateral:
    a. FDIC coverage.
    b. U. S. Treasury bills, notes, bonds.

c. United States Agency and instrumentalities bills or notes; and/or
d. Bonds of the State of Texas or of a county, city, and other political subdivision of the State of Texas having been rated as investment grade (investment rating not less that "A" or its equivalent) by at least one nationally recognized rating agency, with a remaining maturity of ten (10) years or less.

Collateralized investments often require substitution of collateral. Any substitutions of the securities or reductions in the total amount pledged shall be made only by and with proper written authorization approved by the City's Finance Director or City Manager. All securities to be pledged are subject to approval by the City.

Respondent will name the safekeeping bank for collateral in the proposal.

C. Securing Funds

All funds under the provisions of this agreement shall be continuously secured in accordance with the State of Texas and the City of Glenn Heights' formal written investment policy. Any collateral deficiencies will require immediate correction.

D. Miscellaneous

This proposal is requested by the City and is made by Respondent with the expressed agreement and understanding that City reserves the right to reject any and all applications, and the further right that if any portion or provision of this application and/or resulting contract, at the option of the City, shall remain in full force and effect, and not be affected by said invalid portion or provision.

E. Other Stipulations

1. The successful Respondent shall notify the City in writing within ten (10) business days of any changes in Federal or State regulations or laws that would affect the Banking Service Depository.
2. In the event it would be ruled illegal under the provisions of any Federal or State laws or regulations for the successful Respondent to comply with the requirements of the Banking Service Depository, the City expressly reserves the right and privilege to cancel the Banking Service Depository.
3. The successful Respondent's records relating to the City's accounts shall be open for review during normal business hours by designated staff members or appointed independent auditors.
4. The City reserves the right to terminate the depository agreement with or without cause at any time by providing thirty (30) day written notice to the Depository to close its accounts.
5. All fees shall be fixed for the entire contract period, including any and all continuations.
6. This contract is governed by the laws of the State of Texas. Venue shall be exclusively in Dallas County, Texas.
7. Effective January 1, 2006, Chapter 176 of the Texas Local Government Code requires that any vendor or person considering doing business with a local government entity disclose in the Questionnaire Form CIQ, the vendor or person's affiliation or business relationship that might cause a conflict of interest with a local government entity. ("CIQ FORM")

This application is submitted for consideration and acceptance for the Banking Service Depository with the City of Glenn Heights for a period of three (3) years with an option to renew for two (2) additional one-year terms. The successful Respondent agrees to enter into the agreement on the attached form in accordance with the provisions set forth in Chapter 105 Local Government Code, or the City shall proceed to the selection of another Depository as provided in section 105.015 of the Texas Local Government Code.

FINANCIAL INSTITUTION: _____

BUSINESS ADDRESS: _____

_____

_____

_____

Dated this ___ day of _____, 2026.

Notary: _____

Signed By: _____

Title: _____

ACCEPTED BY CITY OF GLENN HEIGHTS: _____
Clifford Blackwell, City Manager

ATTEST: _____
Brandi Brown, City Secretary

DATE: _____

BIDDING INSTRUCTIONS/SUBMISSON CHECKLIST

1. The City of Glenn Heights PREFERS sealed proposals to be submitted electronically via Public Purchase (https://publicpurchase.com/gems/browse/home). The City will also accept sealed applications in paper copy. Paper applications must be delivered to:

   Sherry Roberts, Finance Director
   City of Glenn Heights
   1938-C, S. Hampton Road
   Glenn Heights, TX 75154

   The sealed application must be clearly marked in an opaque envelope: **"RFA 2026-03 – Bank Depository Services"** and delivered on or before 2:00 p.m. on Thursday, June 18, 2026.

2. No proposal will be accepted after 2:00 p.m., Thursday, June 18, 2026.
3. Respondent shall use this RFA as the official Response Form to submit rates and to answer questions. Any alterations, changes, or deletions to the RFA may be reason for the City to disregard and reject the application. Any such alterations, changes, or deletions must be clearly identified as such, with reason therefore, and alternate language proposed by Respondent, if any, clearly stated and inserted in the appropriate place in the application submission. Exceptions to the specifications will be considered only if listed in the application. Any terms in the RFA that are in conflict with Chapter 105, as amended, of the Texas Local Government Code shall be deemed superseded by such chapter. Conflicts discovered between this RFA and state law should be noted in the application form. The City will disregard any exceptions that may conflict with Chapter 105 of the Local Government Code.
4. The City reserves the right to request additional information or clarification from Respondents, or to allow corrections of errors or omissions.
5. The City reserves the right to reject any and all proposals, to waive any nonmaterial irregularities in any RFA, and to accept or reject any item or combination of items that deem to be in the best interest of the City of Glenn Heights.
6. All costs incurred by the Respondent in responding to the RFA shall be the responsibility of the Respondent.
7. If a service requirement cannot be met by Respondent, then the term "No Proposal" should be entered on the Response Form for that specific requirement.
8. The City of Glenn Heights City Council shall make final appointment of the Banking Service Depository Agreement.
9. Questions regarding the RFA should be directed to the Finance Director, City of Glenn Heights, 1938-C, S. Hampton Road, Glenn Heights, Texas 75154, telephone (972) 223-1690 x130, e-mail sherry.roberts@glennheightstx.gov. Contact with any personnel, officers, or officials of the City of Glenn Heights, other than the designated official regarding this RFA may be grounds for elimination from the selection process. No officer or employee of the City of Glenn Heights shall have a financial interest, direct or indirect, in any contract with the City of Glenn Heights.

Any interpretation of, additions to, deletions from, or any other corrections/clarifications to this proposal document, will be issued in the form of written addendum by the City of Glenn Heights. It is the sole responsibility of the Respondent to check with the City of Glenn Heights to ensure that all available information has been received prior to submission.

The City, its agents and employees shall not be responsible for any information given by way of verbal communication.

10. Submission Checklist:
    a. Response Form (Request for Application).
    b. Standard Wire Transfer procedures.
    c. Wire transfer agreement and information detailing online wire transfers.
    d. Statement on Stop Payment process for automated and/or manual basis.
    e. Procedures for Direct Deposit of Payroll.
    f. Name and biography of assigned account executive and secondary personnel.
    g. Safekeeping agreement
    h. Attachment “A” – Services & Fees.
    i. Attachment “B” – Checking account monthly analysis – Consolidated Cash
    j. Attachment “C” - Checking account monthly analysis – Chamber of Commerce
    k. Attachment “D” - Checking account monthly analysis – Glenn Heights Housing Finance Corporation
    l. Attachment “E” - Checking account monthly analysis – Glenn Heights Housing Finance Corporation Co-Dev, LLC.
    m. Attachment “F” - Checking account monthly analysis – Seizure Hold Account
    n. CIQ form.
    o. Applicant’s written statement stating that applicant has received and reviewed City of Glenn Heights’ Investment Policy.
    p. Respondent’s written acknowledgement that Respondent has implemented reasonable procedures and controls to preclude investment transactions that are not authorized by the City of Glenn Height’s Investment Policy.
    q. Respondent’s audited financial statements and call reports for the most recent year.
    r. Respondent’s statement regarding any recent or foreseen merger or acquisition.
    s. Respondent’s statement regarding cited State/Federal violations for past two (2) years.
    t. List of References.
    u. Acknowledgement of Investment Policy.

ATTACHMENT "A"

Service and Fees

Circle "yes" for the following services and items that will be furnished free of charge. If a charge is to be incurred, circle "no" and state the fee.

SERVICE	FREE OF CHARGE		FEE AMOUNT
Service Charge - Monthly	Yes	No	
Charge on return items	Yes	No	
Charge on overdrafts	Yes	No	
Deposit slips - duplicate	Yes	No	
Wire transfers (send)	Yes	No	
Wire transfers (receive)	Yes	No	
Cashier's check/money orders	Yes	No	
Certified check	Yes	No	
Deposit bags with keys (2)	Yes	No	
Currency and coin wrappers	Yes	No	
Stop payment charges	Yes	No	
Safekeeping City's Securities	Yes	No	
Counting and wrapping of the City's currency deposits	Yes	No	
Printed checks	Yes	No	
Direct Deposit (Payroll)	Yes	No	
Credit Card Processing	Yes	No	
Positive Pay Services	Yes	No	
Remote Deposit Capture	Yes	No	
Additional services (list)	Yes	No	

Instructions for Attachments “B”, “C”, “D”, “E”, & “F”

The City is providing information on the average monthly transactions from November 2025 – March 2026 for each of the following accounts:

- Checking Account (Consolidated Cash) – attachment “B”
- Checking Account (Chamber of Commerce) - attachment "C”
- Checking Account (Glenn Heights Housing Finance Corporation) - attachment "D”
- Checking Account (Glenn Heights Housing Finance Corporation Co-Dev, LLC. - attachment "E”
- Checking Account (Seizure Hold Account) - attachment "F”

Perform an account analysis using the information provided using the City’s commercial checking accounts.

Sweep Accounts have not been used in the past by the City; however, the City may have an interest in the possibility of utilizing this service. Please include pricing on all services for Attachment “B”, “C”, “D”, “E, & “F”.

Checking Account Activity – Attachment "B"

Consolidated Cash Monthly Activity
Five month average
November 2025 - March 2026

Service	Monthly Activity - 5 Month Average	Monthly Fees - 5 Month Average
Monthly Account Maintenance	1.0	20.00
Balance Fee	32,091.80	385.10
Average Daily Ledger Balance		3,209,171.91
Credits	227.20	45.44
Debits	120.40	21.67
Deposited Items On Us	46.00	5.52
Deposited Items Transit	423.80	50.86
Deposited Item Return	3.60	43.20
ACH Batch Files	1.00	9.38
ACH Per Item Processed	157.60	19.70
ACH Same Day Batch File	5.60	112.00
ACH Same Day Per Item Processed	636.00	159.00
ACH Notification of Change	0.60	1.80
ACH Returns	2.00	-
	9.20	110.40
Online Outgoing Wire	12.20	122.00
Remote Deposit Monthly	1.00	50.00
Remote Deposit - Deposited Item	747.60	74.76
Online Stop Payment	1.75	28.00
Positive Pay Monthly	1.00	-
Positive Pay Items	67.60	35.00
Positive Pay Return Items	1.00	2.50
Positive Pay Exceptions Items	5.00	-
	7.00	14.00
Positve Pay Issued Checks	93.60	-
Positive Pay Voided Checks	1.75	-
Positive Pay Payee Match Monthly	1.00	5.00
Payee Match Per Item	78.60	1.57
Positive Pay ACH Paid Exceptions	24.00	-
ACH Positive Pay	1.00	50.00
Total Activity Charges		1,357.37
Analyzed Charge Subtotal		1,086.38
Amount Deducted from Pooled Cash		271.00

Checking Account Activity – Attachment "C"

Chamber of Commerce Monthly Activity
Five month average
November 2025 - March 2026

Service	Monthly Activity - 5 Month Average	Monthly Fees - 5 Month Average
Monthly Account Maintenance	1.00	20.00
Balance Fee	175.20	2.10
Average Daily Ledger Balance		17,526.98

Checking Account Activity – Attachment "D"

GHHFC Monthly Activity
Five month average
November 2025 - March 2026

Service	Monthly Activity - 5 Month Average	Monthly Fees - 5 Month Average
Monthly Account Maintenance	1.00	20.00
Balance Fee	429.40	5.15
Average Daily Ledger Balance		42,933.88

Checking Account Activity – Attachment "E"

GHHFC Co-Dev Monthly Activity
Five month average
November 2025 - March 2026

Service	Monthly Activity - 5 Month Average	Monthly Fees - 5 Month Average
Monthly Account Maintenance	1.00	20.00
Balance Fee	8,107.20	97.29
Average Daily Ledger Balance		810,719.24

Checking Account Activity – Attachment "F"

Seizure Hold Account Monthly Activity
Five month average
November 2025 - March 2026

Service	Monthly Activity - 5 Month Average	Monthly Fees - 5 Month Average
Monthly Account Maintenance	-	-
Balance Fee	-	-
Average Daily Ledger Balance		5,649.14

ACKNOWLEDGEMENT

I hereby acknowledge that I have received, read, and understand the Investment Policy of the City of Glenn Heights. All reasonable procedures and controls currently implemented have been modified (if needed) to ensure that our firm's recommendations are consistent with the investment guidelines outlined in the investment policy.

Business: _____

Signature: _____

Printed Name: _____

Title: _____

Date: _____

Request For Proposal



RFA 2026-03; BANK DESPOSITORY SERVICES

Sherry Roberts
Finance Director
City of Glenn Heights
1938-C S. Hampton Rd.
Glenn Heights, TX 75154
sherry.roberts@glennheightstx.gov

PlainsCapital Bank
2010 N. Hampton Rd. DeStoto, TX 75115

Member FDIC.



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   - C) PlainsCapital Bank Wealth Management Safekeeping Fees Schedule
   - D) Completed, Signed, and Notarized RFP Submission Form
   - E) Completed and Signed CIQ
   - F) Completed and Signed Investment Policy Acknowledgement
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   - H) PlainsCapital Bank Commercial Availability Schedule

3. PlainsCapital Investment Accounts
   - Insured Cash Sweep Service Description

4. PlainsCapital Bank Agreements
   - I) Sample Bank Depository Agreement
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   - K) IntraFi Network Deposit Placement Agreement

5. PlainsCapital Bank Wealth Management & Trust Safekeeping Agreement for Public Funds

6. Treasury Management Terms and Conditions

7. PlainsCapital Bank Commercial Deposit Account Agreement

8. PlainsCapital Bank Primary Contacts

9. PlainsCapital Bank Locations

PlainsCapitalBank

June 17, 2026

City of Glenn Heights
Sherry Roberts,Finance Director
1938-C S. Hampton Rd.
Glenn Heights, TX 75154
sherry.roberts@glennheightstx.gov

RE: RFP #2026-03 Bank Depository Services

Dear Ms. Roberts,

On behalf of the employees, officers and directors of PlainsCapital Bank, I would like to thank you for giving PlainsCapital Bank the opportunity to submit a proposal for the City of Glenn Heights Bank Depository Services. Our goal is to exceed your expectations in a depository bank, and we look forward to establishing our partnership with the City for many years to come.

PlainsCapital Bank has been a Texas banking tradition since 1988. Founded in Lubbock with one branch, $160 million in deposits, and a lot of entrepreneurial spirit, we've grown to become the seventh-largest Texas based bank with over $12.7 billion in assets and 55 locations throughout the state. Headquartered in Dallas, PlainsCapital Bank now has approximately 1,000 employees and provides a full suite of banking services including commercial lending, treasury management, small business banking, private banking, and trust and wealth management services. Our strength and momentum are powered by an unrelenting commitment to delivering highly personalized, customer-focused relationship banking.

Our leadership teams are Texas natives with over 30 years of tenure with our Bank who have lived their entire lives in the communities we serve. We have a long history of partnering with 150+ public entities, large and small, in all the markets we serve to help move our communities forward. We have specialized expertise in public banking, treasury management, and liquidity and investing services to meet all your financial needs.

OUR PARENT COMPANY
PlainsCapital Bank is a wholly owned subsidiary of Hilltop Holdings Inc. (NYSE: HTH), a well-capitalized, publicly traded diversified financial holding company based in Dallas with a national footprint. As of Dec. 31, 2025, Hilltop had total assets of $15.8 billion, total deposits of $10.9 billion, and common equity of $1.5 billion. Hilltop was ranked No. 43 on S&P Global Market Intelligence's List of Top Public Banks based on returns, growth and funding with a premium placed on the strength and risk profile of its balance sheet.

Hilltop's other subsidiaries include HilltopSecurities (municipal investment banking) and PrimeLending (mortgage origination). Together, the Hilltop family of companies employ

PlainsCapital Bank

approximately 3,570 people in approximately 306 locations in 47 states.

Per the Bid Notice and directives contained in the Bid Form itself, we confirm all objectives and requirements have been met as specified in this proposal.

PlainsCapital Bank appreciates the opportunity to bid and stands behind the pricing and people that are committed to a partnership with you. If you have any questions please feel free to contact me at (469) 567-6715, stephanie.starrett@plainscapital.com, or Alexandra Gabriel at (214) 525-4607, alexandra.gabriel@plainscapital.com.

Sincerely,

Stephanie Starrett
President, Commercial Banking-DeSoto

2010 N. Hampton Rd.,
DeSoto, TX 75115

RFA #2026-03
BANK DEPOSITORY SERVICES

CITY OF GLENN HEIGHTS
SHERRY ROBERTS, FINANCE DIRECTOR

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City of Glenn Heights

RFA #2026-03 Bank Depository Services

Issued Date: Thursday, May 28, 2026

Issued By: City of Glenn Heights
1938-C S. Hampton Road
Glenn Heights, Texas 75154

NOTICE OF REQUEST FOR APPLICATIONS

The Finance Director of the City of Glenn Heights, Texas, will accept sealed depository applications from financial institutions within seven miles of the City of Glenn Heights, city limits, electronically via Public Purchase (https://publicpurchase.com/gems/browse/home) until 2:00 p.m., Thursday, June 18, 2026. The City will also accept sealed applications in paper copy. Paper applications must be delivered to the Office of the Finance Director, City of Glenn Heights, 1938-C, S. Hampton Road, Glenn Heights, TX 75154 and must be clearly marked **"RFA 2026-03; Bank Depository Services."** All depository applications will be publicly opened on that date at 2:00 p.m. in the Council Chambers of Glenn Heights City Hall, 1938-C S. Hampton Rd, Glenn Heights, Texas 75154, for the performance of depository services for the City of Glenn Heights, Texas, for the three-year period beginning September 1, 2026, and ending August 31, 2029.

It is the sole responsibility of the Respondent to ensure that the application is received by the Office of the Finance Director of the City of Glenn Heights, Texas, prior to the expiration of the time and date above first written. Applications may be mailed or delivered by hand or common courier. Application envelopes should include the following notation: "**DO NOT OPEN – BANKING DEPOSITORY SERVICES – RFA 2026-03."**

Copies of the depository application may be obtained from the City's website at https://glennheightstx.gov/Bids.aspx or from the office of Sherry Roberts, Finance Director, City of Glenn Heights, 1938-C S. Hampton Rd, Glenn Heights, Texas 75154. Technical questions should be addressed in writing to the Finance Director at the address stated above or via email at sherry.roberts@glennheightstx.gov.

It is anticipated that the City Manager is to receive authorization to negotiate the Depository contract for the performance of depository services by the City of Glenn Heights Council on or about Tuesday, July 7, 2026. The City of Glenn Heights reserves the right to reject any and all applications, to waive any and all technicalities, and to accept any application which it deems to be in its best interest. Each respondent agrees to waive any claim it has or may have against the City of Glenn Heights, Texas, and its respective employees, arising out of or in connection with the administration, evaluation, or recommendation of any application.

The City of Glenn Heights is subject to the Texas Public Information Act, a state law, which may require the City to make the information provided in response to this request for applications available to the public upon request.

Sherry Roberts, CGFO
Finance Director
City of Glenn Heights, Texas

1. INTRODUCTION

The City of Glenn Heights is requesting applications from qualified financial institutions to provide comprehensive, consistent, and quality bank depository services at a competitive price. To be considered, a qualified financial institution (hereafter referred to as "Bank") an entity must meet the minimum qualifications outline in the Minimum Qualification section below.

The successful respondent will work with the City and assume responsibility for the services. Through this contract, the City intends to minimize banking costs, improve operational efficiency, and maximize investment capabilities. This Request for Applications (RFA) represents the cash management goals, specifies all banks' required qualifications, the bank depository services required, the estimated activity volumes on all accounts, the method and terms of compensation, submission instructions, and the contract award provisions.

For the purpose of this RFA, responses must be relevant to city and county government and must not include data, statistics, or examples from school systems or business applications.

2. INSTRUCTIONS

A. Local Presence

To assure a close working relationship, to facilitate available services, and to support local business, the City may give priority to those institutions with full depository capabilities within seven (7) miles of the City of Glenn Heights.

B. Proposal Format

In order to fully and equitably evaluate each bank's ability to meet the bank depository services needs of the City, a standard reply format is required. Each application must include a response to each item in the RFA in the order given. Only applications submitted in the prescribed format and using the exhibit forms provided will be evaluated for contract award.

C. Proposal Objectives

The City wishes to communicate the primary objective of the Depository RFA, an important component of the overall treasury program of the City is:

1. To seek a financial institution that is capable of providing excellent banking services and willing to be attentive to the City's financial matters.
2. To maximize the total dollars earned by the City on account balances in order to be prudent and effective custodians of financial matters.
3. To maintain an excellent working relationship with the Depository.
4. To adequately compensate the Depository for services provided, subject to competitive forces in the marketplace; and
5. To fully comply with the requirements of the Texas Local Government Code Chapter 105, as amended.

D. Schedule for Application Submission

The City will make every effort to adhere to the following schedule:

DATE	DESCRIPTION OF EVENTS
Thursday, May 28, 2026	First Public Advertisement
Thursday, June 4, 2026	Second Public Advertisement
Friday, June 12, 2026	Deadline to Submit Questions
Monday, June 15, 2026	Response to Question(s) Deadline
Thursday, June 18, 2026	Bids Due & Opened
Thursday, June 25, 2026	Evaluation Committee Meets
Tuesday, July 7, 2026	Contract Awarded by Council

E. Submission Requirements

The City of Glenn Heights PREFERS sealed proposals to be submitted electronically via Public Purchase (https://publicpurchase.com/gems/browse/home). The City will also accept sealed applications in paper copy. Paper applications must be delivered to the office of the Finance Director, City of Glenn Heights, 1938-C, S. Hampton Road, Glenn Heights, TX 75154 and must be clearly marked:

"RFA 2026-03; Bank Depository Services"

Paper applications must include one (1) original document in a sealed opaque envelope bearing the respondent's company name, address, RFA title, City of Glenn Heights RFA number, date, and time stated for the RFA deadline. Email or Facsimile (FAX) proposals will not be accepted.

F. Public Opening

City staff will publicly open applications and read aloud the names of all respondents on Thursday, June 18, 2026, at 2:00 p.m. in the Council Chambers at Glenn Heights City Hall, 1938-C, S. Hampton Rd, Glenn Heights, TX 75154. The public is welcome to attend, but no decisions or discussion will occur at that time.

G. RFA Questions

There will be **no pre-application conference**. Questions regarding this RFA or the service requested will be accepted in written form at the address below before 5:00 p.m. CST, Friday, June 12, 2026. Responses to all material questions will be communicated in one (1) document and posted as an addenda item on the City's website at https://glennheightstx.gov/Bids.aspx and via Public Purchase (https://publicpurchase.com/gems/browse/home) by 5:00 p.m., Monday, June 15, 2026

Sherry Roberts,
Finance Director
City of Glenn Heights
1938-C S. Hampton Rd.
Glenn Heights, TX 75154
sherry.roberts@glennheightstx.gov

3. RESTRICTIONS ON COMMUNICATIONS

To ensure fair and equitable evaluation and selection of a proposal, the City of Glenn Heights prohibits ex parte communication initiated by the proposer, or proposer's officer, employee or representative, to an Elected Official, or any City employee or any representative of the City involved in the evaluation and selection of a proposal prior to the final determination and contract award.

Ex parte communication includes lobbying on behalf of the proposer, or unsolicited contact from the proposer or the proposer's officer, employee or representative to discuss details of a proposal off record before negotiations have concluded and a contract award has been made.

Ex parte communication may be grounds for disqualifying the offending proposer from consideration or contract award.

The anti-lobbying term does not apply to questions of process and procedure, including oral communications with the Finance Director, provided the communications are strictly limited to matters of process or procedure already contained in the solicitation document. Ex parte communication does not include a request for a status update.

All communications between the proposer and the City shall be made in writing to Sherry Roberts, Finance Director. sherry.roberts@glennheightstx.gov. A list of questions and answers will be posted to this RFA as an addenda item.

4. EVALUATION AND SELECTION CRITERIA

Texas Local Government Code §252.043

The City of Glenn Heights Evaluation and Selection Committee will review applications on the basis of professional qualifications, experience, background, references, contents of the application and best value to the City. The best value criteria includes:

- Ability to perform and provide the required and requested services.
- Ability to meet the legal qualifications and the terms and conditions specified in the RFA.
- Reputation of the Respondent and quality of services provided to similar entities.
- Financial strength and stability of the Respondent.
- All rates and fees for services.
- Completeness of bid and submission of all required information.
- Securities clearance and safekeeping procedures.
- Funds availability.
- Earnings credit on positive average available balances.
- Quality and efficiency of the Respondent's reporting services and reports; and/or
- Ability to provide sufficient collateral for deposits.

Each application must clearly cover all items in this RFA and supply complete responses to all items mentioned. Additional information may be included, and a clear table of contents must make all information easily referenced.

Each application must indicate a contact person for the purpose of discussion related to this application evaluation and selection process. Additionally, this person must be one authorized to negotiate and make commitments on behalf of the financial institution and should indicate the institution's overall intentions toward this contract in a signed cover letter accompanying the financial institution's proposal.

After consideration of all factors, the City will choose the respondent submitting the most advantageous application to the City. Award may not be made to the respondent submitting the lowest priced proposal.

5. QUALIFICATIONS

The bank must be an eligible public depository as defined in *Texas Local Government Code §105.001(4).* To assure a close working relationship, to facilitate available services, and to support local business, the entity may give priority to those banks with full-service capabilities within seven (7) miles of the City limits. Any required statement regarding equal opportunity and affirmative action should be included if required/desired. The application submitted will become part of the final contract.

6. OTHER CONSIDERATIONS

A. City Rights

The City reserves the right to consider historical information and facts, whether gained from the application, references, or any other source, in the evaluation process, including the Respondent's past working or business relationship with the City, if any. The City further reserves the right to consider a Respondent's background, personnel, experience, financial and other references, management practices, exceptions to the RFA or subsequent contract, and any working relationships, past or present, a Respondent may have with its other clients.

B. Proprietary Information

To the extent permitted by law, applications will be opened in a manner that avoids disclosure of the contents until after award of the contract. Proprietary information contained in the application should be designated as such on each page containing the restricted information.

C. Right to Reject

The City is entitled to reject any and all RFA responses under *Texas Local Government Code §271.027.* The City may consider the criteria described in the Evaluation and Selection Criteria and Other Considerations section of the RFA to determine the best value for the City. *Texas Local Government Code §252.021.*

D. Award of Bid and Service Initiation

The contract is to be awarded by City Council at its meeting on July 7, 2026.

E. Term of Contract

Services will begin on September 1, 2026, and extend through August 31, 2029, with an option to renew for two (2) additional one-year terms. The total term of this contract may not exceed five (5) years from the date services begin except for a six-month extension period for transition to the new depository bank at the end of the term, if needed.

7. SELECTION CRITERIA

The Evaluation & Selections Committee will evaluate the merit of the applications submitted in accordance with *Texas Local Government Code §2269.055*. The sole objective of this evaluation will be to determine the financial institution whose application is most responsive to the City's bank depository needs. Evaluations of applications will be made on the basis of the following objectives:

Criteria	Weight
Time deposit interest rates	20%
Cost of Service	40%
Service availability	20%
Safety and creditworthiness of bank	20%
TOTAL	**100%**

8. REQUIRED FINANCIAL INSTITUTION INFORMATION

All Respondents must provide, as part of the application:

1. Audited financial statements and call reports for the past year that includes the auditor's opinion and appropriate not to the financial statements.
   PlainsCapital Bank's most recent annual audited financial statements and Call Reports are publicly available through the links below:

   Annual Audited Financial Statements
   https://ir.hilltop-holdings.com/filings/annual-reports/default.aspx

   Call Report (FDIC Certificate Number 17491)
   https://cdr.ffiec.gov/public/ManageFacsimiles.aspx

2. A statement by the Respondent that addresses the following:
   - Any recent or foreseen merger or acquisition, and
     PlainsCapital Bank confirms that there are no recent or currently foreseen mergers or acquisitions that would impact the Bank's ability to provide depository services to the City of Glenn Heights.
   - If Respondent has been cited for violation of any State or Federal banking laws in the past two years.
     PlainsCapital Bank confirms that, to the Bank's knowledge, it has not been cited for violation of any State or Federal banking laws within the past two years.

3. A list of three (3) other Governmental Entities in the State that the City can call for

reference checks.

Entity	Contact Person	Title	Contact Information
Town of Highland Park	John R. Samford, CPA, CTP	Director of Finance	214-559-9360; jsamford@hptx.org
City of Desoto	Lakeita Sutton	Asst. Director of Finance	972-230-9657; LSutton@desototexas.gov
City of Weatherford	Dawn Brooks	Chief Financial Director	817-598-4130; dbrooks@weatherfordtx.gov

Town of Highland Park
4700 Drexel Drive
Highland, Park TX 75205
Effective Date of Depository Contract: 7/01/2013 – 6/30/2018; 7/01/2018 – 6/30/2023; & 7/01/2023 – 6/30/2026

City of DeSoto
211 East Pleasant Run Road
DeSoto, TX 75115
Effective Date of Depository Contract: 10/1/2020 – 9/30/2025; & 10/01/2025 - 9/30/2027

City of Weatherford
303 Palo Pinto Street
Weatherford, TX 76086
Effective Date of Depository Contract: 9/1/2022-10/31/2026

City of Harlingen
118 E. Tyler Ave.
Harlingen, TX 78550
Effective Date of Depository Contract: 12/01/2023 – 11/30/2026

PlainsCapital Bank currently collateralizes over 150 Texas Public Fund clients. Additional references are available at the City's request.

9. REQUIRED BANKING SERVICES

The City of Glenn Heights currently maintains five (5) checking accounts.

1. Consolidated Cash
2. Chamber of Commerce
3. Glenn Heights Housing Finance Corporation
4. Glenn Heights Housing Finance Corporation Co-Dev, LLC.
5. Seizure Hold Account

The Consolidated Cash account is the City's operating account. It handles all disbursements for the City and receives ACH deposits from credit card processing centers, manual and Remote Deposit Capture deposits for utility billing, court payments, miscellaneous cash receipts, and transfers to investment accounts.

The other accounts see very little activity.
To maximize interest earnings for the City, PlainsCapital Bank is proposing a maximum collateral limit of $5 million for non-interest bearing accounts (additional collateral may be

available upon request). The City can choose from the following three options and may switch between them during the contract term as needed. Additionally, the **Bank will waive account analysis service fees for the first 6 months** of the Depository Contract.

Option A – Earnings Credit to Offset Fees: Bank offers non-interest-bearing accounts where balances collateralized by authorized securities will earn a monthly earnings credit allowance calculated on the previous months positive collected balance. Non-interest-bearing accounts will offset bank fees at the rate of 2.00 (tied to the Lower End Fed Fund Target Rate currently 3.50%, less 150 basis points).

Option B – ICS (Insured Cash Sweep): The City may choose to sweep balances to the ICS Demand Account and earn interest at the current rate of 2.50% and pay hard dollar service fees (not offset by earnings credit). The interest rate is indexed to the Lower Fed Funds Target Rate (currently 3.50%) less 100 basis points. Interest rate is applied on collected (available) balances only. Utilizing Insured Cash Sweep Demand Account (ICS) will provide up to $200 million of FDIC coverage (limit subject to change).

Option C – Hybrid Approach: The City may choose a combination of option A and B using a peg/target balance in non-interest bearing accounts. Non-interest bearing accounts will earn a monthly earnings credit allowance to offset bank fees at the rate of 2.00% (tied to the Lower End Fed Fund Target Rate less 150 basis points). Any funds above the peg/target balance are swept into ICS accounts and earn interest at 2.50%, indexed to the Lower Fed Funds Target Rate (currently 3.50%) less 100 basis points.

PlainsCapital Bank is available to work with the City to ensure account balances are managed effectively to minimize or eliminate service fees.

Rate Changes & Notification

Both the ICS interest rate and the ECR are variable and are tied to the lower bound of the Federal Funds Target Rate. As a result, these rates will increase or decrease automatically in response to changes set by the Federal Open Market Committee (FOMC).

- ECR Changes: Adjustments to the ECR will become effective on the first business day of the month following a change in the Federal Funds Target Rate.
- ICS Changes: Adjustments to the ICS interest rate will take effect one to two business days after the FOMC establishes a new target rate.

The Bank will notify the City of any changes to interest or ECR rates through regular account communications, which may include monthly account statements and other standard written or electronic notifications. Rate information is also available upon request through the City's designated relationship manager.

About Insured Cash Sweep (ICS) and Local Reinvestment

When the City participates in the Insured Cash Sweep (ICS) program, PlainsCapital Bank places the City's excess funds into deposit accounts at multiple federally insured banks within the IntraFi Network. These funds are allocated in increments below the $250,000 FDIC insurance limit, allowing the City to receive full FDIC insurance coverage on balances well in excess of standard limits, all while maintaining a single banking relationship with PlainsCapital Bank.

Reciprocal Deposits: Dollar-for-Dollar Reinvestment

A key advantage of the ICS program is the reciprocal deposit structure, which ensures that

PlainsCapital Bank retains the full economic benefit of the City's deposit:

- For every dollar of City funds that PlainsCapital places with other network banks for FDIC insurance purposes,
- PlainsCapital simultaneously receives an equal dollar amount of deposits from those same network banks through IntraFi.

This one-for-one exchange is what is meant by *"dollar-for-dollar deposits."* Although the City's funds are distributed across multiple institutions for insurance protection, PlainsCapital's total deposit base remains unchanged.

Impact on the City and the Local Community
Because PlainsCapital Bank continues to hold an equivalent amount of deposits:

- The Bank maintains its lending capacity and liquidity
- Deposits can be used to support local credit needs, including:
  - Infrastructure financing
  - Small business lending
  - Economic development projects
  - Residential and commercial growth

In effect, the City's funds remain economically active within the community, rather than being withdrawn from the local banking system to achieve collateralization or insurance compliance.

Key Benefits to the City

- Full FDIC Insurance
  All ICS funds are fully insured, eliminating reliance on pledged collateral and removing daily collateral monitoring requirements.
- Operational Simplicity
  The City works exclusively with PlainsCapital Bank while receiving multi-bank FDIC coverage.
- Liquidity and Accessibility
  ICS balances remain fully liquid and available for real-time disbursements, including payroll, vendor payments, and emergency needs.
- Competitive Earnings
  Operating funds earn a competitive interest rate while remaining fully insured.
- Flexible Account Structures
  ICS accounts may be:
  - Established per individual depository account
  - Integrated with a Zero Balance Account (ZBA) structure
  - Configured using a combination of both
- Target Balance Management
  The City can maintain desired balances in its primary depository account, with excess funds automatically swept into ICS as needed.
- Customization and Compliance
  Specific banks within the IntraFi Network can be excluded if required by policy, statute, or internal guidelines.

Summary: Safety Without Sacrificing Local Investment
The ICS program allows the City to simultaneously achieve three critical objectives:

1. Maximum protection through full FDIC insurance,

2. Operational efficiency with simplified cash management,
3. Community reinvestment, as PlainsCapital Bank receives reciprocal deposits that support local lending and economic activity.

This structure ensures the City's funds are not only protected and liquid but also continue to benefit the community they serve.

ICS are authorized investments under the Texas Government Code Title 10 Chapter 2256 Subchapter A Section 2256.003 of the Public Fund Investment Act. Refer to Tab 3 for the IntraFi Network Service Descriptions and an excerpt from Texas Government Code.

A. General Description of Services

Attachment "A" lists the services to be provided by the Depository under this agreement. Respondent should use this Attachment to provide the specific cost price for each service if applicable.

The following identifies and describes the services to be provided and the requirements to be met.

1. Standard Disbursement Services – standard disbursing services for all accounts are required to include the payment of all checks upon presentation. No funds or fees may be withdrawn from the Depository except by properly drawn warrants that have been approved and signed by appropriate authorities as designated on signature cards.
The Bank will honor all City-issued disbursement checks without charge to non-account holders, City employees, or vendors upon presentment, in accordance with the Bank's deposit account agreement and terms and conditions. Valid identification will be required at the time of presentment. The payee must present a valid state-issued identification or a U.S. government-issued passport or visa.

The Bank maintains strict internal controls and account safeguards to ensure that no funds or fees are withdrawn from City accounts except as authorized. Disbursements will only be processed against properly drawn warrants or items that have been duly approved and executed by individuals designated on the City's authorized signature cards.

To further safeguard the City's funds, the Bank supports the use of fraud prevention tools such as Positive Pay and payee validation, ensuring that only authorized and verified items are processed.

2. Standard Deposit Services – the Depository must guarantee immediate credit on all incoming wire transfers and U.S. Treasury checks upon receipt and all other checks based on the Depository's availability schedule. All deposits received before the Depository's deadline will be credited daily. All deposits will be mixed containing cash, check and coin. Processing of all deposited items on checks and cash to include encoding services and return of a stamped duplicate deposit slip to the City at the time of the deposit. The Depository will notify the City as soon as possible for any deposit adjustments.
Bank will offer all disbursing and deposit services as required by the City. Intra-day check clearing information is available thru BOS (Business Online Service) in real-time. Incoming wire transfers are credited to the corresponding account as soon as they are received.

Cut off time for same day ledger credit at the branch is 5:00pm although, same day

credit cannot be guaranteed for high volume late deposit drops. The Bank recommends morning delivery to ensure same day posting of branch deposits.

Refer to Tab 2, Attachment H, for PlainsCapital Bank's Commercial Availability Schedule.

3. Wire Transfers – the Depository shall have the wire transfer capability of using online service with security features. The Respondent shall include a copy of their standard transfer procedures and wire transfer agreement. The City requires adequate security provisions and procedures. If wire transfer requests are available online, full information should be submitted detailing the use.
PlainsCapital Bank provides a secure and flexible wire transfer platform through its Business Online Services (BOS), supporting both repetitive and non-repetitive wire transactions. The City will designate a Primary and Secondary Administrator during onboarding, who will manage user access and permissions. Users may be granted initiation-only or initiation-and-approval rights, with customizable wire limits for added control.

Security and Authorization
Dual authorization is not required but is strongly recommended and fully supported. Wire approvals require transaction-based virtual tokens, adding an additional layer of security. The Bank also employs behavioral monitoring software that flags wires meeting certain risk criteria for manual review. In such cases, the Wire Room may contact City personnel directly for verification prior to release.

Initiation and Monitoring
Wire transfers can be initiated and monitored in real-time through BOS. In the event of system unavailability, wires may also be submitted via fax, email, or in person at a branch, or by contacting the Wire Room with PIN verification. Wire status reports are available online, and user alerts can be configured to send real-time notifications via email or text. Full wire details can also be sent to individual or group email addresses.

Templates and Future Dating
The City may create and store repetitive wire templates at no cost. While additional authorization is not required for template use, it is recommended. Templates can be configured to require approval before use by other users. BOS also supports future-dated wires with no limit on how far in advance they may be scheduled. Wires must be approved by 5:00 PM CST on the effective date to ensure same-day processing. Approved future-dated wires are warehoused and processed on the scheduled date.

Ledger Balance Policy
Outgoing wires are released based on available funds. If sufficient funds are not available, the assigned account officer will contact the City to coordinate movement of funds. Incoming electronic activity (wires and ACH) automatically updates the available balance in real time.

Cut-Off Time
Wire transfers may be submitted online 24/7; however, they must be approved by 5:00 PM CST on the effective date to be processed the same day.

Audit and History
Wire initiation and approval history is accessible within the BOS platform under the

Transfers and Payments tab. Wire report history is retained for 90 days, and real-time wire stages are visible to authorized users.

PlainsCapital Bank is dedicated to providing secure, reliable, and user-friendly wire transfer solutions that align with the City's operational requirements and internal control standards.

Refer to the links below for PlainsCapital Bank's Treasury Management Terms and Conditions and PlainsCapital Bank Commercial Deposit Agreement. For each Service, this Agreement, the Service Description, any user documentation, and Service Application for that Service (collectively, the "Service Documentation") together with our Deposit Agreement, contain the terms and conditions governing our provision of that Service to you, and any of your subsidiaries or affiliates on whose behalf you are acting.

https://plainscapital.com/business/treasury-management/treasury-terms/

https://plainscapital.com/privacy-disclosures/

4. Automatic Clearing House (ACH) Services – the City has various ACH credits and debits from approved agencies and companies such as State and Federal agencies, investment pools, and credit card processing centers.
The Bank's treasury management platform enables the City to originate and receive ACH transactions efficiently and securely, supporting a full range of standard SEC codes (including CCD, PPD, and CTX). The system allows for the initiation of recurring and one-time ACH payments, as well as the receipt of incoming ACH deposits from authorized counterparties.

Incoming ACH credits and debits are automatically posted to the designated City accounts with reporting available through the online banking platform. Users have access to transaction-level detail, reporting tools, and historical data to support reconciliation and audit requirements.

5. Fraud Protection – the Depository should have a detailed check fraud detection service.
PlainsCapital Bank provides Check Positive Pay with Payee to support daily payroll and accounts payable disbursements. The Bank securely receives check issue files uploaded by an end user or transmitted via SFTP and validates presented checks using check number, dollar amount, and issue date, with optional payee name verification available through the online positive pay module. Multiple file formats are supported. Manual checks may be entered directly in the portal by inputting check number, amount, issue date, and optional payee. The Bank strongly recommends the use of payee validation and dual controls for both file uploads and manual entry, as well as separate users to review and decision positive pay exceptions. Files sent via SFTP require an FTP Transmission setup, and additional fees apply.

Any items that do not match authorized information are flagged as exceptions and made available for review by 9:00 a.m. CST, along with related check images. Authorized users must submit decisions online by 2:00 p.m. CST; if no decision is made by the cutoff time, the Bank's default action is to return the item. The Bank offers the ability to correct certain exceptions caused by misreads, which may reduce reconciliation items. Dual control is available and strongly recommended to enhance internal controls. Exceptions may be reviewed and decisioned through both the desktop platform and the mobile app. Email alerts for positive pay exceptions are

mandatory for all entitled users, with the initial alert sent at 9:00 a.m. CST and a second reminder at 1:00 p.m. CST if items remain unresolved. Text alerts are optional but recommended.

ACH filters are available and managed through BOS online banking Positive Pay module, allowing pending ACH debits to be reviewed and decisioned online before posting. Payment rules can be setup by the originating ACH company ID to allow those designated by the City to process without review going forward; dollar thresholds per payment rule are optional, and rules can be applied as exceptions are reviewed. ACH full debit blocks are available and would prevent all ACH debits from posting to an account without notification to the City. Exceptions are available for review by 9:00am CST; decisions must be made by 2:00pm CST.

Any wire debits not initiated by the City require a reverse wire drawdown authorization in advance.

Positive Pay onboarding includes file setup, testing, and user training. Applicable terms and conditions are outlined in the Bank's Treasury Management Terms and Conditions. Refer to Tab 6 & Tab 7 or the links below for PlainsCapital Bank's Treasury Management Terms and Conditions and PlainsCapital Bank Commercial Deposit Agreement. For each Service, this Agreement, the Service Description, any user documentation, and Service Application for that Service (collectively, the "Service Documentation") together with our Deposit Agreement, contain the terms and conditions governing our provision of that Service to you, and any of your subsidiaries or affiliates on whose behalf you are acting.

https://plainscapital.com/business/treasury-management/treasury-terms/

https://plainscapital.com/privacy-disclosures/

6. Stop Payments – at times, the City will require the Depository to issue "stop payments." Respondent shall include a statement on the proposed stop payment process on an automated or manual basis.
PlainsCapital Bank offers comprehensive online stop payment services through its secure Business Online Services (BOS) platform. Authorized users may initiate stop payments and renewals by logging into BOS with assigned credentials, entering the required check details (check number, date, amount, payee, and reason), and submitting the request electronically. Stop payments are effective for six months from the date of submission.

Renewals and Extensions
Renewals may be completed online by submitting a new stop payment order for the same check. Each renewal is effective for an additional six-month period. User alerts can be configured to notify the City prior to expiration, allowing time to renew or let the stop payment lapse.

Cancellations
Stop payment cancellations can also be processed online. Authorized users may access the "Account Services" section within BOS, select "Existing Stops," and locate the corresponding item to cancel.

Positive Pay Integration
As an alternative to traditional stop payments and renewals, the City may utilize

Positive Pay Services. Items may be voided in Positive Pay, causing them to be flagged as exceptions. These exceptions can be decisioned as "Return – Payment Stopped." For extended stop pay periods, the Bank recommends removing check items from the Positive Pay issue file, allowing them to be reviewed and decisioned by the City.

Dual Control
While dual control is not required for initiating stop payments, it is available and recommended for added security. Voiding items through Positive Pay provides an additional layer of protection.

Cut-Off Time
The deadline for same-day stop payment processing is 6:00 PM CST.

Verification and History
Before accepting a stop payment, the system verifies whether the check has already cleared. There is no limit on how far back the system checks. As an added precaution, the City is encouraged to review account history prior to submitting a stop payment.

Reporting and Visibility
The City may view all submitted stop payments online. Reports include:

- Date of submission
- Approval status
- Check number
- Account number
- Dollar amount
- Payee
- Expiration date (optional)
- Reason for stop payment (optional)

PlainsCapital Bank is committed to providing secure, flexible, and transparent stop payment services that align with the City's operational needs and internal controls.

7. Online Banking Services – the Depository shall offer Internet access for the inquiry of account balances and activity for all City's accounts. This access should be available by using a password set by the City. In addition, the Depository shall offer online transfer of City monies between accounts held within the Depository. The transfers should be credited and debited to the related accounts on the same business day of the transfer, if the request is received by 5:00 p.m.
PlainsCapital Bank provides a comprehensive online treasury management platform, Business Online Services (BOS) that offers secure Internet access for the inquiry of account balances and transaction activity across all City accounts. Authorized users are granted access through unique user credentials and passwords established and controlled by the City, allowing for secure and customizable user administration. PlainsCapital Bank's online banking services are supported by robust security protocols, including user authentication controls, role-based access, and approval workflows, ensuring the integrity and security of all account activity and transactions.

The Bank offers BOS with optional dual control capabilities. All services are available thru one portal; services include:

- **Reporting Module**

- Previous day
  - End of day ledger balances, collected balance and monthly averages for both
  - Transaction details, paid check & deposit ticket images included (maintained online for 24 months)
  - Summary debit & credit totals
  - EDI reporting
  - ACH Return Item & NOC reporting
- Current day
  - ACH debit & credit transactions
  - Incoming wire reporting
  - Paid checks (please note paid check activity will not be complete until end of day processing and maintained online for 24 months)
  - Controlled disbursement totals and transactions
  - Deposits made through remote deposit capture
  - Cash forecasting
- Monthly bank statements and analysis statements (maintained online for 7 years)
- Saved reports

❖ **Money Movement**

- Internal Account Transfers
  - Transfers are real-time and account available balances referenced on page
  - Transfers can be made from one account to another
  - Transfers can be made from one account to many accounts in one transaction
  - Templates can be created and saved for future use
  - Descriptions can be added and will be referenced on bank statement or file exports
  - Single or Dual control available; Dual control highly recommended for internal account transfers
- ACH Origination
  - Payment / Collection templates supporting all payment types (CCD, PPD, CTX, Web, Tel)
  - Tax and child support templates available
  - Addenda records can be added
  - Detail recipient records can be imported into existing templates from multiple file formats
  - Upload NACHA formatted files
  - ACH Same Day transactions available for both payments & collections
  - Manage ACH NOCs easily; templates with related NOCs are automatically flagged for review and acceptance
  - Origination detail reports can be created and exported in CSV file formats for 90 days
  - Single or dual control available; Dual control is strongly recommended for ACH Origination for both payments and collections
  - Single or dual control available; dual control to create ACH Templates is highly recommended before utilization
  - Template transactions or file uploads require token security at the approval stage

- Real-time status reports available online

➢ Wire Initiation
- Supports both domestic and international wires (USD$ only)
- ABA & Swift lookup tools available
- Wire file import feature available in CSV formats
- Single or dual control available; dual control is strongly recommended for wire initiation
- Templates may be created for repetitive use and configured to require dual approval before use. While dual approval is strongly recommended, single control is also available.
- Wire transactions require token security at the approval stage; multiple wires can be approved at once
- Real-time status reports available online
- Transaction history available for review and export for 90 days

❖ **Account Services**

➢ Stop Payments for checks
- Initiate online stop payments
- Monitor existing stop payment requests

➢ ACH Positive Pay

➢ Check Positive Pay

➢ Reconciliation

➢ Remote Deposit Capture

❖ **Administration**

➢ Manage online users; dual control is optional

➢ Setup user alerts to be sent via email or text or both

➢ Create user reports

➢ Manage additional approval settings

PlainsCapital Bank Business Online Services Test Demo link:
www.plainscapital.com/BOSTMdemo

8. Direct Deposit – the City offers its employees an automatic payroll deposit service. Currently payroll is processed by and through the City's payroll software. Employees are paid on a bi-weekly basis. Respondent shall describe their procedures for direct deposit of payroll.

ACH transactions can be submitted in three ways.

❖ Online Templates
- Allows single or batched transactions
- Transaction payment details can be imported into template
- Payments & collections available
- Dual control is highly recommended for online services and security protocols, however single control is available
- 4:00CST deadline for submittal

❖ ACH File Upload
- NACHA formatted file required
- Dual control is highly recommended for online services and security protocols, however single control is available

- 5:00CST deadline for submittal

❖ ACH Direct Send
- NACHA formatted file required
- File delivered via SFTP

ACH templates can be built by City users and maintained online; these are typically used for vendor or one-off payment or collection transactions. Dual control is highly recommended with a 4:00pm CST cutoff, however single control is available. Dual control for ACH template creation, requires the template to be approved by another user before it can be utilized.

Additionally, individual ACH transactions can be submitted online thru the ACH module. Upon logging in to BOS online banking, authorized user will process the ACH payment and/or collection thru the use of templates by entering required information i.e., payment type (CCD or PPD) company name/ID, transaction description, amount of transaction, and effective date. Further, user will enter ABA, account number, select account type, Name and amount of ACH transaction to process.

Further, the Bank offers Same Day ACH up to $1 million per item/transaction. Same Day ACH, items and/or files may be uploaded the same day as the effective date by 1:00pm CST. The City's eligible debits and credits will be processed same day and the payee's account will be debited or credited by 5:00pm local time. It is important to note these transactions may not memo post as "pending transactions" to the receivers account during the day.

9. Statements – monthly account statements will be provided within five (5) working days after the close of the calendar month. Each statement will contain optical images of the checks. Statements shall include transaction activity made on the last day of the period.
Monthly bank account statements are available online 1-3 business days the following month. Paper statements generally are available mid-month depending on local post office delivery. Monthly statements are maintained online for 7 years; statements are also available thru NetImage and Web CD Rom.

10. Insufficient Funds (NSF)/Returned Items – should be submitted twice before being returned to the City. Returned items that do not clear on the second attempt shall be returned to the City within three (3) business days with a complete description of nonpayment. The City shall receive same day telephone notification of all return items more than $1,000.
The Bank will process Insufficient Funds (NSF) and returned items in accordance with its standard operating procedures. Returned items will be identified and reported to the City with sufficient detail to support research and reconciliation.

Notification of returned items will be provided through the Bank's available reporting tools and online banking system, allowing the City timely access to item status and supporting information.

Additional notification methods, including direct communication for significant items, can be provided in accordance with the Bank's standard practices and mutually agreed-upon service arrangements.

11. Investment of Idle Funds and Safekeeping of City Securities – all certificates of deposit

purchased by the City will be on a competitive basis. The City has no obligation to invest its funds with or through the Depository.

PlainsCapital Bank's Wealth Management & Trust (WM&T) Department offers a national, non-brokered direct certificate of deposit (CD) listing service that is fully compliant with FDIC and NCUSIF requirements. This service enables the identification of competitive CD rates for clients. Participation requires the execution of a separate Custody Agreement with the WM&T Department. An annual fee applies and is negotiated based on the total account balance, with a minimum account size of $1,000,000.

All securities will be handled on a delivery versus payment (DVP) basis as they are cleared into and out of account. All clearing and safekeeping will be with the Depository or its correspondent. All correspondent and safekeeping arrangements will be stipulated in the application.

Safekeeping and custody services are provided through PlainsCapital Bank's Wealth Management & Trust (WM&T) Department and are conducted on a delivery versus payment (DVP) basis for all securities transactions. All clearing and safekeeping activities are performed through the Bank's correspondent, Fidelity, and all arrangements are fully disclosed in the Safekeeping Account Agreement.

A separate Safekeeping Account Agreement must be executed with the WM&T Department, outlining the responsibilities of all parties. A copy of the Public Funds Safekeeping Account Agreement is included under the referenced Tab 5. Upon execution, PlainsCapital Bank will provide settlement instructions for the account held at Fidelity.

Delivery instructions for same-day cash settlement must be received by 10:00 a.m. CST. Instructions received after this deadline may not be eligible for same-day settlement; however, no additional fees are assessed for late submission. Safekeeping services will be hard charged monthly to the Public Funds Safekeeping account based on services rendered.

While online origination of securities transactions is not available, the City will have access to a secure web-based platform for monitoring portfolio holdings and transaction activity and will be supported by a dedicated trust administrator serving as the relationship officer. Refer to Tab 2, Attachment C for Safekeeping Fees Schedule.

12. Fees and Charges – the City reserves the right to utilize either a fee basis or compensating balance basis (or a combination of each) for payment of depository services under the contract. A complete monthly account analysis will be required regardless of the payment basis.

All item and account charges will remain at the application cost price quoted on **"Attachment A"** for the duration of the contract period regardless of changes in service volumes during the period. Should new services not included in this RFA be required during the contract period, those services will be provided at fees not more than the Depository's then-current published rate and approved by the City's Finance Director and City Manager.

In order to assit the City with transition costs, **Bank will waive account analysis service fees for the first six (6) months of the Depository Contract**.

The Bank agrees to utilize a compensating balance method whereby collected balances earn an earnings credit rate that offsets monthly service charges. All accounts will be linked to a designated lead account for balance aggregation and

earnings credit calculation. If the earnings credit fully offsets applicable service charges, no charge will be incurred. If the earnings credit is insufficient, the net service charge deficit will be debited to the designated lead account on the 15th of the month or the next business day, as applicable. The Bank can also accommodate a straight fee method if requested by the City with no disparity in charges.

Account analysis statements are available online on the 9th of the following month with charges occurring on the 15th or the following business day respectively. Account analysis statements are maintained online for 7 years.

Refer to Attachment A for the Service Fee Schedule. Fees will remain fixed throughout the Depository Contract term. Services utilized but not listed will be charged at the Bank's then-published rates.

13. Overdrafts – the City does not intend to have an overdraft position on any of its accounts (singly or net) throughout the course of the depository contract. In the event a check or checks are presented for payment on any account with insufficient funds available for payment, the City will require Depository to pay said check(s) and promptly notify the City's Finance Director of the situation. The City agrees to cover the overdraft within a maximum of one (1) business day after notification.
PlainsCapital Bank understands the City's intent to avoid overdraft positions and will make every effort to honor presented items to support uninterrupted operations. In the event of insufficient available funds, the Bank may, at its discretion, pay items resulting in an overdraft and will promptly notify designated City personnel of the overdraft condition.

Overdrafts are considered extensions of credit and are subject to individual review and approval based on the overall relationship, including aggregated account balances.

Any applicable overdraft fees, currently $30 per item, may be assessed on a case-by-case basis. Negative collected balance positions may be subject to an interest charge at the Bank's Prime Rate plus 2.50%, assessed only for the period the account remains overdrawn and subject to offset by available earnings credit allowance.

14. Account Analysis – statements shall be prepared each month by the Depository and shall clearly show volume counts, fees charged (as set forth on Attachment "A"), and total prices for services on the accounts. The account analysis shall also show average ledger balances, interest rates, and earning credit rate and amounts. Fees charged to the City are not subject to change for the length of this contract.
Account Analysis Statements are produced by individual account and at group level, which will reflect average ledger balance, average uncollected funds, average collected balance, reserve requirement, average available balance, rate and amount of earnings credit, detail of services provided with quantities and unit fees for each, and total service cost, delivered to the City on a monthly basis.

Account analysis statements are available online on the 9th of the following month, with charges posting on the 15th (or next business day), paper statements typically arriving mid-month, and all analysis statements retained online for seven years.

15. Account Executive – an account executive must be assigned to the City's accounts to coordinate the account services and expedite the solution of any problem. A trained and competent backup for the account executive, familiar with the accounts, should

be assigned in the application. Stipulate the names and a brief biography of the account executive and their secondary personnel to be assigned to the City's accounts.

PlainsCapital Bank is committed to prompt and effective resolution of service issues through a dedicated relationship and support structure. The City will be supported by an experienced team that includes a senior banking executive, Treasury Management Officer, Public Funds Officer, and Treasury Support specialists. This team serves as the primary point of contact for issue escalation, service inquiries, and ongoing relationship management, ensuring accountability and timely resolution.

Stephanie Starrett

Stephanie Starrett is President of the DeSoto location of PlainsCapital Bank for over 8 years. She specializes in commercial business relationships and lending needs. Raised in DeSoto, Tx, she started in banking in 1985 while attending The University of Texas at Arlington. She has worked in various banks in the Best Southwest region for over 40 years.

Stephanie is the past Chair of the Best Southwest Partnership and past Chair of the Cedar Hill Chamber of Commerce. She serves on the GDPC South Committee, is a SCORE Mentor and has served on the boards of Cedar Hill Chamber Commerce, Duncanville Chamber of Commerce, Leadership Southwest, Best Southwest Partnership and Ellis County Children's Advocacy Center. She graduated from Leadership Southwest in 2000.

Stephanie retired as the Mayor of the City of Pecan Hill when her family moved from Red Oak to Streetman, Tx. She spends her spare time with her husband, children and grandchildren.

Alexandra Gabriel

Alexandra Gabriel, Bank Officer, Treasury Management Sales Officer. Alexandra graduated from Texas Tech University with a degree in Business Management. She started her banking career with PlainsCapital Bank over 3 years ago as a Treasury Management Analyst. Alexandra is now a Treasury Management Sales Officer and assists clients with their cash management operations.

Day-to-day questions and minor issues are handled through a centralized Treasury Support team, available Monday through Friday from 8:00 AM to 5:30 PM CST. This team works closely with back-office operations to research and resolve inquiries efficiently, while the relationship team remains engaged for oversight and escalation as needed.

For more complex or urgent matters, the City will have direct access to its assigned relationship team, including phone and email contacts, with immediate escalation to senior leadership if required. Regular relationship reviews are conducted at least annually, or more frequently as needed, to address any recurring issues, review service performance, and implement improvements.

This structured approach, supported by experienced local professionals and dedicated public funds resources, ensures responsive service, clear communication, and timely resolution of all service-related matters.

Refer to Tab 8 for a list of Primary contacts. Upon award of the Depository Contract, Bank will provide cell phone numbers for urgent matters and after-hours support.

B. Collateralization of Deposits

Authorized collateral, as defined below, must be pledged against the total time and demand deposits net of the FDIC insurance, with a 102% margin on the collateral maintained at all times by the Depository. All the requirements, including those beyond the Public Funds Collateral Act (*Texas Local Government Code Chapter 2257*), must be met by the Depository.

The Respondent must state agreement in their application to the following terms and conditions:

1. All collateral pledged to the City must be held in an independent, third-party bank outside the Depository's holding company.
   Federal Reserve Bank will serve as third party custodian for pledged collateral.

2. A safekeeping agreement shall be executed between the City, the Depository, and the safekeeping bank for custody of pledge securities in full compliance with the Financial Institution Reform, Recovery, and Enforcement Act (FIRREA) requiring a bank resolution (or completion of Circular 7 if the Federal Reserve is acting as custodian).
   Bank confirms agreement. Refer to Tab 4 for a Sample Federal Reserve Bank Pledge Agreement and Sample FIRREA Resolution.

3. All time and demand deposits above FDIC coverage shall be collateralized at a minimum of 102% of the principal plus accrued interest at all times.
   PlainsCapital Bank confirms agreement with the City of Glenn Heights collateral requirements and procedures. Bank will continuously monitor and maintain collateral at 102% of principal plus accrued interest as allowed by the Texas Government Code, Chapter 2257, Public Funds Collateral Act.

   Pledged collateral fees will not apply.

   City agrees to work with Bank to promptly release any collateral in excess of stated requirements upon Bank's written request. Bank may assess a fee of 35bps on the value of excess collateral pledged if not released 10 days after a Bank's request to do so.

4. The Depository shall be contractually liable for the daily monitoring and maintaining of collateral at the City's required margin levels.
   Bank will continuously monitor and maintain collateral at 102% of principal plus accrued interest as allowed by the Texas Government Code, Chapter 2257, Public Funds Collateral Act.

5. Pledged collateral shall be evidenced by safekeeping receipts/report sent directly to the City by the custodian within one business day of receipt of the asset.
   Bank confirms agreement with this requirement.

6. City requires a monthly report of collateral pledged including:
   a. name, type, and description of security;
   b. safekeeping receipt number;
   c. par value;
   d. current market value;
   e. maturity date; and
   f. Moody's or Standard & Poor's rating (both if available).

   Bank will provide monthly collateral reports to the authorized City personnel through

preferred method of delivery i.e., email or mail delivery within 3 - 5 business days. Original safekeeping receipts for pledge changes, as well as monthly Holdings Statements with Par Balance, will be provided to the City via email directly from Federal Reserve Bank.

7. Substitution rights shall be granted if the Depository obtains the City's prior approval and if substituting securities are received before previously pledged securities are removed from safekeeping.
   Bank confirms agreement with this requirement.

8. Authorized collateral shall be those securities identified in the Public Funds Investment Act as eligible investments for both CDs and City deposits. The City must approve all securities pledged and reserves the right to accept or not accept the securities to be pledged as collateral. Repurchase agreements or Collateralized Mortgage Obligations are not acceptable as collateral to the City.
   Bank will pledge securities at 102% of the City's balances (up to $5 million in securities available) as allowed by the Public Funds Collateral Act (Texas Government Code Title 10, Chapter 2257) and the City's Investment Policy utilizing prior day ending collected balance. Should the City anticipate an increase in same day deposits, same day ICS trades are available by 12:00pm to address the possibility of large incoming electronic deposits. Bank will on a best-efforts basis attempt to provide additional collateral for incremental deposits when notification is received after the delineated deadline.

   The Bank confirms that all time and demand deposits, including uninsured collected balances and the principal of uninsured certificates of deposit, plus accrued interest, will be collateralized in full in accordance with Texas Government Code Chapter 2257, Public Funds Collateral Act, and the terms of the executed Depository and Pledge Agreement.

9. The City shall accept the following securities as collateral:
   a. FDIC coverage.
   b. U. S. Treasury bills, notes, bonds.
   c. United States Agency and instrumentalities bills or notes; and/or
   d. Bonds of the State of Texas or of a county, city, and other political subdivision of the State of Texas having been rated as investment grade (investment rating not less that "A" or its equivalent) by at least one nationally recognized rating agency, with a remaining maturity of ten (10) years or less.

Collateralized investments often require substitution of collateral. Any substitutions of the securities or reductions in the total amount pledged shall be made only by and with proper written authorization approved by the City's Finance Director or City Manager. All securities to be pledged are subject to approval by the City.

Due to the proposed competitive rate, the Bank cannot agree to a requirement that all pledged securities be subject to prior City approval. The Bank reserves the right to substitute eligible collateral with notice to the custodian, provided the required collateral value is maintained. Upon written request, the Bank will use reasonable efforts to obtain prior City authorization for substitutions; however, such approval shall not be unreasonably withheld or delayed, and the Bank will be afforded a reasonable timeframe to implement any such requests.

Respondent will name the safekeeping bank for collateral in the proposal.
Federal Reserve Bank will serve as third party custodian for pledged collateral.

C. Securing Funds

All funds under the provisions of this agreement shall be continuously secured in accordance with the State of Texas and the City of Glenn Heights' formal written investment policy. Any collateral deficiencies will require immediate correction.
Bank confirms agreement with this requirement.

D. Miscellaneous

This proposal is requested by the City and is made by Respondent with the expressed agreement and understanding that City reserves the right to reject any and all applications, and the further right that if any portion or provision of this application and/or resulting contract, at the option of the City, shall remain in full force and effect, and not be affected by said invalid portion or provision.

E. Other Stipulations

1. The successful Respondent shall notify the City in writing within ten (10) business days of any changes in Federal or State regulations or laws that would affect the Banking Service Depository.
   Bank make best efforts to communicate material changes that will impact clients in a timely manner.

2. In the event it would be ruled illegal under the provisions of any Federal or State laws or regulations for the successful Respondent to comply with the requirements of the Banking Service Depository, the City expressly reserves the right and privilege to cancel the Banking Service Depository.
   Bank confirms agreement. PlainsCapital Bank remains subject to regular examinations by its primary regulators and continues to operate in compliance with all applicable federal and Texas regulatory requirements, including data security, privacy, and consumer protection laws.

3. The successful Respondent's records relating to the City's accounts shall be open for review during normal business hours by designated staff members or appointed independent auditors.
   Bank confirms agreement with this requirement.

4. The City reserves the right to terminate the depository agreement with or without cause at any time by providing thirty (30) day written notice to the Depository to close its accounts.
   Bank appreciates an opportunity to discuss the decision to terminate the Agreement and will make every effort to correct any issues or concerns with products and services.

5. All fees shall be fixed for the entire contract period, including any and all continuations.
   Bank confirms agreement with this requirement. Services utilized but not listed will be charged at the Bank's then-published rates.

6. This contract is governed by the laws of the State of Texas. Venue shall be exclusively in Dallas County, Texas.
   Bank confirms agreement with this requirement. Refer to Tab 9 for a list of PlainsCapital Bank servicing locations in order of proximity to the City.

7. Effective January 1, 2006, Chapter 176 of the Texas Local Government Code requires that any vendor or person considering doing business with a local government entity disclose in the Questionnaire Form CIQ, the vendor or person's affiliation or business relationship that might cause a conflict of interest with a local government entity. ("CIQ FORM")
   Bank has no known conflicts of interest or reportable affiliations that would require disclosure.

This application is submitted for consideration and acceptance for the Banking Service Depository with the City of Glenn Heights for a period of three (3) years with an option to renew for two (2) additional one-year terms. The successful Respondent agrees to enter into the agreement on the attached form in accordance with the provisions set forth in Chapter 105 Local Government Code, or the City shall proceed to the selection of another Depository as provided in section 105.015 of the Texas Local Government Code.

FINANCIAL INSTITUTION: PlainsCapital Bank

BUSINESS ADDRESS: 2010 N Hampton Rd.
DeSoto, TX 75115

Dated this 17th day of June, 2026.

Notary: Shelley Martinez

SHELLEY MARTINEZ
Notary Public, State of Texas
Notary ID# 123960213
My Commission Expires 11-28-2028

Signed By: Stephanie Starrett

Title: President, Commercial Banking-DeSoto

ACCEPTED BY CITY OF GLENN HEIGHTS: _____
Clifford Blackwell, City Manager

ATTEST: _____
Brandi Brown, City Secretary

DATE: _____

ATTACHMENT "A"

Service and Fees

Circle "yes" for the following services and items that will be furnished free of charge. If a charge is to be incurred, circle "no" and state the fee.

SERVICE	FREE OF CHARGE		FEE AMOUNT
Service Charge - Monthly	Yes	(No)	See proforma in Tab 2, attachment B
Charge on return items	Yes	(No)	See proforma in Tab 2, attachment B
Charge on overdrafts	(Yes)	No	
Deposit slips - duplicate	(Yes)	No	*First initial order up to $1,000 free of charge
Wire transfers (send)	Yes	(No)	See proforma in Tab 2, attachment B
Wire transfers (receive)	Yes	(No)	See proforma in Tab 2, attachment B
Cashier's check/money orders	(Yes)	No	
Certified check	(Yes)	No	
Deposit bags with keys (2)	(Yes)	No	
Currency and coin wrappers	Yes	(No)	See proforma in Tab 2, attachment B
Stop payment charges	Yes	(No)	
Safekeeping City's Securities	Yes	(No)	Refer to Tab 2, attachment C for Safekeeping Fees Schedule
Counting and wrapping of the City's currency deposits	Yes	(No)	See proforma in Tab 2, attachment B
Printed checks	(Yes)	No	*First initial order up to $1,000 free of charge
Direct Deposit (Payroll)	Yes	(No)	
Credit Card Processing	Yes	(No)	Bank can provide

			a merchant services proposal upon request and would require additional information from the City.
Positive Pay Services	Yes	No	See proforma in Tab 2, attachment B
Remote Deposit Capture	Yes	No	See proforma in Tab 2, attachment B
Additional services (list)	Yes	No	See proforma in Tab 2, attachment B

* Bank will provide a $1,000 allowance for initial supply orders, including checks, deposit slips, endorsement stamps, and similar items. Future supply orders may be facilitated by the Bank and provided at Bank cost.

Bank will offer the City a 6 month waiver on monthly net service fees which will apply to current services utilized only. Waiver does not apply to Security Clearance/Safekeeping Services, as these services are provided through the Bank's Wealth Management and Trust Department and require a separate account agreement.

Pricing for services utilized, but not listed, will be charged at the bank's then published rates.

For the purpose of this proposal, pricing information is **Confidential and Proprietary** due to discounted prices offered specifically to the City.


B

Instructions for Attachments “B”, “C”, “D”, “E”, & “F”

The City is providing information on the average monthly transactions from November 2025 – March 2026 for each of the following accounts:

- Checking Account (Consolidated Cash) – attachment “B”
- Checking Account (Chamber of Commerce) - attachment "C”
- Checking Account (Glenn Heights Housing Finance Corporation) - attachment "D”
- Checking Account (Glenn Heights Housing Finance Corporation Co-Dev, LLC. - attachment "E”
- Checking Account (Seizure Hold Account) - attachment "F”

Perform an account analysis using the information provided using the City’s commercial checking accounts.

Sweep Accounts have not been used in the past by the City; however, the City may have an interest in the possibility of utilizing this service. Please include pricing on all services for Attachment “B”, “C”, “D”, “E, & “F”.

For the analysis statements associated with Attachments B–F, PlainsCapital Bank recommends grouping all listed accounts together for analysis and billing purposes. This structure has been reflected in the Proforma as follows in this attachment.

Checking Account Activity – Attachment "B"

Consolidated Cash Monthly Activity
Five month average
November 2025 - March 2026

Service	Monthly Activity - 5 Month Average	Monthly Fees - 5 Month Average
Monthly Account Maintenance	1.0	20.00
Balance Fee	32,091.80	385.10
Average Daily Ledger Balance		3,209,171.91
Credits	227.20	45.44
Debits	120.40	21.67
Deposited Items On Us	46.00	5.52
Deposited Items Transit	423.80	50.86
Deposited Item Return	3.60	43.20
ACH Batch Files	1.00	9.38
ACH Per Item Processed	157.60	19.70
ACH Same Day Batch File	5.60	112.00
ACH Same Day Per Item Processed	636.00	159.00
ACH Notification of Change	0.60	1.80
ACH Returns	2.00	-
	9.20	110.40
Online Outgoing Wire	12.20	122.00
Remote Deposit Monthly	1.00	50.00
Remote Deposit - Deposited Item	747.60	74.76
Online Stop Payment	1.75	28.00
Positive Pay Monthly	1.00	-
Positive Pay Items	67.60	35.00
Positive Pay Return Items	1.00	2.50
Positive Pay Exceptions Items	5.00	-
	7.00	14.00
Positve Pay Issued Checks	93.60	-
Positive Pay Voided Checks	1.75	-
Positive Pay Payee Match Monthly	1.00	5.00
Payee Match Per Item	78.60	1.57
Positive Pay ACH Paid Exceptions	24.00	-
ACH Positive Pay	1.00	50.00
Total Activity Charges		1,357.37
Analyzed Charge Subtotal		1,086.38
Amount Deducted from Pooled Cash		271.00

Checking Account Activity – Attachment "C"

Chamber of Commerce Monthly Activity
Five month average
November 2025 - March 2026

Service	Monthly Activity - 5 Month Average	Monthly Fees - 5 Month Average
Monthly Account Maintenance	1.00	20.00
Balance Fee	175.20	2.10
Average Daily Ledger Balance		17,526.98

Checking Account Activity – Attachment "D"

GHHFC Monthly Activity
Five month average
November 2025 - March 2026

Service	Monthly Activity - 5 Month Average	Monthly Fees - 5 Month Average
Monthly Account Maintenance	1.00	20.00
Balance Fee	429.40	5.15
Average Daily Ledger Balance		42,933.88

Checking Account Activity – Attachment "E"

GHHFC Co-Dev Monthly Activity
Five month average
November 2025 - March 2026

Service	Monthly Activity - 5 Month Average	Monthly Fees - 5 Month Average
Monthly Account Maintenance	1.00	20.00
Balance Fee	8,107.20	97.29
Average Daily Ledger Balance		810,719.24

Checking Account Activity – Attachment "F"

Seizure Hold Account Monthly Activity
Five month average
November 2025 - March 2026

Service	Monthly Activity - 5 Month Average	Monthly Fees - 5 Month Average
Monthly Account Maintenance	-	-
Balance Fee	-	-
Average Daily Ledger Balance		5,649.14

PlainsCapitalBank

City of Glenn Heights

Proposed Pro Forma 6.18.26

Average Balances on Deposit

Collected Balance Disclosure	
Ledger	0.00
- Float	0.00
= Collected	0.00
Positive Collected	0.00
Negative Collected	0.00
Investable Balance Disclosure	
Average Collected Balance	0.00
- Reserve Requirement	0.00
= Investable Balance	0.00

Services Performed

Services Performed	Volume	Price	Total Fee
ACCOUNT MAINTENANCE			
NEGATIVE COLLECTED BALANCE RATE	0	.102500	0.00
ANALYSIS MAINTENANCE	4	10.0000	40.00
POST NO CHECKS	0	5.0000	0.00
POST NO ACH	0	5.0000	0.00
Subtotal - Account maintenance			**40.00**
DEPOSIT SERVICES			
ON US CHECKS	0	.0800	0.00
IMAGE CLEAR CHECKS	470	.0800	37.60
IMAGE CLEAR DIRECT CHECKS	0	.0800	0.00
DEPOSITS	21	.5000	10.50
CREDIT MEMOS	0	.3500	0.00
TRANSFER CREDITS	0	.3500	0.00
ZELLE ACCT CREDIT	0	.3500	0.00
BRANCH DEPOSITS	0	1.0000	0.00
ACH CREDITS	206	.1500	30.90
FORCE POST CREDIT	0	1.0000	0.00
DEPOSIT RETURN ITEM	4	10.0000	40.00
CASH DEPOSITED	0	.00100000	0.00
Subtotal - Deposit services			**119.00**
CLEARING SERVICES			
CHECKS PAID	94	.2500	23.50
DEBIT MEMOS	0	.3000	0.00
TRANSFER DEBITS	0	.3000	0.00
BILL PAY PER ITEM	0	1.0000	0.00
ZELLE ACCT DEBIT	0	.3500	0.00
STOP PAYMENTS	2	10.0000	20.00
FORCE POST DEBIT	0	1.0000	0.00
ACH DEBITS	26	.1500	3.90
Subtotal - Clearing services			**47.40**
FUNDS TRANSFER			

INCOMING WIRES	0	7.0000	0.00	
OUTGOING WIRES - BRANCH	0	35.0000	0.00	
OUTGOING WIRES - WEB	12	8.0000	96.00	
WIRE MODULE	1	10.0000	10.00	
Subtotal - Funds transfer			**106.00**	
ACH SERVICES				
ACH ORIGINATED DEBIT / CREDITS	158	.1800	28.44	
ACH REVERSALS	0	25.0000	0.00	
ACH FILE UPLOAD SERVICE	1	10.0000	10.00	
ACH MODULE	0	10.0000	0.00	
ACH REPORTING	1	10.0000	10.00	
ACH INCOMING NOTICE OF CHANGE	1	4.0000	4.00	W
ACH ORIG - RETURN ITEMS	2	2.0000	4.00	
ACH FILE INPUT - BOS TRANSMISSION	7	5.0000	35.00	
ACH UNAUTHORIZED RETURNS	0	10.0000	0.00	
ACH SAME DAY FEE - PER COMPANY ID	1	10.0000	10.00	
ACH SAME DAY AUTHORIZED TRANSACTION	636	.3000	190.80	
ACH BLOCK MONTHLY MAINTENANCE	0	25.0000	0.00	
ACH BLOCK AUTHORIZED ID SETUP FEE	0	15.0000	0.00	
Subtotal - Ach services			**288.24**	
POSITIVE PAY / RECON SERVICES				
CHECK POSITIVE PAY	1	10.0000	10.00	
POSITIVE PAY PER ISSUE ITEM	68	.0500	3.40	
POSITIVE PAY RETURNED ITEMS	1	5.0000	5.00	
POSITIVE PAY EXCEPTION PER ITEM	5	.2500	1.25	
PAYEE MATCH PER ITEM	68	.0500	3.40	
PAYEE MATCH EXCEPTION ITEMS	5	.2500	1.25	
PAYEE MATCH	1	5.0000	5.00	
ACH POSITIVE PAY	1	10.0000	10.00	
ACH POS PAY - SUSPECT TRANSACTION	24	.5000	12.00	
ACH POS PAY - PER RETURN DECISION	0	5.0000	0.00	
Subtotal - Positive pay / recon services			**51.30**	
CASH MANAGEMENT SERVICES				
INSURED CASH SWEEP	2	200.0000	400.00	W
Subtotal - Cash management services			**.00**	
INFORMATION REPORTING				
PREMIUM REPORTING	0	25.0000	0.00	
BOS - PER ACCOUNT FEE	4	10.0000	40.00	
BOS - TREASURY PER NON TM ACCOUNT	5	5.0000	25.00	
BOS - PER ITEM	0	.1000	0.00	
Subtotal - Information reporting			**65.00**	
REMOTE DEPOSIT CAPTURE				
RDC PER ITEM	748	.0500	37.40	
RDC MONTHLY MAINTENANCE	1	30.0000	30.00	
RDC MULTI FEED	0	85.0000	0.00	W
Subtotal - Remote deposit capture			**67.40**	

Total Analyzed	784.34
Total Waived	404.00

	Analysis Results
Required Balance Disclosure	
Balance Required For Services	477,137.55
= Total Required Balance	477,137.55
Balance Position Disclosure	
Balance Position Basis	.00
- Total Required Balance	477,137.55
= Excess/(Deficit) Balance	-477,137.55
Earnings Credit Amount	0.00
- Analyzed Fees	784.34
= Net Analyzed Result	-784.34
Fee-Based Result	0.00

Investable Balance receives an earnings credit of 2.0000%.

Bank will offer the City a 6 month waiver on monthly net service fees which will apply to current services utilized only. Waiver does not apply to Security Clearance/Safekeeping Services, as these services are provided through the Bank's Wealth Management and Trust Department and require a separate account agreement.

Pricing for services utilized, but not listed, will be charged at the bank's then published rates.

For the purpose of this proposal, pricing information is **Confidential and Proprietary** due to discounted prices offered specifically to the City.

SAFEKEEPING ACCOUNTS FOR PUBLIC FUNDS

ACCOUNT FEES

Annual Account Fee $6,000, charged in monthly increments of $500 per month.

Security Holding Fee, per security $3.00

Securities Transactions in excess of ten (10) per calendar month (sales, purchases, receipts or deliveries) $35

Receipt of Interest Payments $15

The minimum account size is $1,000,000

EXTRAORDINARY SERVICES

Any extraordinary services will be assessed additional fees based upon the services requested or required, and the responsibilities, expertise and service time required.

EXPENSES

All expenses incurred, including those for legal counsel and representation, tax information, and all other requisite or requested services will be charged to the account.

TERMINATION AND FINAL DISTRIBUTION

Upon the termination and final distribution of the account, a fee may be assessed for any services not listed above, based upon the responsibilities, expertise and service time required.

PlainsCapital Bank
The Private Bank

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THE PUBLICATION DATE OF THIS SCHEDULE OF FEES IS JANUARY 1, 2025. THIS SCHEDULE SUPERSEDES ALL FEE SCHEDULES PUBLISHED PRIOR TO JANUARY 1, 2025. ALL OR ANY PART OF THIS SCHEDULE OF FEES MAY BE REVISED WITHOUT NOTICE. FOR CURRENT FEE SCHEDULE QUESTIONS, PLEASE CALL 214-252-4179.

This application is submitted for consideration and acceptance for the Banking Service Depository with the City of Glenn Heights for a period of three (3) years with an option to renew for two (2) additional one-year terms. The successful Respondent agrees to enter into the agreement on the attached form in accordance with the provisions set forth in Chapter 105 Local Government Code, or the City shall proceed to the selection of another Depository as provided in section 105.015 of the Texas Local Government Code.

FINANCIAL INSTITUTION: PlainsCapital Bank

BUSINESS ADDRESS: 2010 N Hampton Rd.
DeSoto, TX 75115

Dated this 17th day of June, 2026.

Notary: Shelley Martinez

SHELLEY MARTINEZ
Notary Public, State of Texas
Notary ID# 123960213
My Commission Expires 11-28-2028

Signed By: Stephanie Starrett

Title: President, Commercial Banking-DeSoto

ACCEPTED BY CITY OF GLENN HEIGHTS: _____
Clifford Blackwell, City Manager

ATTEST: _____
Brandi Brown, City Secretary

DATE: _____

CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ

For vendor doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. *See* Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY

Date Received

1 **Name of vendor who has a business relationship with local governmental entity.**

None

2 ☐ **Check this box if you are filing an update to a previously filed questionnaire.** (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 **Name of local government officer about whom the information is being disclosed.**

N/A

Name of Officer

4 **Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.**

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

☐ Yes ☐ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

☐ Yes ☐ No

5 **Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.**

6 ☐ Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7

Stephanie Starrett
Name of signatory

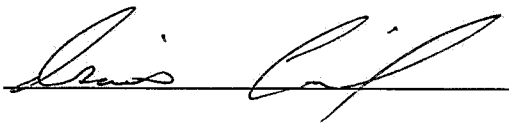
Signature

6/17/2026
Date

ACKNOWLEDGEMENT

I hereby acknowledge that I have received, read, and understand the Investment Policy of the City of Glenn Heights. All reasonable procedures and controls currently implemented have been modified (if needed) to ensure that our firm's recommendations are consistent with the investment guidelines outlined in the investment policy.

Business: PlainsCapital Bank

Signature: 

Printed Name: Isaias Curiel

Title: Treasury Analyst

Date: 6/16/2026

TEXAS PUBLIC FUNDS INVESTMENT ACT
CERTIFICATION BY BUSINESS ORGANIZATION

CITY OF GLENN HEIGHTS, TEXAS

This certification is executed on behalf of the City of Glenn Heights, Texas (the "City"), and PlainsCapital Bank ("The Business Organization "), pursuant to the Public Funds Investment Act, Chapter 2256, Texas Government Code (the "Act") in connection with investment transactions conducted between the City and the Business Organization.

The undersigned Qualified Representative of the Business Organization hereby certifies on behalf of the Business Organization that:

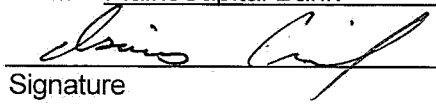
1. The undersigned is a Qualified Representative of the Business Organization offering to enter an investment transaction with the Investor as such terms are used in the Public Funds Investment Act, Chapter 2256, Texas Government Code; and

2. The Qualified Representative of the Business Organization has received and reviewed the Investment Policy furnished by the City; and

3. The Qualified Representative of the Business Organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the Business Organization and the City that are not authorized by the City's Investment Policy, except to the extent that this authorization is dependent on an analysis of the makeup of the City's entire portfolio or requires an interpretation of subjective investment standards.

Qualified Representative of Business Organization

Firm: PlainsCapital Bank



Signature

Printed Name: Isaias Curiel

Title: Treasury Analyst

Date: 6/16/2026


H

PlainsCapital Bank

Commercial Availability Schedule

Routing Numbers	Description	Availability
0000-0020, 0000-0119, 0000-0800	Postal Money Orders	1
0000-0050, 0000-0051	US Treasury Warrants	0
0000-9000	E-Z Clear Bonds	0
0110	Boston City	1
0110-0013	Bank of America	0
0111, 0116, 0117, 0118, 0119, 0211	Windsor Locks RCPC	1
0112, 0113, 0114, 0115	Boston RCPC	1
0114-0049, 0119-0057	Bank of America	0
0210, 0260, 0280	New York City	1
0210-0032	Bank of America	0
0212, 0214, 0219	East Rutherford RCPC	1
0212-0033	Bank of America	0
0213, 0223	Utica RCPC	1
0215, 0216	East Rutherford Country	1
0220	Utica City	1
0260-0959	Bank of America	0
0310, 0360	Philadelphia City	1
0311, 0312, 0313, 0319	Philadelphia RCPC	1
0410	Cleveland City	1
0412-0066, 0412-0119, 0412-0152, 0412-0279, 0412-0497, 0412-0685	Chase Bank	0
0412	Cleveland RCPC	1
0412-0382, 0412-1553	Wells Fargo	0
0420	Cincinnati City	1
0422-0030, 0422-0223, 0422-0712	Chase Bank	0
0421, 0422, 0423	Cincinnati RCPC	1
0430	Pittsburgh City	1
0432-0240	Chase Bank	0
0432, 0433, 0434	Pittsburgh RCPC	1
0440-0003	Chase Bank	0
0440	Columbus City	1
0441-0173, 0442-0454	Chase Bank	0
0441, 0442	Columbus RCPC	1
0510	Richmond City	1
0510-0001	Bank of America	0
0514	Richmond RCPC	1
0515	Charleston RCPC	1
0515-0124	Chase Bank	0
0519	Charleston City	1
0519-0036	Chase Bank	0

PlainsCapitalBank

Commercial Availability Schedule

0520	Baltimore City	1
0520-0163	Bank of America	0
0521, 0522, 0540, 0550, 0560, 0570	Baltimore RCPC	1
0530	Charlotte City	1
0530-0019	Bank of America	0
0531	Charlotte RCPC	1
0532	Columbia RCPC	1
0539	Columbia City	1
0539-0448, 0540-0120	Bank of America	0
0610	Atlanta City	1
0610-0005	Bank of America	0
0611, 0612, 0613	Atlanta RCPC	1
0620	Birmingham City	1
0621, 0622	Birmingham RCPC	1
0630	Jacksonville City	1
0630-0004	Bank of America	0
0631, 0632	Jacksonville RCPC	1
0631-0027	Bank of America	0
0640	Nashville One Day	1
0640-0002	Bank of America	0
0641, 0642	Nashville RCPC	1
0650	New Orleans City	1
0651, 0652, 0653, 0654, 0655	New Orleans RCPC	1
0654-0013	Chase Bank	0
0660	Miami City	1
0670	Miami RCPC	1
0710	Chicago City	1
0710-0001, 0710-0077, 0711-0026, 0711-2143	Chase Bank	0
0711, 0712, 0719	Chicago RCPC	1
0711-0130	Wells Fargo	0
0711-0361	Bank of America	0
0720	Detroit City	1
0720-0032	Chase Bank	0
0724-1279	Chase Bank	0
0724	Detroit RCPC	1
0730	Des Moines City	1
0730-0017	Bank of America	0
0730-0022	Wells Fargo	0
0739	Des Moines RCPC	1
0740	Indianapolis City	1

PlainsCapitalBank

Commercial Availability Schedule

0740-0001, 0740-0005, 0749-0996	Chase Bank	0
0749	Indianapolis RCPC	1
0749-0027	Wells Fargo	0
0750	Milwaukee City	1
0750-0001, 0750-1266	Chase Bank	0
0759	Milwaukee RCPC	1
0759-1198	Wells Fargo	0
0810	St. Louis City	1
0810-0003	Bank of America	0
0812, 0815, 0819, 0865	St. Louis RCPC	1
0819-0480	Bank of America	0
0813, 0839, 0863	Louisville RCPC	1
0820	Little Rock City	1
0820-0007	Bank of America	0
0829	Little Rock RCPC	1
0830	Louisville City	1
0830-0013, 0830-0610	Chase Bank	0
0840	Memphis City	1
0841, 0842, 0843	Memphis RCPC	1
0910, 0960	Minneapolis City	1
0910-0001	Wells Fargo	0
0911, 0912, 0913, 0914, 0915	Minneapolis Country	1
0911-0145, 0913-0001, 0914-0004	Wells Fargo	0
0918, 0919	Minneapolis RCPC	1
0918-0030, 0918-1180, 0919-0053, 0919-1618	Wells Fargo	0
0920	Helena City	1
0921	Helena Country	1
0929	Helena RCPC	1
0929-0527	Wells Fargo	0
1010	Kansa City City	1
1010-0003	Bank of America	0
1011, 1012, 1019	Kansas City RCPC	1
1011-0004	Bank of America	0
1020	Denver City	1
1020-0007, 1020-0640	Wells Fargo	0
1020-0101	Chase Bank	0
1021, 1022, 1023	Denver Country	1
1021-0040, 1021-0516, 1023-0024, 1023-0109	Wells Fargo	0
1022-0024	International Bank	0

PlainsCapitalBank

Commercial Availability Schedule

1022-0171	Farmers Bank	0
1030	Oklahoma City City	1
1030-0001	Bank of America	0
1030-0064, 1030-0081	Chase Bank	0
1031	Oklahoma City Country	1
1039	Oklahoma RCPC	1
1040	Omaha City	1
1040-0005	Wells Fargo	0
1041	Omaha Country	1
1049	Omaha RCPC	1
1049-0032	Wells Fargo	0
1070	Denver RCP	1
1070-0027, 1070-0219, 1070-0238, 1070-0662	Wells Fargo	0
1070-0032	Bank of America	0
1070-0035	Chase Bank	0
1110	Dallas City	1
1110-0001, 1110-0002	Bank of America	0
1110-0061, 1110-0115, 1111-0002, 1119-0115, 1113-0088	Chase Bank	0
1111, 1119	Dallas RCPC	1
1113	Dallas Country	1
1113-0095	Amarillo National	0
1113-0173	City Bank	0
1113-0237	State National	0
1113-0766	Lubbock National	0
1113-0855	Wellington State	0
1113-0872, 1113-1029	First United Bank	0
1113-0974, 1113-2258	American State	0
1113-1131, 1113-1785, 1119-0744, 111-0787, 1119-1428	Compass Bank	0
1113-2266	West Texas State Bank	0
1119-0065	Wells Fargo	0
1120-0015	Chase Bank	0
1120	El Paso City	1
1120-0006	Wells Fargo	0
1120-0266, 1120-0580, 1120-0592	Compass Bank	0
1122, 1123, 1163	El Paso RCPC	1
1122-0121	Citizens Bank	0
1122-0209, 1122-0246	Compass Bank	0
1123-1171	National Bank Andrews	0

PlainsCapitalBank

Commercial Availability Schedule

1130-0060	Chase Bank	0
1130	Houston City	1
1130-0002	Bank of America	0
1130-1054	Compass Bank	0
1131	Houston RCPC	1
1131-9353	CitiBank	0
1140	San Antonio City	1
1149-1978	Chase Bank	0
1149	San Antonio RCPC	1
1163-1287	Community Bank	0
1210	San Francisco City	1
1210-0024, 1210-4288	Wells Fargo	0
1210-0035	Bank of America	0
1211, 1212, 1213	San Francisco RCPC	1
1214	San Francisco Country	1
1220, 1223	Los Angeles City	1
1220-0024	Wells Fargo	0
1221-0002, 1221-0229	Chase Bank	0
1221-0119, 1221-0527	Wells Fargo	0
1221-0170	Bank of America	0
1221, 1222, 1224	Los Angeles RCPC	1
1224-0072	Bank of America	0
1224-0166, 1224-0204	Wells Fargo	0
1230	Portland City	1
1230-0680	Wells Fargo	0
1231, 1232, 1233	Portland RCPC	1
1231-0371	Bank of America	0
1240-0154	Chase Bank	0
1240-0297, 1240-0379	Wells Fargo	0
1240	Salt Lake City	1
1243-0145	Chase Bank	0
1241, 1242, 1243	Salt Lake RCPC	1
1250	Seattle City	1
1251, 1252	Seattle RCPC	1
1250-0854, 1252-0005	Wells Fargo	0
2631-8986	Chase Bank	0
3212-7074	Wells Fargo	0
8000	Travelers Checks	1
8000-0005	American Express	1

INSURED CASH SWEEP SERVICES



TREASURY MANAGEMENT

INSURED CASH SWEEP

Insured Cash Sweep (ICS) services provided by PlainsCapital Bank, which leverage the DDA Option of the IntraFi℠ Network Deposits℠, allow you to place your funds into a demand deposit account and:

Rest assured knowing your funds are eligible for multi-million-dollar FDIC insurance that's backed by the full faith and credit of the U.S. government.

Earn returns and put your money to work for you.

Access your funds in real time with daily liquidity.

Support your community by keeping the full amount of your deposit local.[1]

Eliminate the ongoing tracking burdens associated with collateralization and the need to footnote uninsured deposits in financial statements if you are accustomed to these practices.

MONITOR YOUR ACCOUNTS ONLINE

You will receive a regular monthly statement showing your ICS balances and other key information. And you can check your ICS balances and track other important information online, 24/7, through a specifically designated Depositor Control Panel. Your confidential information remains protected.

HOW DOES IT WORK?

When PlainsCapital Bank places your funds using ICS, your deposit is sent from your PlainsCapital transaction account into deposit accounts at other IntraFi Network Deposits banks in amounts below $250,000, the standard FDIC insurance maximum. As a result, you can access FDIC insurance coverage from many institutions while working directly with just us.

CONTACT US

For more information on Insured Cash Sweep contact us at:

treasurymanagement@plainscapital.com

PLAINSCAPITAL.COM

1When deposited funds are exchanged on a dollar-for-dollar basis with other banks in the IntraFi℠ Network Deposits℠, a participating institution can use the full amount of a deposit placed through DDA Option for local lending, satisfying some depositors' local investment goals or mandates. Alternatively, with a depositor's consent to certain types of DDA Option transactions, the bank may choose to receive fee income instead of deposits from other banks. Under these circumstances, deposited funds would not be available for local lending Placement of funds through the DDA Option service is subject to the terms, conditions, and disclosures in the service agreements, including the Deposit Placement Agreement ("DPA" Limits and customer eligibility criteria apply. Although funds are placed at destination banks in amounts that do not exceed the FDIC standard maximum deposit insurance amount ("SMDIA"), a depositor's balances at the relationship institution that places the funds may exceed the SMDIA (e.g., before DDA Option settlement for a deposit or after DDA Option settlement for a withdrawal) or be ineligible for FDIC insurance (if the relationship institution is not a bank). As stated in the DPA, the depositor is responsible for making any necessary arrangements to protect such balances consistent with applicable law. If the depositor is subject to restrictions on placement of its funds, the depositor is responsible for determining whether its use of DDA Option satisfies those restrictions. DDA-MMDA Option are registered service marks of the IntraFi Netwrok LLC.

PlainsCapital Bank

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Using ICS® for Public Funds

In the State of Texas



Texas Government Code
Title 10 General Government
Subtitle F State and Local Contracts and Fund Management
Chapter 2256 Public Funds Investment
Subchapter A Authorized Investments for Government Entities
Sec. 2256.003. Authority to Invest Funds; Entities Subject to this Chapter.

(a) Each governing body of the following entities may purchase, sell, and invest its funds and funds under its control in investments authorized under this subchapter in compliance with investment policies approved by the governing body and according to the standard of care prescribed by Section 2256.006:

(1) a local government;
(2) a state agency;
(3) a nonprofit corporation acting on behalf of a local government or a state agency; or
(4) an investment pool acting on behalf of two or more local governments, state agencies, or a combination of those entities.

Sec. 2256.002 Definitions

* * *

(7) "Local government" means a **municipality, a county, a school district**, a district or authority created under Section 52(b)(1) or (2), Article III, or Section 59, Article XVI, Texas Constitution, a fresh water supply district, a hospital district, and any political subdivision, authority, public corporation, body politic, or instrumentality of the State of Texas, and any nonprofit corporation acting on behalf of any of those entities.

Sec. 2256.009: Authorized Investments: Obligations of, or Guaranteed by, Governmental Entities

[As amended; effective immediately]

(a) Except as provided by Subsection (b), the following are authorized investments under this subchapter:

* * *

(7) interest-bearing banking deposits that are guaranteed or insured by:

(A) the Federal Deposit Insurance Corporation or its successor; or
(B) the National Credit Union Share Insurance Fund or its successor; and

(8) interest-bearing banking deposits other than those described by Subdivision (7) if:

(A) the funds invested in the banking deposits are invested through:

(i) a broker with a main office or branch office in this state that the investing entity selects from a list the governing body or designated investment committee of the entity adopts as required by Section 2256.025; or
(ii) a depository institution with a main office or branch office in this state that the investing entity selects;

(B) the broker or depository institution selected as described by Paragraph (A) arranges for the deposit of the funds in the banking deposits in one or more federally insured depository institutions, regardless of where located, for the investing entity's account;
(C) the full amount of the principal and accrued interest of the banking deposits is insured by the United States or an instrumentality of the United States; and
(D) the investing entity appoints as the entity's custodian of the banking deposits issued for the entity's account:

(i) the depository institution selected as described by Paragraph (A);
(ii) an entity described by Section 2257.041(d); or
(iii) a clearing broker dealer registered with the Securities and Exchange Commission and operating under Securities and Exchange Commission Rule 15c3-3 (17 C.F.R. Section 240.15c3-3).

Texas Municipal Utility Districts (MUD)
Sec. 49.157 of the Texas Water Code provides that "All district [MUD] investments shall be governed by Subchapter A, Chapter 2256, Government Code [See Sec. 2256.009(a)(8) above].

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PLAINSCAPITAL BANK DEPOSITORY CONTRACT

This PlainsCapital Bank Depository Contract (this "Contract") is entered into as of this ___ day of _____, 20__ (the "Effective Date"), by and between PlainsCapital Bank, a Texas state banking association ("Bank") and _____, a _____ ("Customer").

WHEREAS, pursuant to the Public Funds Collateral Act, Title 10, Chapter 2257 of the Texas Government Code (the "Act"), Customer qualifies as a Public Entity;

WHEREAS, Customer has designated Bank as a depository institution for certain of its funds and Bank has agreed to act as a depository institution for such funds in accordance with the Act, which Act requires that Bank secure such deposited funds, to the extent not insured by the Federal Deposit Insurance Corporation (the "FDIC"), by pledging certain securities ("Eligible Securities") of any type permitted by the Act to be held by Custodian (as defined below) as set forth herein; and

WHEREAS, Customer and Bank wish to enter into this Contract to set forth the terms applicable to the aforementioned depository relationship.

NOW, THEREFORE, for and in consideration of the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Bank and Customer hereby agree as follows:

1. Defined Terms. Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the Act.

2. Designation of Depository. Customer, through action of its Board of Directors or other governing body (the "Board"), hereby designates Bank as a depository of funds for the period beginning on the Effective Date and continuing through and including _____ (the "Term").

3. Designation of Authorized Representatives. Attached hereto as Exhibit A is a copy of Customer's Resolution, which has been provided to Bank, containing the names and signatures of those Customer authorized representatives (each a "Customer Authorized Representative" and collectively the "Customer Authorized Representatives"), as designated by the Board, who may transact business pursuant to this Contract on behalf of Customer, which Resolution may be changed or modified from time to time at the discretion of Customer; provided, however, that any such changes or modifications shall not be effective until Bank has received notice of any such changes or modifications and has had a reasonable opportunity to incorporate the same.

4. Grant of Security Interest. Bank hereby grants to Customer a security interest in all Eligible Securities held by Custodian and reflected on Custodian's records as being pledged to Customer (the "Collateral"). Until Customer has the right to compel sale of the Collateral under Section 9 hereof, Custodian shall act only in accordance with the joint instructions of Bank and Customer with regard to the Collateral; provided, however, that Bank shall be permitted to unilaterally substitute Eligible Securities for the Collateral in accordance with Section 7 hereof. All funds on deposit with Bank to the credit of Customer, inclusive of any applicable interest, in excess of FDIC insurance shall be secured at all times by the Collateral.

5. Custodian. Customer acknowledges and agrees that The Federal Reserve Bank of Dallas, and/or any such other entity as may be designated by Bank from time to time in its sole and absolute discretion, shall serve as Custodian hereunder. Customer hereby agrees to complete the custodial

SAMPLE

agreement attached hereto as Exhibit B and to deliver such completed custodial agreement to Bank simultaneously with the delivery of its executed copy of this Contract. Customer further agrees to complete such additional custodial agreements or other similar and/or related documents as may be provided by Bank from time to time in accordance with this Section 5.

6. Amount of Collateral. The aggregate market value of Eligible Securities held by Custodian at all times during the Term hereof must be in an amount not less than _____ percent (___%) of (a) the amount of the collected funds on deposit, increased by (b) the amount of accrued but uncredited interest, (c) reduced by that portion of the funds insured by the FDIC. Such amount is hereinafter called the "Required Collateral Value".

7. Substitution of Collateral. Bank may substitute Eligible Securities for any of the Collateral held by Custodian at any time by providing Custodian with a substitution notice signed by an authorized representative of Bank, provided that the market value of the Collateral following such substitution would equal or exceed the Required Collateral Value. Customer may require Bank to obtain prior authorization from Customer for any such substitution of Collateral by providing Bank with written notice of such requirement; provided, however, that (a) in no event shall Customer unreasonably withhold, condition or delay its authorization of any such substitution of Collateral, and (b) Bank shall have a reasonable time to act upon any such written notice once received by Bank.

8. Bank's Obligations. Bank shall perform all of the duties and obligations required of a depository institution under applicable law with respect to the collateralization of the funds of Customer on deposit with Bank, including the duties and obligations required under the Act. At the expiration of the Term of this Contract, Bank shall turn over to any successor depository designated by Customer all funds held by Bank as depository. Bank with furnish to Customer a monthly statement listing a description of the Collateral, which shall specify the par value, the market value and the maturity date of each component of the Collateral.

9. Default and Remedies. If Bank (a) fails to perform its obligations under Section 8 hereof, (b) is declared insolvent, or (c) has a receiver is appointed for Bank (whether (a), (b) and/or (c), a "Default"), Customer may instruct Custodian to sell the Collateral or any part thereof at public or private sale, after providing Bank not less than seven (7) business days' prior written notice of such Default with an opportunity to cure the same within such seven (7) day period, and if Bank fails to cure such Default, Custodian shall proceed to sell the specified Collateral in accordance with Customer's instructions and upon receipt of sufficient evidence from Customer showing (x) the alleged Default, (y) the giving of proper notice to Bank and (z) Bank's failure to cure such Default. The proceeds of any such sale shall be applied to satisfy any indebtedness owed by Bank to Customer, and any excess proceeds shall be returned to Bank.

10. Termination. This Contract may be terminated at any time by either party following the expiration of the Term by giving sixty (60) days' prior written notice to the other party.

11. Assignment. This Contract may not be assigned in whole or in part by either party without the prior written consent of the non-assigning party.

12. Applicable Law. This Contract shall be governed by and construed in accordance with the laws of the State of Texas, without regard to its conflicts of laws rules.

13. Other Agreements. Notwithstanding anything to the contrary contained herein, all deposit accounts of Customer at Bank, and all services provided to Customer by Bank, shall be subject to that certain PlainsCapital Bank Commercial Deposit Account Agreement and those certain Treasury

SAMPLE

Management Services Terms and Conditions (together, the "Additional Account Documents"), in effect from time to time, and as modified from time to time by Bank in accordance with the provisions of such Additional Account Documents.

14. Severability. If any provision of this Contract is held to be illegal, invalid or unenforceable under present or future laws effective during the Term hereof, such provisions shall be fully severable; this Contract shall be construed and enforced as if such severed provision had never comprised a part hereof; and the remaining provisions of this Contract shall remain in full force and effect and shall not be affected by the severed provision or by its severance from this Contract.

15. Successors and Assigns. This Contract shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

16. Waiver. No waiver of any provisions or of any right or remedy hereunder shall be effective unless in writing and signed by both parties' authorized representatives. No delay in exercising, or no partial exercise of any right or remedy hereunder, shall constitute a waiver of any right or remedy, or future exercise thereof.

17. Notice. Any notice given by either party hereunder shall be deemed served, if delivered in person to the office of the representative authorized and designated in writing to act for the respective party, or upon receipt on a regular business day of recipient if via fax with an electronic confirmation; or three business days after deposit in the U.S. mail, return receipt requested, properly stamped with the required postage and addressed to the office of such representative, at the respective addresses set forth below.

If to Bank:	If to Customer:
PlainsCapital Bank	_____
_____	_____
_____	_____
_____	_____

18. Headings. The headings used in this Contract are for convenience and reference purposes only and may not be used in interpreting this Contract.

19. Entire Agreement. This Contract constitutes the entire agreement between the parties with respect to the subject matter addressed herein and may not be amended or modified except by writing signed by both parties.

20. Multiple Counterparts. This Contract may be executed in separate or multiple counterparts by the parties, and all such counterparts shall be considered as one and the same instrument notwithstanding the fact that various counterparts are signed by only one of the parties. An electronic or facsimile transmission of a signed counterpart of this Contract shall be sufficient to bind the party or parties whose signature(s) appear thereon.

Remainder of Page Intentionally Left Blank. Signature Page Follows.

SAMPLE

IN WITNESS WHEREOF, Bank and Customer have caused this Contract to be executed by their duly authorized representatives as of the Effective Date hereof.

BANK:

PlainsCapital Bank,
a Texas banking association

By: _____
Name: _____
Title: _____

CUSTOMER:

_____,
a _____

By: _____
Name: _____
Title: _____

SAMPLE

EXHIBIT A

RESOLUTION

(Attached)

SAMPLE

EXHIBIT B

CUSTODIAL AGREEMENT

(Attached)

SAMPLE

Pledgee Agreement Form

To: Federal Reserve Bank of Boston
600 Atlantic Avenue
Boston, MA 02210
Attn: Wholesale Operations/Joint Custody

Tel: 800-327-0147, Option #4
Fax: 877-973-8972

Date:_____

We, the _____ agree to the terms of **Appendix C** of your ***Operating Circular 7***, dated August 19, 2005, as it may be amended from time to time with respect to the account on your books designated _____. (4 digit alpha-numeric account number)

We further agree that you may accept par for par substitutions: securities from the Pledgor as a replacement of, or in substitution for, those securities presently held (please check one):

☐ NO (Instructions required for each withdrawal)

☒ YES (Standing approval)

Provided that the replacement or substitution does not reduce the aggregate par amount of securities held in custody for us. (See ***Operating Circular 7, Appendix C, Section 4.3.)***

We authorize you to use the following call-back procedure for securities transactions pertaining to this account (please check one):

☒ Three-party call-back

☐ Four-party call-back

We certify that the individuals listed below may take authoritative action on our behalf with respect to the account, including a direction to release collateral from the account. You may rely on the authority of these individuals with respect to the account until we otherwise notify you.

Telephone: _____ Print Name:_____Title:_____

Fax: _____ Signature: _____Date: _____

Telephone: _____ Print Name: _____Title:_____

Fax: _____ Signature: _____Date: _____

Telephone: _____ Print Name: _____Title:_____

Fax: _____ Signature: _____Date:_____

Pledgee Agreement

Telephone: _____ Print Name: _____Title:_____

Fax: _____ Signature:_____Date:_____

The Undersigned hereby certifies that he/she is the present lawful incumbent of the designated public office.

Pledgee

_____

Name of governmental unit

_____

Street Address or P.O Box Number

_____

City, State, Zip Code

_____

Official Signature/ **Date**

_____

Printed Name and Title

Notary

State of _____

County of _____

On this _____ day of _____, 20_ before me personally appeared _____, to me personally known or satisfactorily proven, who by me duly sworn, did depose and say that he/she resides at _____, in the City of _____, in the State of _____, that he/she is the _____ [Title] of _____ and that he/she executed this document on behalf of _____ before me.

_____

(Signature of Notary)

_____

(Print name of Notary)

My commission expires on _____ [Date]

FRBservices.org

Federal Reserve Bank Joint Custody Service via FedMail® Request Form

PLEASE TYPE FORM, PRINT, & SUBMIT (handwritten forms may delay processing)

Internal FR
(Upon receipt by the Federal Reserve Bank)

Federal Reserve Bank Use Only
Due Diligence Verified:_____
Initials:_____
Date:_____

Use of the FedMail® access solution is governed by Federal Reserve Bank Operating Circular 5, Electronic Access ("OC 5"). Depending on the services you choose to access using FedMail, additional Operating Circulars may govern. Federal Reserve Bank Operating Circulars are available at FRBservices.org/regulations/operating_circulars.html. Submission of this form constitutes acceptance of the terms and conditions of OC 5 and other applicable Operating Circulars and agreements. The Federal Reserve Banks have no obligation to verify the accuracy of the information you provide below and have the right to rely on such information in connection with the provision of FedMail access to the services you are requesting. Except to the extent prohibited by law or regulation, you agree to indemnify, hold harmless and defend the Federal Reserve Banks against any claim, loss, liability, or expense made against or incurred by the Federal Reserve Banks in connection with their reliance on the information provided below.

Section 1 – General

***Required Fields**

State or Local Government Institution Name *		
Telephone *	*Phone*	*Extension*
Joint Custody Account Number(s) *	*Provide the 4-digit alpha-numeric account number(s) below that are listed as "institution ID" on your statement. This form may be used for multiple account numbers being delivered to the same addresses, with a maximum of four account numbers.*	
Account #1		
Account #2		
Account #3		
Account #4		

Section 2 – Service Profile

Instructions

1. For email delivery, please provide more than one email address.
2. If updates are required to your current Joint Custody pledgee agreement, please call 800-327-0147 and select option 4.

The email address(es) and/or fax number(s) below will remain in effect until an updated Joint Custody FedMail Request Form is submitted.

Joint Custody Service (JCCR)

Email Address or Fax Number *This list replaces the prior email addresses and/or fax numbers on file for your organization.*

Federal Reserve Bank Joint Custody Service via FedMail® Request Form

Section 3 – Service Description

Service	Description
Joint Custody Service (JCCR)	Provides the ability to receive **Joint Custody Daily Activity Statements** and monthly **Securities Holdings Reports** electronically. The email is sent in text format; the statements and reports are sent as attachments, which may be viewed with a text editor, spreadsheet or word processing software.

Section 4 – Authorized Approval

Name *	*First*	*Middle Initial*	*Last*
Signature * *The person signing this form must be listed on your current pledgee agreement on file with the Federal Reserve Bank as authorized to act for your account.*			
Date *			
Telephone *	*Phone*		*Extension*

Please submit this form to the Customer Contact Center at:

Email: ccc.coordinators@kc.frb.org

Fax: 800-660-7856

Mail:
Customer Contact Center
Federal Reserve Bank of Kansas City
P.O. Box 219416
Kansas City, MO 64121-9416

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Date

BANK RESOLUTION
PLAINSCAPITAL BANK
PLEDGING AUTHORIZATION

I, _____, Secretary of PlainsCapital Bank (the "Bank") located in the City of Dallas, State of Texas, do certify that at a meeting of the Board of Directors of this Bank held on _____ ___, 20__, the following resolution was adopted and is in full force and effect on the date hereof without amendment or modification:

RESOLVED, that PlainsCapital Bank, being desirous to obtain public funds and deposits from municipal entities, is hereby empowered and authorized to pledge eligible securities and Federal Home Loan Bank letters of credit to secure these funds and deposits from _____ in a manner consistent with the laws of the State of Texas and the Investment Policy of PlainsCapital Bank.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the seal of the Bank this ___ day of _____, 20___.

_____
Secretary

(SEAL)

IntraFi Network Deposits | Formerly CDARS® and ICS® deposit products

IntraFi Network Deposits DDA-MMDA Deposit Placement Agreement

You, the undersigned, enter into this IntraFi Network Deposits DDA-MMDA Deposit Placement Agreement ("*Agreement*") with the following financial institution ("*we*" or "*us*"):

This Agreement states the terms and conditions on which we will endeavor to place deposits for you at other financial institutions through the DDA-MMDA Option of IntraFi℠ Network Deposits℠. IntraFi Network Deposits is a product of IntraFi Network LLC ("*IntraFi*") that encompasses services for placing deposits at depository institutions.

This Agreement is an amended version of the ICS Deposit Placement Agreement ("*ICS DPA*"). The DDA-MMDA Option of IntraFi Network Deposits ("*DDA-MMDA Option*") is the deposit placement functionality formerly known as part of ICS®, the Insured Cash Sweep® service. IntraFi is the entity formerly known as Promontory Interfinancial Network, LLC.

During a branding transition period, you may s references to ICS on statements or other document These references are to the DDA-MMDA Option o IntraFi Network Deposits.

1. Deposit Placement

1.1. IntraFi Network Deposits D MMDA Opti

(a) **Schedule 1** describes the oced hich we will place deposits for you throug h DA-MMDA Option. **Schedule 2** ies des ptions of the account type and pla ment feature tha e will use.

(b) Each depos titution t which we place deposits for you through the D A-MMDA Option ("*Destination Institution*") will be e at which deposit accounts are insured by the F deral Deposit Insurance Corporation ("*FDIC*") up to the FDIC standard maximum deposit insurance amount ("*SMDIA*") of $250,000.

(c) Subject to the terms and conditions of this Agreement, when we place deposits in a deposit account at a Destination Institution for your funds placed through the DDA-MMDA Option ("*Deposit Account*"), the amount of our outstanding placements for you at the Destination Institution through the DDA-MMDA Option and through the CD Option of IntraFi Network Deposits, which is the deposit placement functionality formerly known as part of CDARS®, the Certificate of Deposit Account Registry Service®, will not exceed $250,000.

(d) The Bank of New York Mellon ("*BNY Mellon*") provides services that support deposit placement through the DDA-MMDA Option. BNY Mellon's services include acting as c sub-custodian and settlement agent.

(e) You m t be c able of using, and you agree to use, the Depos ontrol Pa ("*DCP*"), an online tool, to review provisi al allo ons of deposits and for other urposes. You a e to receive notices that may be osted on the DC or sent to you by email.

Dep it Acc nts

( ) Depos that we place for you in Deposit Ac unts will be "deposits," as defined by federal law, at Destination Institutions.

(b) Each Deposit Account, including the principal balance and the accrued interest, will be a deposit ligation solely of the Destination Institution at which it is held. It will not be a deposit obligation of us or of IntraFi, BNY Mellon, or any other person or entity.

2. Your Relationship With Us

2.1. Agency and Custodial Relationship

(a) We will act as your agent in placing deposits for you through the DDA-MMDA Option. Under a separate agreement with you that grants us custodial powers ("*Custodial Agreement*"), we will also act as your custodian for the Deposit Accounts.

(b) Each Deposit Account will be recorded (i) on the records of the Destination Institution in the name of BNY Mellon, as our sub-custodian, (ii) on the records of BNY Mellon in our name, as your custodian, and (iii) on our records in your name. The recording will occur in a manner that permits the Deposit Account to be FDIC-insured to the same extent as if it were recorded on the records of Destination Institution in your name.

(c) For purposes of Article 8 of the Uniform Commercial Code, we will act as your securities intermediary for, and will treat as financial assets, the Deposit Accounts and all your security entitlements and

SAMPLE

other related interests and assets with respect to the Deposit Accounts, and we will treat you as entitled to exercise the rights that constitute the Deposit Accounts.

(d) All interests that we hold for the Deposit Accounts will be held by us only as your securities intermediary and will not be our property. You will be the owner of the funds in the Deposit Accounts and any interest on those funds.

2.2. Termination of Custodial Relationship

(a) Either you or we may terminate the custodial relationship between you and us at any time. You may not transfer the Deposit Accounts to another custodian, but you may dismiss us as your custodian for a Deposit Account and request that it be recorded on the records of the Destination Institution in your name.

(b) We will endeavor to cause any request from you pursuant to Section 2.2(a) to be promptly forwarded to the Destination Institution. Each Destination Institution has agreed that it will promptly fulfill any such request, subject to its customer identification policies and other account opening terms and conditions.

(c) If a Deposit Account has been recorded on records of a Destination Institution in your nam pursuant to this Section 2, you will be able to enforce your rights in the Deposit Account directly against the Destination Institution, but we will no longe ha any custodial responsibility for it and you will not b able enforce any rights against the Destination Ins tion through us.

(d) If we were to become insc ent, r ver or other successor in interest could t er custody of the Deposit Accounts nd our rights nd obligations under this Agreement o a new custodia Alternatively, you could exercise our ri to ave the Deposit Accounts recorded o records f the Destination Institutions in your name pursuant t his Section 2.

3. Custodial Account and Interest Rate

3.1. Custodial Account

(a) As your custodian, we will open on our records, either directly or with the assistance of BNY Mellon, a custodial account in which we will hold your interests in the Deposit Accounts ("*Custodial Account*"). We may permit you to have multiple Custodial Accounts.

(b) On the signature page of this Agreement, you will enter a unique alphanumeric identifier for you ("*Depositor Identifier*"), which will be associated with the Custodial Account. You will enter as your Depositor Identifier your federal taxpayer identification number ("*TIN*"), unless you do not have a TIN, in which case you will enter an alternate identifier that we approve.

(c) If you use an alternate identifier, you must use the same alternate identifier for all placements of deposits for you, by us or by any other financial institution, through the DDA-MMDA Option or through the CD Option of IntraFi Network Deposits. If you later obtain a TIN, you must promptly report it to us and to any such other institutions, and we may use it as your Depositor Identifier.

3.2. Interest Rat

(a) The in rest rate or the Deposit Accounts at Destination Insti ions on any day will be the then-current rate that w pecify, w ch may be any rate (including zero) and w ich we may modify at any time ("*Inte st Rate*"). Throug our continued participation in the A-MMDA Option, you accept each applicable st R

(If we mit you to have more than one Cust ial Account, we may specify a different Interest R for each Custodial Account.

(c) Payment of the full amount of all accrued inte t on a Deposit Account at a Destination Institution will be solely the responsibility of the Destination Institution. Neither we nor any other person or entity will be indebted to you for such payment.

4. Placement Procedures

4.1. Account Type, DDA-MMDA Option Settlement, and Statements

(a) Settlement of payments to and from participating institutions in the DDA-MMDA Option through BNY Mellon that includes the type of deposits we place for you ("*DDA-MMDA Option Settlement*") will occur each day that is not a Saturday, a Sunday, or another day on which banks in New York, New York, are authorized or required by law or regulation to close ("*Business Day*").

(b) You may confirm through the DCP (i) the aggregate principal balance in the Deposit Accounts ("*Program Balance*") and (ii) the principal balance and accrued interest at each Destination Institution as of the preceding Business Day or, after DDA-MMDA Option Settlement-related processing, as of that Business Day.

(c) We will provide you with periodic account statements that include, as of the end of the statement period, your Program Balance, your principal balance at

SAMPLE

each Destination Institution, the total interest you have earned on the Deposit Accounts during the period, and the rate of return you have earned on the daily average closing principal balance for the period ("*Statement Period Yield*").

(d) The account information available on the DCP as described in Section 4.1(b), and the periodic statements described in Section 4.1(c), will be the only evidence that you receive of your ownership of the funds. You should retain the account statements.

4.2. Triggering Events

(a) Schedule 1 sets forth events for triggering a transfer of funds from a root account with us that contains your funds ("*Root Account*") to the Deposit Accounts at DDA-MMDA Option Settlement ("*Program Deposit*") or a transfer of funds from the Deposit Accounts to the Root Account at DDA-MMDA Option Settlement ("*Program Withdrawal*").

(b) An event for triggering a Program Deposit or a Program Withdrawal ("*Triggering Event*") will be any such event described in Schedule 1.

(c) If you signed a previous version of this Agreement identified as an ICS DPA and became a party to this amended version of the Agreement after you were given notice of amendment, the content of Schedule 1 to this Agreement is the same as the content of Schedule 1 to the version you signed, subject to the following changes:

(i) "ICS" is changed to "the DDA-MMDA Option of IntraFi Network Deposits";

(ii) "Transaction Account," where it appears, is changed to "Root Account."

4.3. Program Deposits

(a) Subject to the terms and conditions of this Agreement, and except as provided in Section 4.3(b), a Triggering Event for a Program Deposit will result in a transfer of funds to the Deposit Accounts at DDA-MMDA Option Settlement the *next* Business Day ("*Regular Program Deposit*").

(b) Schedule 1 states whether a transfer of funds to the Deposit Accounts at DDA-MMDA Option Settlement on the *same* Business Day ("*Same-Day Program Deposit*") is available and, if so, the cutoff time for you to request a Same-Day Program Deposit ("*Same-Day Deposit Cutoff Time*"). If so stated, a request that we receive and accept before the Same-Day Deposit Cutoff Time will be a Triggering Event for a Same-Day Program Deposit.

(c) We may impose a maximum Program Balance amount for deposits that we place for you through the DDA-MMDA Option and will inform you of any such amount we impose. Even if a Triggering Event for a Program Deposit occurs, we may choose not to transfer the amount to the Deposit Accounts if it would cause the Program Balance to exceed the maximum. In addition, we may choose not to transfer to the Deposit Accounts an amount that we have credited to the Root Account, but have not yet collected from a third party.

4.4. Program Withdrawals

(a) Subject to the terms and conditions of this Agreement, and except as provided in Section 4.4(b), a Triggering Event for a Program Withdrawal will result in a transfer of funds from the Deposit Accounts at DDA-MMDA Option Settlement the *next* Business Day ("*Regular Program Withdrawal*").

(b) Schedule 1 states whether the transfer of funds from your Deposit Accounts at DDA-MMDA Option Settlement on the *same* Business Day ("*Same-Day Program Withdrawal*") is available and, if so, the cutoff time for you to request a Same-Day Program Withdrawal ("*Same-Day Withdrawal Cutoff Time*"). If Section 1 so states, a request that we receive and accept before the Same-Day Withdrawal Cutoff Time will be a Triggering Event for a Same-Day Program Withdrawal.

4.5. Withdrawal Advances; Security Interest

(a) If Schedule 1 states that we will advance funds to you in anticipation of a Program Withdrawal, or if we otherwise decide in our discretion to advance funds to you in anticipation of a Program Withdrawal, you will owe the amount of these funds to us and we will retain from the funds we receive at DDA-MMDA Option Settlement the amount we have advanced to you.

(b) With respect to any amount that you owe to us pursuant to Section 4.5(a):

(i) you grant us, and acknowledge that we have, a security interest in, and a lien on, the Deposit Accounts, related security entitlements, and other related interests and assets that we may hold for you as custodian and securities intermediary pursuant to the Custodial Agreement for the amount that you owe to us,

SAMPLE

(ii) if a Destination Institution fails before a Program Withdrawal is completed, we may retain the amount of the Program Withdrawal from the proceeds of your FDIC insurance claim to satisfy the amount that you owe to us, and

(iii) to the extent that the amount that you owe to us is not satisfied from the interests and assets we are holding for you pursuant to the Custodial Agreement, or from the proceeds of any FDIC insurance claim, the amount remains owed by you to us and is payable on demand.

(c) If, in a separate agreement, you have granted us a security interest in the Deposit Accounts or in any security entitlements or other interests or assets relating to the Deposit Accounts as collateral for a loan to you or otherwise, we may decline to honor a request for a Program Withdrawal, or decline to honor a debit transaction in the Root Account that would trigger a Program Withdrawal or be funded by a Program Withdrawal, to the extent the Program Withdrawal would cause your Program Balance to fall below the loan amount or other amount that you have agreed to maintain in the Deposit Accounts or to which the security interest applies. If, in a separate agreement, you have granted us a security interest in the Root Account, we also may decline to honor transactions in the Root Account in accordance with the separate agreement.

4.6. Account Type and Withdrawal Limit. Any

(a) Deposits that we place for you through the DDA-MMDA Option at a Destination Institution will be placed in a Deposit Account that is a demand deposit account ("*DDA*") or a Deposit Account that is a money market deposit account ("*MMDA*"), as provided in Section 1 of Schedule 2.

(b) Section 1 of Schedule 2 provides (i) that we will place deposits for you in DDAs, (ii) that we will place deposits for you in MMDAs, or (iii) that we may place deposits for you in DDAs or MMDAs.

(c) If you signed a previous version of this Agreement identified as an ICS DPA and became a party to this amended version of the Agreement as a result of having been given notice of amendment, the following applies:

(i) If the version you signed provided that we would place deposits for you in DDAs, Section 1 of Schedule 2 is deemed to state: "We will place deposits for you in DDAs."

(ii) If the version you signed provided that we would place deposits for you in MMDAs, Section 1 of Schedule 2 is deemed to state: "We will place deposits for you in MMDAs."

(iii) If the version you signed provided that we might place deposits for you in DDAs or MMDAs, Section 1 of Schedule 2 is deemed to state: "We may place deposits for you in DDAs or MMDAs."

(d) Section 1 of Schedule 2 also provides, if MMDAs will or may be used, (i) that an MMDA Program Withdrawal limit of six per month applies or (ii) that no MMDA Program Withdrawal limit applies.

(e) If you signed a previous version of this Agreement identified as an ICS DPA and became a party to this amended version of the Agreement as a result of having been given notice of amendment, and if the version you provided that MMDAs would or might be used, the following applies:

(i) If the version you signed provided that an MMDA Program Withdrawal limit would apply and we have not informed you that we will not enforce such a limit, Section 1 of Schedule 2 is deemed to state, in addition to the statement given in Section 4.6(c), "You may use up to six MMDA Program Withdrawals per month."

(ii) If the version you signed provided that an MMDA Program Withdrawal limit would not apply or we have informed you that we will not enforce such a limit, Section 1 of Schedule 2 is deemed to state, in addition to the statement given in Section 4.6(c), "No MMDA Program Withdrawal limit applies."

(f) If a Program Withdrawal limit applies and you exceed the six permitted Program Withdrawals from MMDAs in a month:

(i) We may (A) transfer all the remaining funds in the MMDAs to the Root Account associated with the Custodial Account for the MMDAs or (B), if you also have a Custodial Account for DDA deposits, transfer all the remaining funds in the MMDAs to the Custodial Account for DDA deposits.

(ii) In subsequent months we may effect either such transfer at the time of your sixth Program Withdrawal.

(g) If you exceed the six permitted Program Withdrawals from MMDAs in multiple months, we may also make the Custodial Account for the MMDAs ineligible for Program Deposits.

SAMPLE

5. Placement Feature

5.1. Reciprocal and One-Way

(a) If we are an FDIC-insured depository institution, we are eligible to use a feature of the DDA-MMDA Option in which, when we place deposits, we receive matching deposits placed by other participating institutions in the DDA-MMDA Option and may pay a fee to IntraFi ("*Reciprocal Feature*").

(b) Whether or not we are eligible to use the Reciprocal Feature, we are eligible to use a feature of the DDA-MMDA Option in which, when we place deposits, we do not receive matching deposits, but we and IntraFi may receive fees from Destination Institutions ("*One-Way Feature*").

(c) Section 2 of Schedule 2 provides (i) that we may use either the Reciprocal Feature or the One-Way Feature, (ii) that we will use only the Reciprocal Feature, or (iii) that we will use only the One-Way Feature.

(d) If you signed a previous version of this Agreement identified as an ICS DPA and became a party to this amended version of the Agreement as a result of having been given notice of amendment, following applies:

(i) Section 2 of Schedule 2 is deemed to provide that we may use either the Reciprocal Feature or the One-Way Feature if (A) Schedule 4 the version that you signed contained two check boxes, one stating that we might use either ICS Reciprocal or ICS One-Way and the other stating that we would use only ICS Reciprocal and (B) the box stating that we might use either ICS Reciprocal or ICS One-Way was checked.

(ii) Section 2 of Schedule 2 is deemed to provide that we will use only the Reciprocal Feature if (A) Schedule 4 to the version that you signed contained two check boxes, one stating that we might use either ICS Reciprocal or ICS One-Way and the other stating that we would use only ICS Reciprocal, and (B) the box stating that we would use only ICS Reciprocal was checked.

(iii) Section 2 of Schedule 2 is deemed to provide that we will use only the One-Way Feature if Schedule 4 to the version that you signed contained no check boxes regarding the use of ICS Reciprocal or ICS One-Way.

5.2. Placement Feature and Rate

(a) Interest on the Deposit Accounts will be earned at the specified Interest Rate regardless of whether the Reciprocal Feature or the One-Way Feature is used.

(b) When the Reciprocal Feature is used, the fee paid to IntraFi may affect rate determination. When the One-Way Feature is used, fees paid by Destination Institutions, or cost-of-funds rates for Destination Institutions, may affect rate determination.

(c) If we are eligible to use the Reciprocal Feature, and you authorize us to use either the Reciprocal Feature or the One-Way Feature, we may use a feature with greater benefits to you, to us, or both.

5.3. Placement Requirements

(a) Under the laws of some states, governmental units may submit deposits for placement through a deposit placement network only if the placing institution is located in the state and receives matching deposits of an equal maturity, if any, and an equal amount.

(b) If you are a state governmental unit, or if you are otherwise subject to restrictions on the placement of deposits for you, you are responsible for determining whether deposit placement in accordance with this Agreement satisfies any applicable restrictions.

6. Daily Allocation and Depositor Control

6.1. Daily Allocation; Review and Consent

(a) The DDA-MMDA Option process for allocating Program Deposits, Program Withdrawals, and funds already on deposit reflects various considerations, including the need for certain Destination Institutions to receive deposits in amounts that they have placed for their own customers and possible limits on the amounts that an institution is authorized to place or a Destination Institution has agreed to receive. Applicable deposit amounts may change from day to day. Accordingly, the allocation of funds takes place each Business Day.

(b) The set of Destination Institutions to which your funds on deposit are allocated on a Business Day, and the amount allocated to each Destination Institution, may differ from a previous Business Day's allocation. A different allocation may involve the movement of funds from one Destination Institution to another Destination Institution, even though you do not have a Program Deposit or a Program Withdrawal. Such movements of funds will not affect the Interest Rate.

SAMPLE

(c) You exercise control over the allocation of your funds through direct contact with us and through the DCP. You are responsible for reviewing the important information we provide you through the DCP, including information regarding proposed allocations that we provide each Business Day. In addition, on request at any time, we will provide you with a list of all Destination Institutions.

(d) Although we will not allocate your funds to Destination Institutions that you exclude or reject as set forth below, you authorize and consent to the allocation of your funds at Destination Institutions that you approve, or do not exclude or reject, as set forth below.

6.2. Destination Institution Exclusions

(a) You may enter the name of any depository institution on a list of exclusions from eligibility to receive deposits we place for you through the DDA-MMDA Option ("*Exclusions List*").

(b) We may ask you to provide your initial Exclusions List by entering exclusions in Section 3(c) of Schedule 2 or by giving us notice of your Exclusions List in another manner we specify.

(c) If you signed a previous version of this Agreement identified as an ICS DPA and became a party to this amended version of the Agreement as a result of having been given notice of amendment, your Exclusions List will include any depository institution you included in your List of Exclusions in the ICS DPA unless you have subsequently removed them.

(d) An Exclusions List will be effective with the Business Day after the first Business Day on which we have received the Exclusions List from you.

(e) You may add to or subtract from your Exclusions List by giving us notice in a manner we specify. If you add an exclusion in this manner, the new exclusion will be effective within one Business Day after the first Business Day on which we have received the notice from you.

6.3. Depositor Control Panel

(a) IntraFi will assist us in providing the DCP. The address of the Depositor Control Panel is https://www.depositorcontrol.com.

(b) You represent that you have a computer with Internet access, an e-mail address, the ability to download and print information from the DCP, and the knowledge and experience to use an online tool for DCP functionality. In addition, you acknowledge that you must obtain and maintain all equipment and services necessary for access to the DCP.

(c) To access the DCP, you will be required to enter your login credentials. Your initial user name will be the account number for the Root Account or such other user name as we specify. Your initial password will be the last four characters of the Depositor Identifier entered for the sole or primary Depositor on the signature page of this Agreement.

(d) You will also be required to enter the email address you have provided to us. We will separately advise you of any additional steps required of you by security controls.

6.4. Depositor Placement Review

(a) Each Business Day your aggregate principal balance that will be in Deposit Accounts after that day's DDA-MMDA Option Settlement will be provisionally allocated to Destination Institutions. The amount allocated will reflect your Program Balance as of the last DDA-MMDA Option Settlement, plus any Program Deposit that will occur at the day's DDA-MMDA Option Settlement, minus any Program Withdrawal that will occur at the day's DDA-MMDA Option Settlement. The allocation may provide that previously-deposited funds will be removed from a Destination Institution and redeposited in another Destination Institution.

(b) After the provisional allocation occurs on a Business Day, but before allocation becomes final at DDA-MMDA Option Settlement, Depositor Placement Review ("*DPR*") will occur through the DCP. Even if a Destination Institution is not on your Exclusions List, the final allocation that day will not allocate your funds to the Destination Institution if you reject it during DPR through the DCP. Your rejection of a Destination Institution will be effective only if you submit it before DPR ends.

(c) The DPR period each Business Day will be as follows: 3:00 PM to 3:15 PM Eastern time. Daylight Saving Time applies when nationally in effect. We may change the DPR period by posting notice on the DCP in advance of the change.

(d) In DPR, you will see a list of Destination Institutions to which your funds are proposed to be allocated at DDA-MMDA Option Settlement later that day ("*Proposed Placement List*"), reflecting the provisional allocation of all your funds, including funds that will be moved from one Destination Institution to another Destination Institution. The Proposed Placement List will include the principal balance allocated to each Destination Institution. If you review

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the Proposed Placement List, and you click the approval button or you do not reject any of the Destination Institutions on the list, you will be approving the allocation and your funds will be allocated in accordance with the list.

(e) If you reject any of the Destination Institutions on the Proposed Placement List, you will be approving allocation to Destination Institutions on the list that you do not reject. After entering rejections, if sufficient time remains in DPR, you will have the opportunity to review a list of other Destination Institutions to which your funds could be allocated ("*Alternate Placement List*"). If you click the approval button for the Alternate Placement List, or you do not reject any of the Destination Institutions on it, you will be approving the allocation of your funds to any of the listed Destination Institutions. If you reject any of the Destination Institutions on the Alternate Placement List, you will be approving allocation to listed Destination Institutions that you do not reject. Your funds may be allocated to any combination of Destination Institutions on the Proposed Placement List and the Alternate Placement List that you do not reject.

(f) If the provisional allocation on a Business Day would result in funds of yours currently at a Destination Institution being moved to another Destination Institution and you reject the other Destination Institution in DPR that Business Day, the funds will not necessarily remain at the first Destination Institution. The funds will be allocated to a Destination Institution that you do not reject or returned to the Root Account.

(g) A Destination Institution that you reject in DPR will also be added to your Exclusions List for purposes of future allocations, with effect as of the Business Day after the Business Day on which you submit the rejection.

(h) We do not guarantee that all of your funds will be allocated to Destination Institutions on any particular day, even if they were allocated to Destination Institutions on a previous day. Exclusions and rejections of Destination Institutions may increase the chance that funds will not be allocated. If funds not yet transferred to the Deposit Accounts are not allocated to a Destination Institution on a Business Day, the funds will remain in the Root Account. If funds previously transferred to the Deposit Accounts are not allocated to a Destination Institution on a Business Day, the funds will be returned to the Root Account.

7. FDIC Insurance Considerations

7.1. Deposit Insurance Coverage

(a) You may obtain information about FDIC deposit insurance coverage by visiting the FDIC website at www.fdic.gov or by contacting the FDIC by letter, email, or telephone.

(b) All of your deposits at a Destination Institution in the same insurable capacity (whether you are acting directly or through an intermediary) will be aggregated for the SMDIA. You should add to your Exclusions List any depository institution at which you have other deposits in the same insurable capacity. Insurable capacities include, among others, individual accounts and joint accounts.

(c) You are responsible for determining whether deposits we place for you are maintained in separate insurable capacities. Separate divisions within a corporate entity are not eligible for separate insurance coverage, and a separate TIN or other Depositor Identifier does not establish a separate insurable capacity.

(d) We will use the Depositor Identifier to identify you and we will place deposits for you on the understanding that you are not submitting deposits for placement under more than one Depositor Identifier in the same insurable capacity.

(e) The requirements for FDIC deposit insurance coverage of the deposits of governmental units, including the United States government, state and local governments, the District of Columbia, and the Commonwealth of Puerto Rico, are set forth in FDIC regulations. If you are a governmental unit, you are responsible for determining whether the requirements for deposit insurance have been met. We are not responsible for losses resulting from the placement of deposits that are not eligible for FDIC deposit insurance.

(f) Records that we maintain, or that BNY Mellon maintains for us, reflecting ownership of the Deposit Accounts will be used to establish your eligibility for deposit insurance coverage. Accordingly, you must immediately report to us any changes in ownership information so that there will be accurate information to provide to the FDIC if a Destination Institution fails and the FDIC pays its insured deposits by cash payment. The FDIC could also require you to provide additional documentation.

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7.2. Responsibility to Monitor Deposits; Available Information

(a) You are responsible for monitoring the total amount of your funds at each Destination Institution in each insurable capacity to determine the extent of FDIC deposit insurance coverage available to you for deposits at that Destination Institution. You should confirm that each placement of your funds at Destination Institutions is consistent with your exclusions and rejections.

(b) You can obtain publicly available financial information on Destination Institutions from the National Information Center of the Federal Reserve System at www.ffiec.gov/nicpubweb/nicweb/nichome.aspx.

7.3. Uninsured Deposits

(a) Although we will not place a deposit for you through the DDA-MMDA Option at any one Destination Institution in an amount that exceeds the SMDIA, a deposit that we place for you will not be eligible for FDIC insurance coverage at a Destination Institution before it becomes a deposit at the Destination Institution or after it is withdrawn from the Destination Institution.

(i) If we are an FDIC-insured depository institution and the Root Account is eligible for FDIC insurance coverage, a deposit in the Root Account will be aggregated with your other deposits with us in the same insurable capacity for application of the SMDIA of $250,000.

(ii) If we are a credit union whose share accounts of which are insured by the National Credit Union Administration ("*NCUA*") and the Root Account is a share account with us that is eligible for NCUA insurance coverage, a deposit in the Root Account will be aggregated with your other deposits with us in the same insurable capacity for application of the NCUA standard maximum share insurance amount of $250,000.

(iii) If we are not an FDIC-insured depository institution or the Root Account is not eligible for FDIC insurance coverage, a deposit in the Root Account will not be FDIC-insured. If we are not an NCUA-insured credit union or the Root Account is not eligible for NCUA insurance coverage, a deposit in the Root Account will not be NCUA-insured.

(b) If you cannot accept the risk of having a deposit with us that is not fully insured, you will be responsible for making arrangements with us, if we offer them, to have the deposits collateralized, protected by a properly-executed repurchase sweep arrangement, or otherwise adequately protected, in a manner consistent with applicable law. You should consult your legal advisor to determine whether a collateralization arrangement is consistent with applicable law.

(c) If you cannot accept the risk of having a deposit with us that is not fully insured, and we do not offer arrangements of the kind described in Section 7.3(b) or we offer them but you do not make such arrangements with us, you should not submit deposits for placement through the DDA-MMDA Option.

7.4. Deposit Insurance Payments

(a) In case of the liquidation of, or other closing or winding up of the affairs of, an insured depository institution, the FDIC is generally required by law to pay each insured deposit "as soon as possible," either by cash payment or by transferring the deposit to another insured depository institution. It is possible, however, that an insurance payment could be delayed. Neither you nor any other person or entity will be obligated to advance funds to you with respect to an insurance payment or to make any payment to you in satisfaction of a loss you might incur as a result of a delay in an insurance payment.

(b) If a Destination Institution at which we place deposits for you is closed and the FDIC does not transfer deposits that include your funds to another insured depository institution, but will make a deposit insurance cash payment, we will cause a deposit insurance claim for your funds to be filed with the FDIC, and we will credit to you the proceeds of the deposit insurance claim that we receive for your funds, subject to any valid security interest.

(c) If the FDIC makes a deposit insurance cash payment for a Deposit Account at a closed Destination Institution, the FDIC is required by law to pay the principal amount plus unpaid accrued interest to the date of the closing of the Destination Institution, as prescribed by law, subject to the SMDIA. No interest is earned on a Deposit Account at a Destination Institution after it closes.

(d) If the FDIC transfers the deposits of a closed Destination Institution to another insured depository institution, the acquiring institution may assume a Deposit Account. The acquiring institution may change the rate at which it pays interest on the assumed Deposit Account, subject to your right to withdraw the funds.

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8. Additional Considerations

8.1. Compare Rates

(a) We are not acting as your investment advisor, and we are not advising you about alternative investments. You are responsible for comparing the rates of return and other features of the Deposit Accounts to other available deposit accounts and other kinds of investments before choosing placement through the DDA-MMDA Option.

(b) The Interest Rate may be higher or lower than a cost-of-funds rate for a Destination Institution, an interest rate for another customer, or interest rates on comparable deposits available directly from us, from the Destination Institutions at which the Deposit Accounts are held, from other Destination Institutions, or from insured depository institutions that are not Destination Institutions.

8.2. Allocation Considerations

(a) The DDA-MMDA Option allocation process is subject to applicable law and may be affected by our objectives, IntraFi's objectives, or both, including administrative convenience, reduction of costs, and enhancement of profits.

(b) Participating institutions in the DDA-MMDA Option service may make compensatory payments resulting in payments to other participating institutions or receive compensatory payments resulting from payments by other participating institutions, including compensatory payments that reflect the difference between an interest rate for deposits placed at an institution and a rate at which the receiving institution would otherwise pay interest.

8.3. Mutual Institution Rights

(a) Your funds may be placed in a Deposit Account at a Destination Institution that is in the mutual form of organization. Such a Deposit Account will be recorded on the records of the mutual institution in the name of the sub-custodian and not in your name. The sub-custodian will not attend or vote at any meeting of the depositor members of a mutual institution, or exercise any subscription rights in a mutual institution's mutual-to-stock conversion, either on its own behalf or on your behalf.

(b) If we receive from the sub-custodian notice of a meeting of depositor members of a mutual institution or other materials or information relating to a mutual institution's mutual-to-stock conversion, we may forward such notice, materials, or information to you. If you wish to receive such notice, materials, or information directly from the mutual institution, or if you wish to attend or vote at any meeting of the depositor members of the mutual institution or receive subscription rights, you must, before the applicable record date (a date that is usually at least one year before the mutual institution's board of directors adopts a plan of conversion), dismiss us as your custodian and have the Deposit Account recorded on the records of the mutual institution in your name pursuant to Section 2.2.

9. Other Provisions

9.1. Release and Use of Identifying Information

(a) We may provide information that identifies you ("*Identifying Information*"), including your name, your TIN or other Depositor Identifier, and information on your deposits, to a party that provides services in connection with the DDA-MMDA Option ("*Service Provider*"), including IntraFi and BNY Mellon. A Service Provider may use Identifying Information in providing services in connection with the DDA-MMDA Option.

(b) We or a Service Provider may also provide Identifying Information to a Destination Institution, but will do so only to the extent necessary to comply with a request by you or your agent or to comply with applicable law. In addition, we or a Service Provider may provide Identifying Information to the FDIC in connection with a deposit insurance claim.

(c) Except as provided in Section 9.1(a) or Section 9.1(b), we will not provide Identifying Information to any party unless we determine that (i) we are required by applicable law to do so or (ii) we are permitted by applicable law to do so and have reasonable grounds to do so to protect our own legal or business interests or the legal or business interests of IntraFi or BNY Mellon.

(d) IntraFi may use and disclose any and all analyses, comparisons, indexes, or other data or information assembled, compiled, or otherwise developed by IntraFi, including information regarding aggregated activity of the DDA-MMDA Option depositors, as long as it does not individually identify you.

9.2. Tax Reporting and Withholding

(a) To the extent required by applicable law, we will file with the U.S. Internal Revenue Service ("IRS"), and furnish to you, IRS Form 1099-INT or its equivalent,

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or IRS Form 1042-S or its equivalent, for interest paid on the Deposit Accounts by the Destination Institutions.

(b) If we are notified by the IRS that backup withholding is required for interest on the Deposit Accounts, or if we otherwise determine that we are required by applicable law to collect such backup withholding, we will collect it and pay it to the IRS.

9.3. Liability and Dispute Resolution

(a) We will maintain, directly or through a Service Provider, appropriate records of our placements for you. We will not place deposits for you through the DDA-MMDA Option at a Destination Institution that is the subject of a then-effective exclusion on your Exclusions List, at a Destination Institution that is the subject of a then-effective rejection by you, or at a Destination Institution under one Depositor Identifier in an amount that exceeds the SMDIA.

(b) If all or part of your deposit at a Destination Institution is uninsured because of our failure to comply with the requirements set forth in Section 9.3(a), and if the Destination Institution fails and you do not otherwise recover the uninsured portion, we will reimburse you for your documented loss of the uninsured portion that you do not otherwise recover.

(c) SUBJECT TO OUR REIMBURSEMENT OBLIGATION IN SECTION 9.3(b), AND EXCEPT AS MAY BE OTHERWISE REQUIRED BY APPLICABLE LAW, WE WILL NOT BE LIABLE, AND IN NO EVENT WILL INTRAFI OR BNY MELLON BE LIABLE, TO YOU OR TO ANY OTHER PERSON OR ENTITY, FOR ANY LOSS OR DAMAGE INCURRED OR ALLEGEDLY INCURRED IN CONNECTION WITH THIS AGREEMENT. WITHOUT LIMITING THE FOREGOING, WE, INTRAFI AND BNY MELLON WILL NOT HAVE ANY LIABILITY TO YOU OR ANY OTHER PERSON OR ENTITY FOR: (i) ANY LOSS ARISING OUT OF OR RELATING TO A CAUSE OVER WHICH WE DO NOT HAVE DIRECT CONTROL, INCLUDING THE FAILURE OF ELECTRONIC OR MECHANICAL EQUIPMENT OR COMMUNICATION LINES, TELEPHONE OR OTHER INTERCONNECT PROBLEMS, UNAUTHORIZED ACCESS, THEFT, OPERATOR ERRORS, GOVERNMENT RESTRICTIONS, OR FORCE MAJEURE (*E.G.*, EARTHQUAKE, FLOOD, SEVERE OR EXTRAORDINARY WEATHER CONDITIONS, NATURAL DISASTERS OR OTHER ACT OF GOD, FIRE, ACTS OF WAR, TERRORIST ATTACKS, INSURRECTION, RIOT, STRIKES, LABOR DISPUTES OR SIMILAR PROBLEMS, ACCIDENT, ACTION OF GOVERNMENT, COMMUNICATIONS, SYSTEM OR POWER FAILURES, OR EQUIPMENT OR SOFTWARE MALFUNCTION), (ii) DELAY IN ANY FDIC INSURANCE PAYMENT, (iii) THE FINANCIAL CONDITION OF ANY DESTINATION INSTITUTION OR THE ACCURACY OF ANY FINANCIAL INFORMATION ABOUT ANY DESTINATION INSTITUTION, OR (iv) ANY SPECIAL, INDIRECT, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS).

(d) ANY DISPUTE ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT WILL BE GOVERNED BY THE DISPUTE RESOLUTION, ARBITRATION, CHOICE OF LAW, VENUE, WAIVER OF JURY TRIAL, AND COSTS RELATED TO DISPUTES PROVISIONS, IF ANY, CONTAINED IN THE CUSTODIAL AGREEMENT.

9.4. Miscellaneous

(a) This Agreement constitutes the entire agreement between you and us relating to the placement of deposits through the DDA-MMDA Option and any other matter herein, supersedes prior agreements, understandings, negotiations, representations, and proposals, whether written or oral, relating to any matter herein, and may not be amended by any oral representation or oral agreement. This Section 9.4(a)will not affect the validity of any addenda which we have entered with you.

(b) Schedule 1 and Schedule 2 are incorporated into and made part of this Agreement. We may amend this Agreement, including any Schedule, prospectively by giving you written notice of the amendment at least fourteen (14) days before the effective date of the amendment, which will be specified in the amendment or, if no effective date is specified in the amendment, the date that is fourteen (14) days after we give you written notice of the amendment. We may provide written notice of the amendment by means of a posting on the DCP, an entry on your account statement, an email message, or a printed letter.

(c) Either party may terminate this Agreement on written notice to the other, but the obligations of both parties will survive with respect to any funds deposited at the time of termination. In addition, the provisions of this Section 9.4 will survive termination.

(d) Except as provided in Section 2.2(d), this Agreement may not be assigned, in whole or in part, by either party except by operation of law or as required by applicable law, and any purported assignment in violation hereof is void.

(e) The headings in this Agreement are not intended to describe, interpret, define, or limit the scope, meaning, or intent of this Agreement or any clause in it. Except as otherwise specified, a reference to a Section is a reference to a section of this Agreement. A reference to a Schedule is a reference to a schedule to this Agreement. The term “applicable law” refers to all applicable statutes, rules, regulations, and judicial

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orders, whether federal, state, or local. The words "include," "includes," and "including" do not imply exclusion.

(f) This Agreement and, unless otherwise provided in the Custodial Agreement, the Custodial Agreement may be executed in counterparts, each of which shall be deemed to be an original, but such counterparts shall, together, constitute only one instrument. This Agreement and, unless otherwise provided in the Custodial Agreement, the Custodial Agreement will be valid, binding, and enforceable against you and us when executed by one of the following means that we accept: (i) an original manual signature, (ii) a DocuSign® eSignature or another electronic signature that we accept, or (iii) a faxed, scanned (including in a Portable Document Format or PDF document), or photocopied signature that we accept. Each DocuSign® eSignature, other electronic signature, or faxed, scanned, or photocopied signature that we accept shall for all purposes have the same validity, legal effect, and admissibility in evidence as an original signature, and you and we waive any objection to the contrary.

The remainder of this page is intentionally left blank.

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By signing below, you ("*Depositor*") and we ("*Relationship Institution*") agree to be legally bound by this IntraFi Network Deposits DDA-MMDA Deposit Placement Agreement, effective when you and we have signed it. If the Custodial Account will be a joint account, each owner of the Custodial Account must sign this Agreement.

RELATIONSHIP INSTITUTION

Institution: _____

Signature: _____

Name and title of authorized signatory:

_____

_____

Date signed: _____

SOLE OR PRIMARY DEPOSITOR

Depositor: _____

Signature: _____

Name and title of authorized signatory (if not individual):

_____

_____

Depositor TIN or approved alternate identifier (and type):

_____

Email: _____

Date signed: _____

ADDITIONAL DEPOSITOR (FOR JOINT ACCOUNT)

Depositor: _____

Signature: _____

Depositor TIN or approved alternate identifier (and type):

_____

Email: _____

Date signed: _____

ADDITIONAL DEPOSITOR (FOR JOINT ACCOUNT)

Depositor: _____

Signature: _____

Depositor TIN or approved alternate identifier (and type):

_____

Email: _____

Date signed: _____

(Add signature lines as needed.)

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Schedule 1 to IntraFi Network Deposits DDA-MMDA Deposit Placement Agreement

Program Deposits and Program Withdrawals

This **Schedule 1** is part of the IntraFi Network Deposits DDA-MMDA Deposit Placement Agreement ("*Agreement*"). Terms not defined in this Schedule 1 have the meanings, if any, assigned elsewhere in the Agreement.

1. Program Deposits

(a) The Triggering Event for a Regular Program Deposit is a Regular Program Deposit request by you that we receive and accept. Subject to the terms and conditions of this Agreement, if such a Triggering Event occurs, we will transfer the requested amount to the Deposit Accounts at DDA-MMDA Option Settlement on the next Business Day.

(b) Same-Day Program Deposits are not available.

(c) If a Triggering Event for a Program Deposit occurs, we may debit the Root Account and credit a holding account before the transfer of funds to the Deposit Accounts occurs at DDA-MMDA Option Settlement.

2. Program Withdrawals

(a) The Triggering Event for a Regular Program Withdrawal is a Regular Program Withdrawal request by you that we receive and accept. Subject to the terms and conditions of this Agreement, if such a Triggering Event occurs, we will transfer the requested amount from the Deposit Accounts at DDA-MMDA Option Settlement on the next Business Day.

(b) Same-Day Program Withdrawals are not available.

(c) Subject to the terms and conditions of this Agreement and subject to the rules and cutoff times that otherwise apply to root accounts with us, we may in our discretion advance funds to you in anticipation of a Program Withdrawal to honor your debit transactions in the Root Account if and as the sum of your Root Account balance and your balance in the Deposit Accounts of the applicable type, after taking into account any pending Program Deposits and any pending Program Withdrawals, is not less than zero. We may do so even if the amount of the debit transaction exceeds your Root Account balance. You will owe us any amounts that we credit as advances in anticipation of a Program Deposit and we will retain those amounts from the funds we receive at DDA-MMDA Option Settlement.

(d) If a Triggering Event for a Program Withdrawal occurs, we may credit the Root Account and debit a holding account before the transfer of funds from the Deposit Accounts occurs at DDA-MMDA Option Settlement.

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Schedule 2 to IntraFi Network Deposits DDA-MMDA Deposit Placement Agreement

Account Type, Placement Feature, and Exclusions

This **Schedule 2** is part of the IntraFi Network Deposits DDA-MMDA Deposit Placement Agreement ("*Agreement*"). Terms not defined in this Schedule 2 have the meanings, if any, assigned elsewhere in the Agreement.

1. Account Type

☐ We will place deposits for you in DDAs.

☐ We will place deposits for you in MMDAs.

☐ We may place deposits for you in DDAs or in MMDAs.

(Check one above.)

→

☐ You may use up to six MMDA Program Withdrawals per month.

☐ No per-month MMDA Program Withdrawal limit applies.

(If MMDAs will or may be used, check one above.)

2. Placement Feature

☐ We may use the Reciprocal Feature, the One-Way Feature, or both in placing deposits for you.

☐ We will use only the Reciprocal Feature in placing deposits for you.

☐ We will use only the One-Way Feature in placing deposits for you.

(Check one above.)

3. Exclusions

(a) You may place depository institutions on your Exclusions List by identifying them in the list below, unless we specify another means by which you will provide your Exclusions List.

(b) The Exclusions List should include the city and state of the depository institution's main office (rather than the city and state of a branch location). The Exclusions List may also include the institution's FDIC certificate number or transit routing number. If you do not list any exclusions enter "none" under Name of Institution on the first line (but your signature after a blank list will constitute your acknowledgment that you have not listed any exclusions).

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(c) Exclusions List:

Name of Depository Institution	City and State	FDIC Certificate or Routing Number

(Add lines if necessary.)

_____
Signature of sole or primary Depositor

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Custodial Agreement

You, the undersigned, enter into this Custodial Agreement ("*Agreement*") with the following financial institution ("*we*" or "*us*"):

1. Pursuant to this Agreement, you authorize us to hold and act as your custodian with respect to all deposit accounts, including all time deposits, money market deposit accounts, and demand deposit accounts, issued or established pursuant to the IntraFi Network Deposits CD Deposit Placement Agreement, the IntraFi Network Deposits DDA-MMDA Deposit Placement Agreement, or a predecessor agreement ("*Deposit Accounts*") for funds of yours placed as deposits through the IntraFi℠ Network Deposits℠ CD Option ("*CD Option*"), formerly known as CDARS®, or the IntraFi Network Deposits DDA-MMDA Option ("*DDA-MMDA Option*"), formerly known as ICS®, and all your security entitlements and other related interests and assets with respect to the Deposit Accounts ("*Related Entitlements*"). The custodial account in which we will hold the Deposit Accounts and Related Entitlements ("*Custodial Account*") comprises all the CD Option and DDA-MMDA Option custodial accounts that we maintain for you.

2. As your custodian, we may (i) cause the Deposit Accounts to be titled in your name or in the name of our sub-custodian, (ii) collect for your account all interest and other payments of income or principal pertaining to the Deposit Accounts, (iii) endorse on your behalf any check or other instrument received for your account that requires endorsement, (iv) in accordance with your instructions, deposit your funds in, or withdraw your funds from, the Deposit Accounts, (v) in accordance with your instructions, deliver or transfer funds from another account with us to the Deposit Accounts or deliver or transfer funds from the Deposit Accounts to another account with us, (vi) for Deposit Accounts that are time deposits, surrender for payment for your account maturing CDs and those for which early withdrawal is requested, (vii) execute and deliver or file on your behalf all appropriate receipts and releases and other instruments, including whatever certificates may be required from custodians or may be necessary to obtain exemption from taxes and to name you when required for the purpose of the instrument, and (viii) take such other actions as are customary or necessary to effectuate the purposes of this Agreement.

3. For purposes of Article 8 of the Uniform Commercial Code in applicable state law ("*UCC*"), we will act as your securities intermediary for, and will treat as financial assets, all Deposit Accounts and Related Entitlements that we hold for you pursuant to this Agreement. The Custodial Account will be a securities account, as defined in the UCC.

4. We may comply with any writ of attachment, execution, garnishment, tax levy, restraining order, subpoena, warrant, or other legal process that we believe (correctly or otherwise) to be valid. We may notify you of such process by telephone, electronically, or in writing. If we are not fully reimbursed for records research, imaging, photocopying, and handling costs by the party that serves the process, we may charge such costs to your account, in addition to any minimum fee we charge for complying with legal processes.

5. We may honor any legal process that is served personally, by mail, or by electronic mail or facsimile transmission at any of our offices or the office of our agent (including locations other than where the funds, records, or property sought is held), even if the law requires personal delivery at the office where your account or records are maintained.

6. We will have no liability to you for any good-faith act or omission by us in connection with this Agreement. You agree to indemnify us and our sub-custodian, and to hold us and our sub-custodian harmless from, all expenses (including counsel fees), liabilities, and claims arising out of any good-faith act or omission by us in connection with this Agreement or compliance with any legal process relating to the Custodial Account that we believe (correctly or otherwise) to be valid. You agree to pay any service charges that we impose on the Custodial Account.

7. You may be an individual in an individual capacity, more than one individual in a joint capacity, or a trust, partnership, corporation, or other legal entity. We may accept instructions on your behalf from any individual who signs this Agreement as or on behalf of a Depositor and from any of the following individuals:

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Name	Title or Legal Capacity

(Add lines if necessary.)

The remainder of this page is intentionally left blank.

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By signing below, you ("*Depositor*") and we ("*Relationship Institution*") agree to be legally bound by this Custodial Agreement, effective when you and we have signed it. If the Custodial Account will be a joint account, each owner of the Custodial Account must sign this Agreement.

RELATIONSHIP INSTITUTION

Institution: _____

Signature: _____

Name and title of authorized signatory:

_____

_____

Date signed: _____

SOLE OR PRIMARY DEPOSITOR

Depositor: _____

Signature: _____

Name and title of authorized signatory (if not individual):

_____

_____

Depositor TIN or approved alternate identifier (and type):

_____

Email: _____

Date signed: _____

ADDITIONAL DEPOSITOR (FOR JOINT ACCOUNT)

Depositor: _____

Signature: _____

Depositor TIN or approved alternate identifier (and type):

_____

Email: _____

Date signed: _____

ADDITIONAL DEPOSITOR (FOR JOINT ACCOUNT)

Depositor: _____

Signature: _____

Depositor TIN or approved alternate identifier (and type):

_____

Email: _____

Date signed: _____

(Add signature lines as needed.)

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PlainsCapital Bank
The Private Bank

PUBLIC FUNDS SAFEKEEPING AGREEMENT

PlainsCapital Bank ("PlainsCapital"), is requested to open a safekeeping account ("Account") by, for and in the name of the entity named below ("Customer") and hold, as custodian, all cash, securities and other instruments, and any interest and income on same (collectively, "Assets") deposited or collected for such Account. Customer has selected Depository Bank at its sole and absolute discretion, without suggestion or instruction from PlainsCapital. Depository Bank has elected to so serve Customer at its sole and absolute discretion, without suggestion or instruction from PlainsCapital. Customer and Depository Bank each understand the services rendered for the Account by PlainsCapital will be safekeeping and accounting, and shall not include advice or services relating to investment, taxation or any other matter. The terms and conditions under which the Account shall be held and administered ("Agreement") are as follows:

CUSTOMER INFORMATION:

Customer Name:
Address:
Telephone Number: Fax Number:
Email Address:
Tax Identification Number:

DEPOSITORY BANK INFORMATION:

Depository Bank Name:
Address:
Telephone Number: Fax Number:
Email Address:
Tax Identification Number:

ACCOUNTING STATEMENTS: PlainsCapital will render written accountings of the Account and the Assets to Customer:

☐ Monthly ☐ Quarterly

ACCOUNT NUMBER AND TYPE:

Account Number:

Type of Account: Public funds held pursuant to the TEXAS PUBLIC FUNDS INVESTMENT ACT, Chapter 2256 of the TEXAS GOVERNMENT CODE.

OTHER TERMS AND CONDITIONS:

PlainsCapital, in its sole discretion, may accept directions from Customer in whatever form they may be transmitted, which it believes to be genuine. PlainsCapital shall not be liable for executing, failing to execute, or for any mistake in the execution of Customer's instructions, except in case of gross negligence or willful misconduct. Customer expressly acknowledges that electronic mail is not secure, and is vulnerable to and not protected from unauthorized and/or malicious monitoring, interception and use, and PlainsCapital makes no representation that electronic mail is secure, and expressly disclaims any liability for any unauthorized monitoring, interception and use of Customer's electronic mail.

PlainsCapital will charge for its services based on its current published fee schedule in use at the regular fee payment dates in accordance with PlainsCapital practices and policies. Customer understands that postage and other out-of-pocket expenses will be

charged in addition to PlainsCapital's fees.

PlainsCapital shall not be in any way liable for, any loss or expense (including reasonable attorney's fees) arising from claims against PlainsCapital in connection with this Agreement, including claims for taxes and other government charges, and any claims asserted by reason of any act or failure to act, except for such act or failure to act that constitutes gross negligence or willful misconduct by PlainsCapital. PlainsCapital may also retain legal counsel whenever in PlainsCapital's reasonable judgment it is necessary or advisable to do so in connection with the proper discharge of PlainsCapital's duties hereunder, and the reasonable fees and expenses of such counsel will be paid by the Customer, or in the absence of payment by the Customer, shall be charged against the Account.

This Agreement shall remain in force until terminated, and either the Customer or PlainsCapital may terminate this Agreement upon thirty days written notice to the other. This Agreement may be amended at any time by a written agreement of Customer, Depository Bank and PlainsCapital that refers to this Agreement.

ARBITRATION In consideration for PlainsCapital accepting this Account, the Customer agrees that all claims and disputes of every type and matter which may arise between the Customer and PlainsCapital will be submitted to binding arbitration pursuant to the rules of the American Arbitration Association; that such arbitration proceedings shall take place in the county in which the PlainsCapital office in which the Account is administered is located; and that to the extent not preempted by federal law, Texas law will apply. The Customer expressly waives any right the Customer may have to institute or conduct litigation or arbitration in any other forum or location, or before any other body. Arbitration is final and binding on the parties. This Agreement shall be construed and interpreted according to the laws of the State of Texas. All contributions and payments from the Account shall be deemed to take place in the State of Texas. This provision will survive the closing of the Account. Customer stipulates and agrees that the terms and provisions of the foregoing ARBITRATION paragraph are conspicuous within the meaning and contemplation of Texas law, and that they will survive the termination of this Agreement.

Any notice or other communication required to be given under this Agreement shall be in writing and addressed as follows:

If to PlainsCapital: PlainsCapital Bank
Wealth Management & Trust
Attn:

If to Customer:
Attn:

If to Depository Bank:
Attn:

Any such notice or other communication shall be deemed to have been received by a party if sent via the United States Postal Service by registered or certified mail, return receipt requested, on the date specified on the return receipt or, if personally delivered, upon the date of such delivery. Personal delivery may include courier or overnight delivery service. The person to whom copies of notices are to be sent shall have the right at any time, and from time to time, to change its address for notice or person to receive notice by giving notice in the manner specified in this paragraph. No required notice hereunder shall be made by fax or email.

PlainsCapital is instructed to release the Assets to the Customer if the Customer has determined that the Depository Bank has failed to

pay on any accounts, or is in default of this Agreement, or the Customer has determined that the Assets are in jeopardy for whatever reason, including involuntary closure or change of ownership, and if the instructions for release have been formally requested by the Customer's governing body by ordinance or resolution delivered to PlainsCapital.

Accepted by **Customer** this day of , 20 .

Customer Name:

_____

Authorized Signature Printed Name

Title

Accepted by **Depository Bank** this day of , 20 .

Depository Bank Name:

_____

Authorized Signature Printed Name

Title

Accepted by **PlainsCapital Bank** this day of , 20 .

By: _____

Its:

W-9 Certification

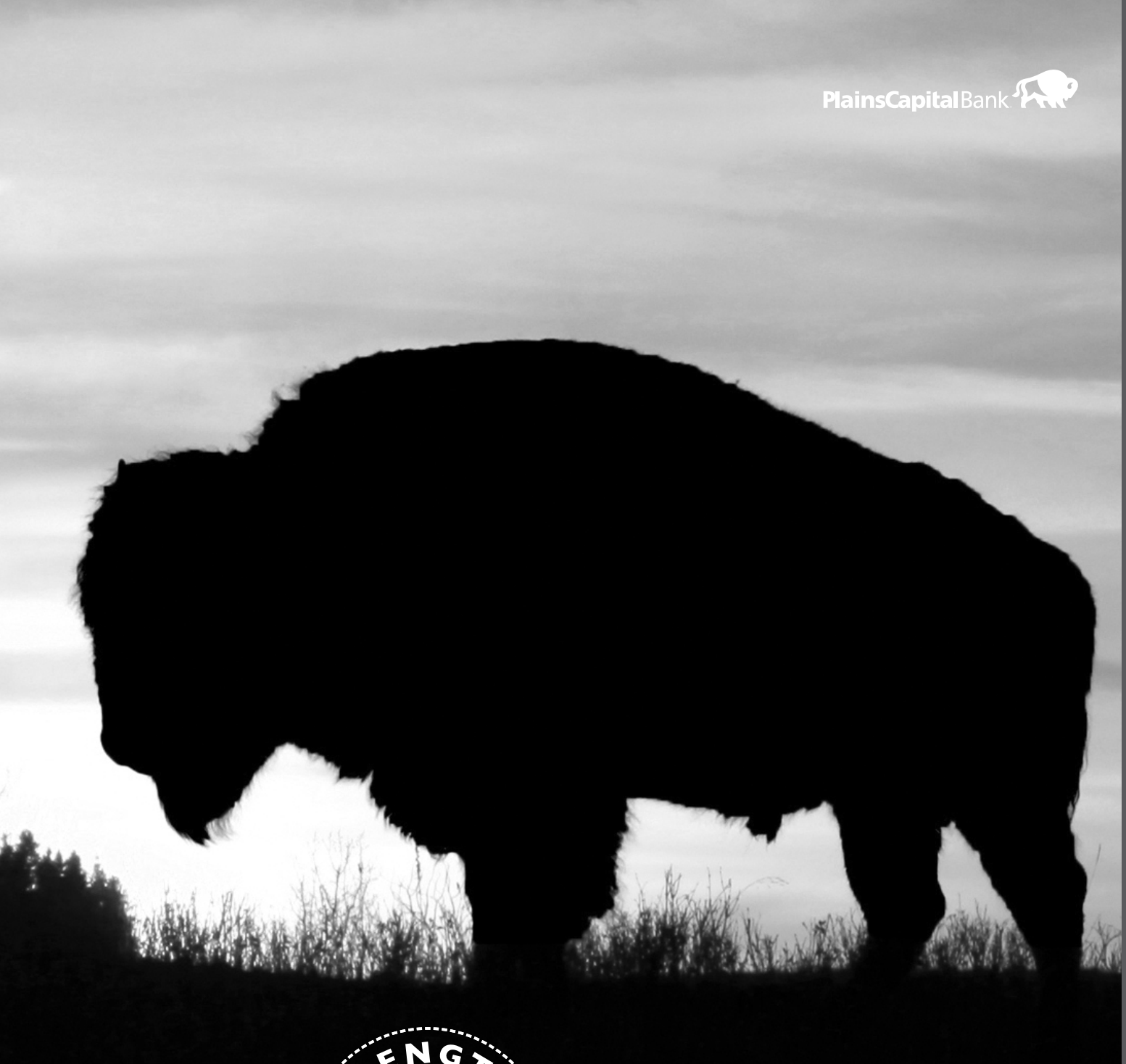
Under penalties of perjury, the undersigned Customer certifies: Customer's tax identification number is _____, and the Account subject to this Agreement is not subject to backup withholding under the provisions of Section 3406(a)(1)(c) of the Internal Revenue Code.

By: _____ Date: _____

Title

PlainsCapital Bank

TREASURY MANAGEMENT



TERMS AND CONDITONS

EFFECTIVE AS OF APRIL 1, 2025

You ("Customer", "you" or "your"), request that PlainsCapital Bank, a Texas state banking association (together with its successors and assigns, ("Bank", "we", "us", or "our") provide treasury management services (each a "Service") in connection with your PlainsCapital Bank Commercial Deposit Account(s) or Consumer Deposit Account(s), where applicable (individually and collectively, the "account(s)"). You acknowledge receipt of our PlainsCapital Bank Commercial Deposit Account Agreement and Services Disclosure and/or our PlainsCapital Bank Consumer Deposit Account Agreement and Services Disclosure where applicable (the PlainsCapital Bank Commercial Deposit Account Agreement and the PlainsCapital Bank Consumer Deposit Account Agreement are referred to herein collectively as the "Deposit Agreement"). For each Service, this Agreement, the applicable Service(s) Description, together with any user documentation and Service Application for that Service (collectively, the "Service Documentation") provided or made available to you separately, together with our Deposit Agreement, as each may be modified or amended from time to time, contain the terms and conditions governing our provision of that Service to you, and any of your subsidiaries or affiliates on whose behalf you are acting, regardless whether the Service is performed online or via traditional methods of financial commerce. By execution of your application for Services, you and such subsidiaries and affiliates agree to be bound by such terms and conditions. Except as otherwise expressly provided in this Agreement, in the event of an inconsistency between the terms of this Agreement, as it relates to any Service, and the terms of an applicable Deposit Agreement, the terms of this Agreement shall control, but only to the extent of the inconsistency; and in the event of an inconsistency between the Services Description(s) and the terms of this Agreement, the Service(s) Description shall control, but only to the extent of the inconsistency; and in the event of an inconsistency between the Applicable Terms of All Treasury Management Services of this Agreement and any applicable Service specific provisions of this Agreement, the terms of the Service specific provisions shall control, but only to the extent of the inconsistency. The terms "Customer", "you" or "your" as used in the Service Documentation mean you and any such subsidiary or affiliate on whose behalf you are acting. Additional copies of this Agreement are made available to you, and you may obtain additional copies of this Agreement (the most current version) at plainscapital.com/treasuryterms.

A. Applicable Terms of All Treasury Management Services

1. Representations and Warranties; Beneficial Owners

Customer represents and warrants to Bank, as of the date this Agreement is entered into and at the time any Service is used or performed, that: (a) Customer is validly existing and in good standing under the laws of the jurisdiction of its organization; (b) it has all requisite power and authority to execute and deliver, and to perform its obligations under, this Agreement and each Service used or performed by it, including by taking any and all action necessary under its governing documents (if any); (c) this Agreement has been duly authorized and executed by it and constitutes its legal, valid and binding obligation and is full enforceable against Customer in accordance with the terms of this Agreement; (d) all information furnished by Customer to Bank in relation to this Agreement or use of any Service is accurate in all material respects, and does not contain any material misstatement or omission of fact; (e) Customer has not relied upon or been induced to enter into this Agreement by any representations or statements, whether oral or in writing, that have not been expressly incorporated into this Agreement; and (f) any consent, authorization or other act of any governmental authority, regulatory body or third party required to be obtained by it in connection with this Agreement or any Service used or performed by it has been obtained.

Customer understands and agrees that for certain types of legal entities, on and at any point after the commencement of our Service relationship with Customer, Bank may require Customer to identify, verify and certify each individual who, directly or indirectly, holds an ownership interest of twenty five percent (25%) or more in the entity, and an individual who has significant responsibility to control, manage, or direct the entity ("Beneficial Owners" as defined in the Code of Federal Regulations). If Customer is obligated to identify and/or certify Beneficial Owners at the time of Customer's Service Application, Customer shall be responsible for notifying Bank of any subsequent change in identified and/or certified Beneficial Owners as soon as practicable in a form and manner acceptable to us.

2. Change in Terms / Amendments to Service Documentation

Bank reserves the right to supplement, amend or change (collectively, "change") these Terms and Conditions at any time as well as the terms, conditions, fees and charges contained in the Service Documentation for any Service. Unless otherwise required by law, we may apply any such changes after sending you thirty (30) days' prior notice of such change in writing to your most recent primary address contained in our records for your account(s) in our current system records or electronically via email to your email address contained in our current system records, or by printing a message on, or enclosing a message with, your bank account statement or account analysis statement, or by making the changes available on www.plainscapital.com (or any subsequent official Bank website) or in a branch location for your account. Provided, unless otherwise required by applicable law, we may change these Terms and Conditions and the terms, conditions, fees and charges contained in the Service Documentation for any Service without prior notice to Customer: (i) for security reasons including, without limitation, consistent with any security procedure in effect for any Service; (ii) due to actions or changes by any service provider with respect to a Service without providing us with sufficient prior notice to reasonably enable us to timely notify Customer; (iii) as otherwise expressly provided in this Agreement; or (iv) as we deem necessary, in our sole judgment, to comply with applicable law; provided further, no change or amendment will apply to a dispute between Customer and Bank of which Bank received actual notice prior to the date when Bank sends the aforementioned prior notice of such change. If you do not wish to be bound by any such change, you may discontinue using the affected Service before the change becomes effective. If you continue to use a Service after the change becomes effective, you will be bound by the change. You agree to waive any claim or defenses that you failed to receive any such notice relating to a Service and are presumed to have received such notice.

3. Authorized Signers and Users

Customer shall appoint certain authorized signer(s) on the PlainsCapital Bank Commercial Signature Card or in such other format or medium as described in this Agreement or as may be agreed by Bank (each person so appointed, being an "Authorized Signer" and collectively "Authorized Signers"). Customer agrees that Authorized Signers shall be authorized to act on behalf of Customer in all actions taken under the Service Documentation including entering into and conducting all transactions contemplated therein and herein, and including, without limitation, selecting Services for the benefit of Customer, appointing agents to act on behalf of Customer in the delivery of Services and signing additional documentation that may be necessary to implement Services. The Authorized Signer(s) may appoint agents to use the Services provided for the benefit of Customer ("Authorized Users"), who may be Authorized Signers. Authorized Users may act on behalf of Customer for a particular Service in accordance with the relevant Service Documentation or other document(s) establishing the Authorized Users' responsibilities. Customer may revoke the authority of or change the Authorized Signers or Authorized Users at any time upon prior written notice and execution of additional documentation as may be required by Bank. Such change or revocation shall not be binding upon Bank until it has received the required written notice and has had a reasonable opportunity to act thereon. In any event, Bank may act on instructions that it believes in good faith were provided by an Authorized Signer or Authorized User, or anyone purporting to be an Authorized Signer or Authorized User.

4. Inspection of Documents, Forms, and Instruments

Bank reserves the right to approve the form of Customer's checks, drafts, deposit slips and similar documentation. Approval of such documentation does not constitute Bank's agreement to be bound by any terms set forth on such documentation (such as required minimum number of signatures or the validity of an item after a period of time). All such terms must be expressly agreed to in writing by Bank. Prior to initiating a new account or Service, or at any other necessary time, Customer agrees to provide all information and conduct any test that Bank may reasonably request, including, without limitation, Service Documentation, signature cards, test tapes, transmissions, corporate resolutions and other documents. Bank may also request samples of Customer's checks, drafts, deposit slips and similar items to ensure, in Bank's

sole discretion, whether such items meet Bank's quality control and processing standards. In the event that Bank determines that any item or test does not meet its specifications, Bank will so advise Customer. Customer acknowledges that Services will not commence or continue until such time as an approved item or test is provided to Bank and determined by Bank to be satisfactory. Customer shall be responsible for initial product installation, whether or not Bank provides telephone or on-site installation support.

5. Business Days
Unless otherwise expressly provided in the Service Documentation, a "Business Day" shall mean every Monday through Friday on which Bank is open for banking business. Saturdays, Sundays, and all Federal holidays are excluded.

6. Security Procedures
Bank and Customer will agree in writing to one or more commercially reasonable security procedures that, where required in writing for a Service, must be used by Bank and Customer in connection with the Service(s). As used in this Agreement, a "security procedure" means any procedure established by a written agreement between Customer and Bank for the purpose of (a) verifying a payment order, transaction or service change order, purporting to have been received from Customer, or communication purporting to amend or cancel an existing payment order, transaction or service change order of the Customer, or (b) detecting error in the transmission or content of such payment order, transaction, service change order or communication. Bank's security procedures are described in this Agreement and in documentation related to the particular Service, including without limitation security procedures described in any Service(s) Descriptions, and may include authentication procedures described in Bank's documentation related to the particular Service(s) or the Deposit Agreement applicable to Customer's account, including, without limitation, algorithms or other codes, identifying words or numbers, encryption, callback procedures, or similar security devices. **Customer agrees to be bound by any payment order, transaction or service change order that is acted upon by Bank in accordance with such security procedure, or in accordance with any security procedure chosen by Customer after Bank offered and Customer refused a commercially reasonable security procedure, including, without limitation, any authentication procedure. Customer understands and agrees that any security procedure chosen by Customer after Bank offered and Customer refused a commercially reasonable security procedure will be deemed to be commercially reasonable, and that Customer will be bound by any payment order, transaction or service change order, whether or not authorized, that is issued in Customer's name and accepted by Bank in compliance with any security procedure chosen by Customer.** Bank reserves the right to issue new security procedures and/or to cancel or change any security procedures from time to time.

7. Access
Customer shall be solely responsible for the access of Authorized Users to Services. Access to Services will be controlled through the use of Customer IDs, user or login IDs, passwords, private keys or other security devices ("Security Credentials") including, without limitation, as described in the Deposit Agreement applicable to Customer's account. Customer understands and acknowledges that Customer is solely responsible for safeguarding and maintaining its own internal security and control over its access to Services including, without limitation, all Security Credentials utilized by Customer, as well as Customer's banking information, items and devices. Customer agrees to use the utmost care in giving any Authorized User access to use one or more of the Services. Customer shall not share, furnish or disclose any account or other banking information regarding the Services that an unauthorized user would find helpful to obtain access to all or part of any Service. Customer understands that if Customer shares, furnishes or discloses Customer's Security Credentials or other banking information, items or devices to a third party, Customer may be liable for transactions conducted by such third party, regardless of whether the actions taken by such third party exceed the authority given.

Customer understands the importance of and agrees to take reasonable steps to ensure the integrity of Customer's internal procedures to avoid unauthorized access to Services. Customer agrees to inform its Authorized Signers and Authorized Users to use caution in responding to email and other electronic requests for wire transfers, ACH transfers and other payments from Customer's account, including to ensure verification of the identity of the sender prior to conducting any requested transaction through a Service. Customer further agrees to use the utmost care in accessing any Service through the Internet, including verification of the authenticity of a website, link or portal prior to seeking to access a Service.

8. Internet Scams
Customer is aware of and agrees to inform its Authorized Signers and Authorized Users of the existence of Internet-based malvertisement and similar phishing fraud schemes, through which a third-party website, link, or email purporting to be that of or affiliated with the Bank, may seek disclosure of Customer's Security Credentials or other banking information, to perpetrate identity theft, account fraud, or otherwise to gain access to Customer's account including to access a Service, and also may involve hacking of email accounts to send fraudulent requests for the transfer of funds via ACH, wire transfer or other payments. Bank strongly encourages Customer to always independently verify the authenticity of any website, link or portal, including by review of the URL (Uniform Resource Locator) of a website, prior to seeking to access a Service, and to avoid disclosure of Customer's Security Credentials and banking information to fraudsters posing as Bank personnel.

Customer understands and acknowledges that Bank is not responsible for the security of Customer's Internet, email, chat, instant messaging or Customer's other electronic communication systems ("communication systems"). If Customer experiences a breach of any of its communication systems, whether physical or electronic, or a data breach at any third-party entity resulting in disclosure of Customer's personal information or data, or unauthorized access to one or more of your communication systems, that results in the issuance or alteration of transaction instructions to Bank (whether from you or a third-party "hacker" or other unauthorized person), to the fullest extent permissible under applicable law Customer will assume all risk of loss on any such transaction, and agrees that Bank shall have no liability or responsibility for any resulting loss that Customer sustains.

9. Duty to Notify of Internal Security Compromise
Customer acknowledges and agrees that, if Customer has reason to believe that its internal security and/or control over information for access to Services including, without limitation, Security Credentials utilized by Customer, other access devices or account information, has been compromised. has become known to an unauthorized person (whether or not employed by Customer), or has been used without Customer's authorization, Customer shall notify Bank AT ONCE by telephone at Bank's Customer Service number, and shall confirm such notification in writing within one (1) business day.

10. Indemnification and Liability; Third Party Claims
a**. Indemnification; Third Party Claims**. To the fullest extent permissible under applicable law, except for those losses caused directly by Bank's gross negligence or willful misconduct, Customer agrees to indemnify, defend and hold Bank, its officers, directors, shareholders, agents, employees, subsidiaries and affiliates, and their respective officers, directors, agents and employees, harmless from and against any and all losses, costs, suits, damages, claims, liabilities and expenses (including reasonable attorneys' fees) arising from or related in any way to (a) any Services performed in connection with this Agreement, (b) Bank's action or inaction in accordance with or reliance upon any instructions or information received from any person reasonably believed by Bank to be an authorized representative of Customer, (c) Customer's breach of any of Customer's covenants, agreements, responsibilities, representations or warranties under this Agreement, and/or (d) Customer's breach of applicable NACHA Operating Rules and Guidelines ("NACHA Rules") or the security procedures. In addition to other indemnification and liability provisions elsewhere in this Agreement or the Deposit Agreement applicable to Customer's account, Customer will be liable for, and will hold harmless and indemnify Bank, its officers, directors, shareholders, agents, employees, subsidiaries and affiliates, and their respective officers, directors, agents and employees from and against all claims of any sort by third parties or others arising out of this Agreement, including all losses and expenses incurred by Bank arising out of Customer's failure to report required changes,

transmission of incorrect data to Bank, unauthorized disclosure of the Security Credentials, or failure to maintain compliance with the security procedures and/or the NACHA Rules.

b. Limitation of Liability; Statute of Limitations. TO THE FULLEST EXTENT PERMITTED BY LAW, WHETHER IN CONNECTION WITH YOUR ACCOUNT(S) OR A SERVICE, IN NO EVENT OR CIRCUMSTANCE WILL EITHER PARTY TO THIS AGREEMENT OR ITS RESPECTIVE DIRECTORS, OFFICERS, SHAREHOLDERS, EMPLOYEES, OR AGENTS BE RESPONSIBLE OR LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY OR PUNITIVE DAMAGES FOR ANY ACTION THAT EITHER PARTY TAKES OR FAILS TO TAKE, WHETHER ANY SUCH CLAIM IS BASED ON CONTRACT OR TORT OR OTHER DUTY IMPOSED AT LAW, OR WHETHER THE LIKELIHOOD OF SUCH DAMAGES WAS KNOWN TO EITHER PARTY. The foregoing limitation of liability will not apply where expressly prohibited by the laws governing your account, and is not intended to and will not avoid or limit your liability or responsibility for payment of attorney's fees, court costs or other costs or expenses for which you are liable or responsible under other provisions of this Agreement. Except as otherwise prohibited by applicable law, Customer understands and agrees that if Bank offers Customer products or Services appropriate for Customer's account to help or assist Customer in identifying or otherwise limiting fraudulent or other unauthorized access to Customer's account, such as Positive Pay or commercially reasonable security procedures, and Customer declines or otherwise does not obtain such products or Services, Customer will be responsible for fraudulent or unauthorized transactions which could have been prevented by the offered products or Services.

Additionally, to the fullest extent permitted by law and unless a different time period is stated in this Agreement, any action, claim, suit or proceeding for damages against Bank, or any action, claim, suit or proceeding for injunctive or similar relief against Bank, resulting in any respect from Bank's acts or omissions in its performance under or non-performance with this Agreement, must be brought within two (2) years of the date of Bank's alleged act or omission.

11. Confidentiality

Customer and Bank represent, warrant and mutually agree that all security procedures or any security codes, keys, personal identification numbers, digital certificates/signatures or template numbers ("Codes"), will be maintained in strictest confidence and shall not be used or divulged to any other party except as may be necessary or advisable for the due performance of any of the Services, or as required by applicable law or ordered by a court or arbitrator(s) of competent jurisdiction, other than as follows: (i) to Customer's or Bank's accountants or persons with a need to know for purposes of preparing financial statements and/or tax returns; (ii) in response to the requirements of any regulated lending institution, (iii) to the Internal Revenue Service or other taxing authority, or (iv) to any governmental or bank regulator or regulatory agency. Bank shall maintain physical, electronic, and procedural safeguards to keep Customer's confidential information secure, except as may be otherwise required by law or regulation, as determined by Bank in its sole discretion. Customer is solely responsible for the procedures to assure the internal confidentiality of its own security procedures, security devices and Codes and assumes all risk of accidental disclosure or inadvertent use of any security device by any party whatsoever, whether such disclosure or use is on account of Customer's negligent or deliberate acts or otherwise. If Customer or its agents have reason to believe that any security procedures or Codes have or may become known by unauthorized persons (whether or not employed by Customer), Customer shall notify Bank AT ONCE by telephone and confirm such verbal notification in writing to Bank within twenty-four (24) hours. Bank will replace the security procedures and Codes in accordance with Bank's security procedures. Bank reserves the right to change any or all of the security procedures or codes by giving verbal or written notice to the Customer. Customer's obligation to maintain the confidentiality of all security procedures shall survive the termination of any Service or this Agreement.

12. Instructions; Electronic Records and Signatures

Customer consents and agrees to the use of electronic signatures and records with respect to the use of any Service. Except as otherwise expressly provided in this Agreement, Customer agrees that Bank may act and/or rely on any oral or written instruction or communication that Bank believes in good faith to be genuine and to have been initiated by or come from an Authorized Signer, an Authorized User or a Collection Authorized User of the Customer including, without limitation, instruction or communication by telephone, facsimile transmission, e-mail or other electronic method. Any such instruction or communication will be deemed to have been authorized by Customer without independent verification by Bank. Customer agrees that Bank's records of any such communication or instruction shall be conclusive evidence of the actual communication or instruction by Customer to Bank.

13. Unsecured Electronic Transmissions and Instructions

Notwithstanding the forgoing Section 12, Customer acknowledges that the use of facsimile transmission, voice mail, unencrypted e-mail, pager or other unsecured electronic or telephonic methods ("Electronic Transmissions") are inherently unsecure communication methods including, without limitation, due to the possibility of error, delay, and observation, corruption, modification, hacking or receipt by unauthorized personnel. Bank may rely in good faith on Customer's instructions regarding how and to what number or e-mail address Electronic Transmissions should be sent and may rely on any Electronic Transmission that it believes in good faith to have been initiated by an Authorized Signer or Authorized User of Customer. CUSTOMER ACKNOWLEDGES AND AGREES THAT CUSTOMER'S SENDING OF INSTRUCTIONS AND REQUESTS TO BANK VIA UNSECURED ELECTRONIC TRANSMISSIONS IS IN VIOLATION OF BANK AND NATIONAL AUTOMATED CLEARINGHOUSE ASSOCIATION POLICY AND PROCEDURES. CUSTOMER UNDERSTANDS AND AGREES THAT BANK SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE INCURRED BY CUSTOMER IN RELATION TO AN UNAUTHORIZED PERSON GAINING ACCESS TO ANY SUCH UNSECURED ELECTRONIC TRANSMISSIONS. CUSTOMER ALSO ASSUMES ALL RISKS, AND BANK SHALL NOT BE LIABLE FOR ANY LOSS THAT RESULTS FROM THE NON-RECEIPT, DISCLOSURE, ALTERATION, CORRUPTION OR MODIFICATION OF ANY SUCH UNSECURED ELECTRONIC TRANSMISSION. IF CUSTOMER ELECTS TO SEND UNSECURED ELECTRONIC TRANSMISSIONS, CUSTOMER AGREES TO INDEMNIFY AND HOLD BANK HARMLESS FROM ANY LOSS, COSTS OR EXPENSES, INCLUDING WITHOUT LIMITATION REASONABLE ATTORNEY'S FEES, ARISING FROM OR RELATING TO BANK'S ACTION IN RESPONDING TO ANY E-MAIL OR OTHER UNSECURED ELECTRONIC TRANSMISSION THAT BANK BELIEVES IN GOOD FAITH TO HAVE BEEN INITIATED BY AN AUTHORIZED SIGNER OR AUTHORIZED USER OF CUSTOMER.

Customer also understands and agrees, to the fullest extent permissible under applicable law and to the extent Bank has not agreed otherwise in writing, that Bank is not required to act upon any instruction Customer provides via telephone or other Electronic Transmission, even if Bank may have acted on instructions received by such means in the past. Our acceptance of any instruction by any such method of communication does not establish a course of conduct or dealing and shall not obligate Bank to accept any such instruction in the future. Customer understands that Bank is not responsible for the security of Customer's Internet, email, chat, instant messaging or Customer's other electronic communication systems. If Customer experiences a breach of any of Customer's communication systems, whether physical or electronic, or a data breach at any third-party entity resulting in disclosure of Customer's banking information or data, or unauthorized access to one or more of Customer's communication systems, that results in the issuance or alteration of transaction instructions to us (whether from Customer or a third-party "hacker" or other unauthorized person), Customer will assume all risk of loss on any such transaction, and agrees that Bank shall have no liability or responsibility for any resulting loss that Customer sustains.

14. Recording and Monitoring Telephone Calls

Customer acknowledges, agrees and consents on behalf of itself, and its Authorized Signers or Authorized Users, that Bank may monitor and record any telephone and electronic communications with Customer (such as but not

limited to video calls, electronic chats, and online sessions), for the purpose of quality assurance, training, our mutual protection and payment instruction confirmation, at any time without further notice to the parties to such conversations. Customer consents to the recording or monitoring of telephone calls and electronic communications between Customer and Bank. Bank will remind Customer of this practice before each call or other such communication only as required by applicable law. The decision to record any communication shall be solely in Bank's discretion, and Bank shall have no liability for failing to do so. Additionally, to the extent permitted by applicable law, Bank may create and use a digital biometric recording and representation of Customer's representatives' voice or other biometrics such as how Customer's representatives hold the phone or walk with a phone, for authentication of Customer's account, in an effort to reduce fraud on Customer's account. If Customer authorizes a person, such as an attorney, to do business with Bank on Customer's behalf, Customer will be responsible for obtaining such person's permission to allow Bank to record the person's communications with Bank, and Bank may assume such person has given permission by virtue of the person's conducting business on Customer's behalf.

Consent to Autodialed and Prerecorded Phone Calls and Text Messages, Consent to Fraud Alert Text Messages and Email Communications, Consent to Geo-Location Based Fraud Prevention and Consent to Voice Biometrics, other Biometrics and Video Recordings of all interactions with our website or other video recordings of any kind.

Customer understands and agrees, to the fullest extent permissible under applicable law, that Customer is providing Customer's express consent for the Bank and any of our third-party service providers to call Customer, to send text messages to Customer, or both at any phone number (including any mobile phone number) Customer provides to Bank or any of Bank's third-party service providers using auto-dialed phone calls or otherwise phone calls placed through an automatic telephone dialing system, prerecorded phone calls, or both for any or all of the following reasons: (i) transactional purposes; (ii) informational purposes; (iii) to provide account alerts; (iv) to provide servicing information; (v) fraud prevention purposes; and (vi) any other purpose provided for in this Agreement or in any other applicable Bank agreements, including, but not limited to, the PlainsCapital Bank Privacy Notice. If Customer changes any phone number Customer has provided to Bank or any of Bank's third-party service providers for any reason, Customer agrees to immediately notify Bank to ensure that the above communications are not interrupted or inadvertently delivered to another recipient who may be reassigned to Customer's prior phone number. Customer may notify Bank of a change to Customer's phone number by calling PlainsCapital Bank Customer Service at (866) 762-8392.

Bank is committed to providing you with fraud protection services and tools. The capability and availability of these services and tools are constantly evolving with developments in and access to new technology. Bank may in the future utilize or offer certain geo-location fraud prevention services. By entering into this Agreement, Customer understands, agrees, and expressly consents to our use of Customer's unique mobile device ID and IP address for Customer's laptop(s) or desktop computer(s), Customer's device's location services, and any security tokens or cookies that we may place on such mobile or other devices, in order to monitor transaction location and activity for our fraud prevention purposes.

15. Computer Equipment and Software

Many Services require the use of computer hardware, software and web browser or other equipment. Customer is solely responsible for maintaining its computer, device and equipment in good working order, with the necessary compatibility, format and Internet Service Provider ("ISP") account or services to interface with Bank's systems, including, without limitation, the ability to support Bank's security procedures. Customer agrees to install and run upgrades and other system enhancements within a reasonable time of being requested to do so by Bank, and to install, run and regularly update a virus protection program and operating system patches on Customer's computer, device or other equipment. License Agreements for necessary software shall either be embedded in the software or separately documented. Customer agrees to comply with all applicable software license agreements (following Customer's review of the same) whether or not such agreements have been executed by Customer. Customer has no rights or ownership in any software provided by or through Bank (other than software developed solely for the Customer) and shall not transfer, copy, alter, modify, reverse engineer, reproduce, or convey in any manner, in whole or in part, any such software. Customer shall return all software and user manuals associated with any software upon request. Customer may also incur additional related expenses for additional items, including, but not limited to, telephone service or Internet service charges related to the use of the Services. Customer is also responsible for the costs of any communication lines and any data processing charges payable to third parties. Customer agrees that it is solely responsible for the operation and maintenance of all equipment used in connection with Services and will ensure that the vendor recommended maintenance is conducted by trained personnel, whether they are employees of the Customer or third party employees. Customers shall only use hardware approved by Bank, or purchase or lease the hardware, including but not limited to image scanners and personal computers. Bank makes no representations or warranties concerning, and has no responsibility or liability for, such equipment, software or services even if specified by Bank, or for any computer virus, malware, computer or other device inoperability or failure, or similar problems experienced through Customer's use of the Internet or System.

16. Transactions on Non-Business Days/Deadlines

Transactions, deposits, payment orders, entries or other requests by Customer received by Bank on a non-Business Day may be treated by Bank as received on the next Business Day. Requests received after established cutoff times on the Business Day of receipt as specified in applicable Services ("Deadline(s)") may also be treated as received on the next Business Day. Bank may make adverse changes to any Deadline only after it provides written notice to Customer as provided herein.

17. Customer-initiated Transactions and Instructions

Bank will honor Customer's transactions and instructions (including adjustments, amendments and cancellations) only when Customer has complied with this Agreement and related Service Documentation. Bank will be under no obligation to honor, either in whole or in part, any transaction or instruction that: (a) exceeds Customer's collected or available funds on deposit with Bank; (b) Bank has reason to believe may not be authorized by Customer; (c) involves funds subject to a hold, dispute or legal process preventing their withdrawal; (d) violates any provision of any applicable regulation of the Federal Reserve Bank, NACHA Rules, or any other federal, state or local regulatory authority; or (e) Bank has reasonable cause not to honor, for the protection of either Bank or Customer.

18. Request for Services, Training and Activation

Bank may accept a request for Services through various channels depending on the nature of the Services contemplated. Prior to Service activation, Bank reserves the right to conduct training with the Customer to ensure proper understanding of the Service, features, and associated responsibilities. Upon successful activation of Services, Bank may provide a service confirmation outlining Service specifications, effective date, and any other relevant information. Customer is advised to promptly review any confirmation and notify Bank of any discrepancies or concerns. Service activation is required to obligate Bank to the provision of Services. A request for Services, whether provided in writing or orally, shall not constitute a provision of Services.

19. Inconsistent Name and Account Number

Customer understands and agrees that Customer must ensure the accuracy of Customer's instructions to Bank. If Customer, an Authorized Signer or Authorized User initiates a fund transfer instruction or payment order ("Payment Order") to Bank or originates an Entry as that term is defined in this Agreement and the NACHA Rules, that describes the person to receive the proceeds of such Entry or such Payment Order (the "Beneficiary"), the Beneficiary's bank, or an intermediary bank inconsistently by name and an account or other identifying number, Bank and subsequent parties to the Entry or Payment Order may rely on and act solely on the basis of such number, even though the name and number do not agree and even though Bank and subsequent parties know or have reason to know of the inconsistency. Customer is responsible for any loss associated with such

inconsistency, and Customer's obligation to pay the amount of the Payment Order or Entry to Bank is not excused in such circumstances.

20. Intercompany Services/Authority to Transfer or Commingle Funds
Customer hereby represents and warrants to Bank that any and all transfers and commingling of funds required or permitted by any Service or requested by the Customer, and all other aspects of the performance hereby by Bank and Customer, have been duly authorized by all necessary parties, including, without limitation, the account holder of each account, and that Customer has obtained and shall maintain in its regular business records and make available to Bank upon reasonable demand, adequate documentary evidence of such authorization from the account holder of each account, executed by the duly authorized officers, representatives, or agents of each such account holder in accordance with that account holder's organizational documents and/or resolutions. Customer further represents and warrants that each transfer or commingling of funds authorized hereunder is presumed not to be in violation of any agreement, organizational document or resolution of Customer or any of its affiliates or subsidiaries, nor is it in violation of any applicable federal, state, local law, regulation, of any decree, judgment, order of any judicial or administrative authority. Each representation and warranty contained herein shall be continuing and shall be deemed to be repeated upon Bank's affecting each transfer and commingling of funds authorized hereunder.

21. Customer Records
This Agreement and the performance of Services by Bank shall not relieve Customer of any obligation imposed by law. Customer shall retain and provide to Bank, upon request, all information necessary to remake or reconstruct any deposit, transmission, file or entry for thirty (30) days following receipt by Bank of the deposit, file, entry, transmission or other order affecting an account unless otherwise required by Service.

22. Account Communications and Review Period
Customer agrees to regularly and promptly review and verify all statements, reports, check payment records, wire transfer instructions, confirmations, adjustments, charges, and other transactions ("Account Communications"). Customer may elect to receive Account Communications electronically, including without limitation, delivery by posting to a password protected website. Customer acknowledges that, when so elected, Account Communications provided by Bank through electronic delivery shall be deemed to constitute effective delivery when posted by Bank, and Customer's receipt of such Account Communications shall be presumed, regardless of whether Customer actually or timely accesses the Account Information.

23. Termination
Customer or Bank may terminate Service(s) at any time, with or without cause, provided that Customer shall deliver to the Bank written notice to terminate Service(s) at least thirty (30) Business Days prior to the termination date. Bank reserves the right to terminate Service(s) immediately upon providing written notice of such termination to Customer. Any termination of Service(s) shall not affect any of Bank's rights and Customer's obligations with respect to the Service(s) including Entries initiated by Customer prior to such termination, or the payment obligations of Customer with respect to services performed by Bank prior to termination, or any other obligations that survive termination of this Agreement.

24. Dispute Resolution
a. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, excluding its conflicts of laws rules.

b. Adverse Claims. If Bank receives, becomes subject to, or has reasonable grounds to anticipate an adverse claim, or conflicting claim, against any account, and Bank, in its sole discretion, believes that it or Customer will not be protected if the claim is ignored, or if Bank has reason to believe there is a dispute over signatory authority or authorization on an account, or a dispute between Authorized Signers or Authorized Users to an account, including, without limitation, as to ownership or control of an account, then, irrespective of whether a person making a claim or demand is an Authorized Signer, Authorized User, co-owner or third party claiming an interest in an account or funds on deposit, Customer agrees that Bank may "freeze" or place a hold on the affected account. Any such hold will remain in place only so long as Bank considers it necessary, in Bank's sole discretion, to resolve the claim or employ legal remedies to allow a court to decide such claim. Bank shall have no liability for dishonored transactions due to any hold placed on an account in accordance with this Section, and Customer agrees to reimburse Bank all costs, including attorneys' fees, incurred due to such adverse claim. This Section is in addition to, and is not intended to and shall not in any way limit the scope of, or Bank's rights and remedies under, the Disputed Authority; Conflicting Claims section or the Freezing Your Account section of the Deposit Agreement.

c. Arbitration and Waiver of Jury Trial. Customer and Bank agree that the transactions processed under this Agreement involve "commerce" under the Federal Arbitration Act ("FAA").

PLEASE REVIEW THIS PROVISION CAREFULLY. IF CUSTOMER HAS A DISPUTE WITH BANK, BANK PREFERS AND HOPES THAT THE DISPUTE MAY BE RESOLVED BY AGREEMENT AND IN A TIMELY MANNER. BANK BELIEVES THAT ARBITRATION MAY BE A BENEFICIAL MEANS TO RESOLVE DISPUTES WHEN AGREEMENT MAY NOT BE QUICKLY OBTAINABLE, AS A MEANS TO OBTAIN A LEGALLY BINDING DECISION IN A COST EFFECTIVE MANNER OUTSIDE THE JUDICIAL PROCESS OF COURT PROCEEDINGS. ACCORDINGLY, EXCEPT AS OTHERWISE SPECIFIED IN THIS AGREEMENT OR THE DEPOSIT AGREEMENT APPLICABLE TO CUSTOMER'S ACCOUNT, EITHER CUSTOMER OR BANK MAY, WITHOUT THE OTHER'S CONSENT, ELECT TO SEEK BINDING ARBITRATION OF ANY DISPUTE, CONTROVERSY OR CLAIM ARISING OUT OF OR RELATING IN ANY WAY TO CUSTOMER'S ACCOUNT (INCLUDING WITHOUT LIMITATION ANY APPLICATION FOR OR APPROVAL OF CUSTOMER'S ACCOUNT), ANY SERVICE PROVIDED UNDER THIS AGREEMENT, THIS AGREEMENT OR ANY SERVICE AGREEMENT (THE "CLAIM" OR "CLAIMS"), BY WRITTEN REQUEST TO THE OTHER, PROVIDED THAT THE PARTY SEEKING ARBITRATION HAS NOT SUBSTANTIALLY INVOKED THE JUDICIAL PROCESS WITH RESPECT TO ANY SUCH CLAIM TO THE DETRIMENT OR PREJUDICE OF THE OTHER PARTY. IF SO ELECTED, ARBITRATION REPLACES THE RIGHT TO GO TO COURT. ALL SUCH CLAIMS ARE SUBJECT TO ARBITRATION, UNDER THE FAA, REGARDLESS OF THE THEORY THEY ARE BASED ON OR THE REMEDY SOUGHT, WITH THE EXCEPTION OF INTERPLEADER AND BANK'S RIGHTS SET FORTH IN THE "DISPUTED AUTHORITY; CONFLICTING CLAIMS" AND "FREEZING YOUR ACCOUNT" SECTIONS OF THE DEPOSIT AGREEMENT APPLICABLE TO CUSTOMER'S ACCOUNT, AND ANY CLAIM THAT IS WITHIN THE JURISDICTIONAL LIMITS OF AND IS FILED IN A SMALL CLAIMS COURT, AND PROCEEDS ON AN INDIVIDUAL BASIS. CUSTOMER UNDERSTANDS AND AGREES THAT IF EITHER PARTY TO THIS AGREEMENT REFUSES TO COMPLY WITH A TIMELY AND LAWFUL REQUEST PURSUANT TO THIS AGREEMENT TO SUBMIT TO ARBITRATION, THE OTHER PARTY SHALL BE RESPONSIBLE FOR ALL COSTS AND EXPENSES, INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEY'S FEES AND COSTS, INCURRED BY THE PARTY REQUESTING ARBITRATION IN SUCCESSFULLY COMPELLING ARBITRATION. EXCEPT AS OTHERWISE MODIFIED HEREIN OR IN THE DEPOSIT AGREEMENT APPLICABLE TO CUSTOMER'S ACCOUNT, THE ARBITRATION WILL BE CONDUCTED AND ADMINISTERED BY THE AMERICAN ARBITRATION ASSOCIATION (THE "AAA") UNDER ITS COMMERCIAL ARBITRATION RULES AND THE FAA (TITLE 9 OF THE UNITED STATES CODE). THIS AGREEMENT WILL CONTROL AND GOVERN ANY CONFLICTS BETWEEN THE AAA COMMERCIAL ARBITRATION RULES AND THIS AGREEMENT. JUDGMENT ON ANY AWARD RENDERED BY THE ARBITRATORS MAY BE ENTERED IN ANY COURT HAVING JURISDICTION.

TO THE FULLEST EXTENT PERMITTED BY LAW, AND NOTWITHSTANDING ANY RULE TO THE CONTRARY, THE

ARBITRATION WILL BE CONDUCTED AND WILL PROCEED ONLY AS AN INDIVIDUAL ACTION; THE ARBITRATORS SHALL HAVE NO POWER OR AUTHORITY TO ARBITRATE ANY CLAIM ON A CLASS-WIDE OR REPRESENTATIVE BASIS, OR TO CONSOLIDATE CLAIMS OR OTHER ACTIONS OR CAUSES ASSERTED BY DIFFERENT CLAIMANTS OR COUNTER-CLAIMANTS, WHETHER PRIVATE OR PUBLIC, OR TO AWARD ANY RELIEF ON A CLASS-WIDE OR REPRESENTATIVE BASIS. THIS ARBITRATION PROVISION EXPRESSLY APPLIES TO AND COVERS ANY CLAIM OR OTHER CAUSE OR ACTION BROUGHT OR MADE AND ANY REMEDIES SOUGHT AS PART OF ANY CLASS ACTION PROCEEDING OR REPRESENTATIVE ACTION (WHETHER BY PRIVATE ATTORNEY GENERAL OR OTHERWISE). THEREFORE, ANY CLAIM BETWEEN CUSTOMER AND BANK THAT IS RAISED OR OTHERWISE INCLUDED IN ANY CLASS ACTION LAWSUIT OR REPRESENTATIVE ACTION IS AND WILL BE SUBJECT TO AN INDIVIDUAL ARBITRATION CLAIM PURSUANT TO THIS ARBITRATION PROVISION SHOULD EITHER CUSTOMER OR BANK SO ELECT.

THE ARBITRATION AND ARBITRATION HEARINGS WILL BE HELD IN AND TAKE PLACE IN THE TEXAS CITY CLOSEST TO CUSTOMER'S PRIMARY PLACE OF BUSINESS IN TEXAS OR, IF CUSTOMER'S PRIMARY PLACE OF BUSINESS IS LOCATED OUTSIDE THE STATE OF TEXAS, IN DALLAS, TEXAS.

FOR CLAIMS OF MONETARY DAMAGES OF $100,000.00 OR MORE, EXCLUSIVE OF ATTORNEY'S FEES AND COSTS, THE ARBITRATION SHALL BE CONDUCTED BEFORE A PANEL OF THREE (3) ARBITRATORS, SELECTED AND APPOINTED AS FOLLOWS. BANK AND CUSTOMER SHALL EACH APPOINT ONE (1) ARBITRATOR, AND THE THIRD ARBITRATOR WILL BE APPOINTED BY MUTUAL AGREEMENT OF THE PARTIES. TO BE ELIGIBLE FOR SELECTION AND APPOINTMENT, EACH OF SUCH THREE (3) ARBITRATORS MUST BE LISTED BY AAA ON ITS NATIONAL ROSTER OF ARBITRATORS AS OF THE TIME OF SELECTION AND APPOINTMENT IF THE PARTIES ARE UNABLE TO REACH AGREEMENT ON THE APPOINTMENT OF THE THIRD ARBITRATOR WITHIN A REASONABLE PERIOD OF TIME, BANK'S AND CUSTOMER'S APPOINTED ARBITRATORS SHALL JOINTLY SELECT THE THIRD ARBITRATOR FOR THE PANEL, PROVIDED THAT SUCH ARBITRATOR ALSO MUST BE LISTED BY AAA ON ITS NATIONAL ROSTER OF ARBITRATORS AS OF THE TIME OF SELECTION. FOR CLAIMS OF MONETARY DAMAGES TOTALING LESS THAN $100,000.00 OR FOR INJUNCTIVE OR OTHER NON-MONETARY RELIEF, THE ARBITRATION SHALL BE CONDUCTED BY ONE (1) ARBITRATOR, SELECTED BY THE AMERICAN ARBITRATION ASSOCIATION PURSUANT TO ITS COMMERCIAL ARBITRATION RULES. YOU UNDERSTAND AND AGREE THAT NO COURT OR OTHER JUDICIAL BODY WILL HAVE ANY AUTHORITY TO APPOINT AN ARBITRATOR, OR OTHERWISE TO DETERMINE WHETHER OR NOT ANY ARBITRATOR MAY BE SELECTED OR APPOINTED.

THE ARBITRATOR(S) WILL CONSIDER AND APPLY APPLICABLE SUBSTANTIVE LAW, INCLUDING WITHOUT LIMITATION THE APPLICABLE UNIFORM COMMERCIAL CODE AND ANY APPLICABLE STATUTE OF LIMITATIONS OR STATUTE OF REPOSE, INCLUDING WITHOUT LIMITATION ANY STATUTE OF LIMITATIONS OR STATUTE OF REPOSE SET FORTH IN THIS AGREEMENT AND/OR CONTRACTUAL CONDITION PRECEDENT, AND WILL HONOR ALL CLAIMS OF PRIVILEGE RECOGNIZED UNDER TEXAS LAW. EITHER CUSTOMER OR BANK MAY FILE A MOTION FOR DISPOSITIVE RELIEF OR FOR SUMMARY JUDGMENT IN THE ARBITRATION, SEEKING DISPOSITIVE OR SUMMARY JUDGMENT IN WHOLE OR IN PART, IDENTIFYING EACH CLAIM OR DEFENSE ON WHICH DISPOSITIVE RELIEF OR SUMMARY JUDGMENT IS SOUGHT. THE MOTION MAY BE SUPPORTED BY AFFIDAVIT(S) OR DECLARATION(S) MADE ON PERSONAL KNOWLEDGE, INCLUDING IN THE CAPACITY OF A RECORDS CUSTODIAN, AND SHOWING THAT THE AFFIANT OR DECLARANT IS COMPETENT TO TESTIFY ON THE MATTERS STATED. THE ARBITRATOR(S) SHALL GIVE FULL CONSIDERATION TO ANY SUCH MOTION, SHALL BE BOUND TO APPLY APPLICABLE LAW, AND SHALL GRANT DISPOSITIVE RELIEF OR SUMMARY JUDGMENT IF THE MOVANT SHOWS THAT THERE IS NO GENUINE DISPUTE AS TO ANY MATERIAL FACT AND THE MOVANT IS ENTITLED TO JUDGMENT UNDER APPLICABLE LAW. THE ARBITRATOR(S) SHALL HAVE NO AUTHORITY TO AWARD OR GRANT CONSEQUENTIAL, SPECIAL, INCIDENTAL, EXEMPLARY OR PUNITIVE DAMAGES OR ANY OTHER DAMAGES NOT MEASURED BY THE PREVAILING PARTY'S ACTUAL DAMAGES. THE ARBITRATOR'S OR ARBITRATION PANEL'S DECISION SHALL BE EXPRESSED IN A WRITTEN ARBITRATION AWARD SUPPORTED BY ANY FINDINGS MADE BY THE ARBITRATORS, WILL BE FINAL AND BINDING ON THE PARTIES, AND A JUDGMENT MAY BE ENTERED ON THE AWARD IN ANY COURT HAVING JURISDICTION. CUSTOMER UNDERSTANDS AND AGREES, HOWEVER, THAT THE ARBITRATORS' DECISION AND FINDINGS, AND ALL ARBITRATION SUBMISSIONS AND PROCEEDINGS SHALL REMAIN CONFIDENTIAL BETWEEN CUSTOMER AND BANK, EXCEPT TO THE EXTENT NECESSARY TO OBTAIN JUDICIAL REVIEW OR CONFIRMATION, FOR TAX OR ACCOUNTING PURPOSES, OR AS OTHERWISE REQUIRED BY LAW.

This agreement to arbitrate disputes will survive the closing of Customer's account and the termination of this Agreement or any Service Agreement.

THIS PROVISION LIMITS CUSTOMER'S RIGHTS TO A JURY TRIAL. CUSTOMER SHOULD REVIEW THIS SECTION CAREFULLY. TO THE FULLEST EXTENT PERMITTED UNDER THE LAW OF THE STATE OF TEXAS, CUSTOMER KNOWINGLY, VOLUNTARILY, IRREVOCABLY AND UNCONDITIONALLY AGREES TO WAIVE CUSTOMER'S RIGHT TO A TRIAL BY JURY OF EACH AND EVERY ISSUE, CLAIM, COUNTERCLAIM, ACTION, CAUSE OR DISPUTE WITH BANK ARISING, IN WHOLE OR IN PART, FROM OR IN ANY WAY RELATING TO CUSTOMER'S ACCOUNT(S) OR THIS AGREEMENT, INCLUDING WITHOUT LIMITATION ANY ADDENDA, SCHEDULES OR APPENDICES ATTACHED TO THIS AGREEMENT.

SUBJECT ONLY TO THE RIGHT OF ARBITRATION SET FORTH IN THIS SECTION, ANY AND ALL SUCH DISPUTES MAY BE TRIED BEFORE A JUDGE ONLY. TO THE FULLEST EXTENT PERMITTED UNDER THE LAWS OF THE STATE OF TEXAS, THIS WAIVER OF RIGHT TO TRIAL BY JURY IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH AND EVERY INSTANCE AND ISSUE AS TO WHICH THE RIGHT TO TRIAL BY JURY WOULD OTHERWISE ACCRUE.

25. Necessary Third Party Service Providers

a. Third Party Networks. Some Services are provided by Bank through access to a third party network, such as SWIFT, any applicable automated clearinghouse operating network and Fedwire. Such Services are dependent upon the availability of the third party network on conditions acceptable to Bank. Bank reserves the right to discontinue the Service or provide the Service through an alternative third party network. Bank does not warrant and shall not be responsible for Services received by Customer from any third party network chosen by the Customer.

b. Third Party Vendors. Some Services and/or computer equipment and software are provided to Customer by a third party vendor selected by Customer who is unaffiliated with Bank. In those cases, the third party vendor is acting as Customer's Agent rather than an agent of Bank, and Customer agrees to be bound by such third party's acts and omissions. Bank does not warrant and shall not be responsible for Services and/or computer equipment and software provided by unaffiliated third party vendors. Customer authorizes Bank to disclose to any third party vendor information concerning Customer to the extent required to deliver the requested Service.

26. Disclaimer of Warranties
NOTICE: BANK PROVIDES ALL SERVICES (INCLUDING, BUT NOT LIMITED TO INTERNET SERVICES) ON AN "AS IS," "AS AVAILABLE" BASIS AND MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND WITH RESPECT TO THE SERVICES. BANK DISCLAIMS ALL SUCH REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. WITHOUT LIMITING THE FOREGOING, BANK DOES NOT WARRANT THAT THE OPERATION OF ANY SERVICES OR WEBSITE WILL BE UNINTERRUPTED OR ERROR-FREE. CUSTOMER IS RESPONSIBLE FOR TAKING APPROPRIATE PRECAUTIONS AGAINST DAMAGE TO ITS OPERATIONS WHICH COULD BE CAUSED BY INTERRUPTIONS OR MALFUNCTIONS OF ANY SERVICES OR WEBSITE AND ASSUMES THE RISK OF SUCH OCCURRENCES.

27. Severability
To the extent possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision shall be held to be invalid, illegal or unenforceable, such provision shall be ineffective only to the extent of such invalidity, illegality or unenforceability, without rendering invalid, illegal or unenforceable the remainder of any such provision or the remaining provisions of this Agreement.

28. Waiver
A waiver by Bank or Customer of any term or provision shall not be construed as a waiver of such term or provision at any other time, or of any other term or provision.

29. Assignment
Except in the case of a merger or assignment arising under operation of law, neither party may assign or transfer its rights or obligations hereunder to any other person or entity without the other party's written consent, whose consent shall not be unreasonably withheld.

30. Fee for Services
Customer will compensate Bank for the performance of the Services in accordance with established pricing, which is available upon request. Amounts payable to Bank will be collected on a monthly basis through account analysis or other means as dictated by the Services and accounts.

Bank may collect any of the foregoing amounts and any other amounts due by the Customer to Bank hereunder or in connection with the provision of Services by debiting the Customer's designated account(s) with PlainsCapital Bank, without any obligation to give prior notice thereof to you. Bank shall also have the right to credit or debit any accounts of Customer with Bank to correct any processing irregularity in connection with the Services.

B. Applicable Terms of All Internet and Mobile Based Services

1. Introduction
Bank offers a number of Services over the Internet and/or over mobile devices. If requested by Customer and agreed to by Bank, Bank will grant Customer access to one or more of Bank's Internet and/or mobile Services in the manner established by Bank. Customer agrees that its use of Services from time to time offered by Bank via the Internet and/or a mobile device (collectively, the "Internet Services") shall be governed by: (a) this Section and all other relevant sections of this Agreement, including, without limitation, sections governing the specific Treasury Management Services that are offered online; (b) the applicable Terms of Use, as defined below., and (c) the Electronic Banking section of the Commercial Deposit Account Agreement and Services Disclosure or Consumer Deposit Account Agreement and Services Disclosure, as applicable.

2. Terms of Use
Bank may post terms or rules of use ("Terms of Use") governing Customer's use of the Internet Services on Bank's website(s) for accessing such Services. Such Terms of Use shall supplement and amend the terms set forth in this Section. In the event of a conflict between the Terms of Use and the rules set forth in this Agreement, the Terms of Use shall govern. Customer's initial use of an Internet Service shall constitute an acceptance of the Terms of Use posted on the website. Neither Bank nor Customer will contest the validity, enforceability, or admissibility of hard copy printouts of the Terms of Use for any website or notices of changes to such Terms of Use provided in accordance with this Section. Copies of such Terms of Use or notices, if introduced as evidence in tangible form in any judicial or administrative proceeding, will be admissible to the same extent and under the same conditions as other business records originated and maintained in documentary form.

3. Other Customer Responsibilities
a. Equipment and Software. Customer is responsible for obtaining (from Bank, in some instances), installing, maintaining and safeguarding the computer and communications equipment (including, without limitation, personal computers, modems and mobile devices), software, web browsers, Internet access and communications services necessary to access and use the Internet Services in accordance with this Agreement. Customer must utilize an up-to-date web browser compatible with the Services.

b. Use of Internet Services. Customer shall use its access to Internet Services, websites and mobile applications operated by or on behalf of Bank only to conduct its business with Bank and agrees to limit access to those agents authorized by Customer and who require access to Internet Services.

c. Antivirus and Antimalware Protection. Customer agrees to install and run antivirus, anti-spyware, and antimalware software before transmitting data to or through any website, including, without limitation, to Bank. Customer may use any commercially available, industry recognized antivirus, anti-spyware and antimalware software of the type that detects and disinfects viruses and malicious code automatically, without the need for the Customer to execute virus, spyware and malware scanning for each file manually. Bank may require use of encryption technology for access and use of Services, and Customer shall agree to install and/or utilize any such encryption technology as Bank may require. Customer shall install and run operating system patches and shall frequently update Customer's computers and other device security software and update its antivirus, anti-spyware and antimalware software regularly and as needed to ensure Customer's antivirus, anti-spyware and antimalware software is current and up to date. Customer understands and agrees that Customer is solely responsible for, and Bank has no responsibility for, any computer viruses, malware (such as a keystroke logging program), spyware, computer or other device inoperability or failure, or similar problems experienced through or associated with Customer's access of websites or otherwise its use of the Internet.

4. Internet Disclaimer
The availability of Internet Services to Customer relies on the public Internet infrastructure and/or a mobile network. Bank does not and cannot control the flow of data to or from Bank's network and other portions of the Internet or any mobile network. Such flow depends in large part on the performance of third parties. Actions or inactions of such third parties can impair or disrupt Customer's connections to the Internet Services (or portions thereof). Bank disclaims any and all liability resulting from or related to such events and in no event shall Bank be liable for any damages (whether in contract or in tort) that are attributable to the public Internet infrastructure, any mobile network, Customer's ability to connect to the Internet or any mobile network, or Bank's ability to connect to the Internet or any mobile network on Customer's behalf.

C. Applicable Terms of Secure File Transfer System

1. Introduction
Bank offers a number of Services that may require the exchange of files containing payment batches or other information reporting. Files may be delivered to or from Bank through the secure file transfer protocol ("FTPS"). Customer agrees that its use of Services from time to time offered by Bank via FTPS shall be governed by: (a) this Section and all other relevant sections of this Agreement, including, without limitation, sections governing the specific

Services, Service Descriptions and including Service Documentation that are offered through FTPS; and (b) the applicable terms of all Internet Services.

2. SecureConnect
If Customer elects and Bank agrees to offer Services via FTPS, Customer agrees that Bank will provide Customer with user instructions and security codes. Customer will be responsible for providing data terminal(s) or any other means of access to such Services authorized by Bank. Customer agrees to use such Services (a) only for your own proper business use in accordance with all applicable federal, state, and local laws and regulations; (b) in accordance with the conditions, rules and regulations which we may establish or specify from time to time; and (c) only to obtain the Services Bank provides, any communication elements of such Service being incidental to and an integral part of obtaining such Service. Bank reserves the right to take all actions, including termination of such Services, which we believe necessary to comply with applicable laws, policies, regulations, and tariffs.

D. Applicable Terms for Information Systems

1. Introduction
Reporting of transaction and balance information may be provided by Bank to Customer through Internet Services or other applications or systems as may be introduced by Bank ("Information System(s)"). Information Systems may also be used by Customer to automate many of the Services offered by Bank and also may provide access to other Bank systems that initiate transactions. Customer agrees that such use of the Information Systems shall be governed by this Section and all other relevant sections of this Agreement. If requested by Customer and agreed to by Bank, Bank will grant access to Bank's Information Systems in the manner agreed to by Bank. Customer agrees to be bound by any terms of use and license agreements associated with these Information Systems.

2. Information Reporting
Bank is authorized to store, process, transmit and make available information of accounts designated by Customer ("Account Information") through the Bank's Information Systems. This authorization will extend to the Bank's agencies and third-party data processing providers ("Providers"). Bank or Providers may transmit, or make available for access, Customer Account Information on a periodic basis through one or more delivery mechanisms, including, without limitation, Internet Browsers, FTPS transmission, SWIFT messaging, telephonic delivery, facsimile, CD-ROM or unsecured e-mail. Customer agrees that in addition to other limitations to Bank's liability elsewhere in this Agreement, Bank shall not be liable for any loss or damage arising directly or indirectly from the inaccuracy, completeness, or timeliness of the Account Information delivered to Customer or Customer's Agent. Further, Customer's election to receive or transmit Account Information through unsecure e-mail will require additional instructions and provisions that release the Bank from loss or damage, direct or indirect, resulting from unauthorized access. Information reporting for off balance sheet accounts, such as sweep accounts, held at other financial institutions may be made available by these financial institutions. Bank assumes no responsibility for the accuracy or timeliness of the Account Information supplied by or to other financial institutions.

3. Transaction Services
Customer may use Information Systems to access Services offered by Bank for which Customer has enrolled. Depending on the type of product offered by Bank, access to the Services may include, but not be limited to, ACH, positive pay, wire transfer payments, book transfers, stop payments, image access and system administration. Customer agrees that use of the Information Systems for Services shall be governed by this Section and all other sections of this Agreement that are applicable to the Service being accessed.

4. Customer Responsibilities
Customer will purchase (from Bank, in some cases) and provide all equipment and software necessary to use the applicable Information Systems in accordance with this Agreement. For equipment not provided by Bank, Bank shall have no responsibility and makes no warranties for such equipment or software. Customer agrees to use the Information Systems solely to conduct its business with Bank and agrees to limit access to those Authorized Signers or Authorized Users who require access to the System. Customer agrees that in addition to other limitations to Bank's liability elsewhere in this Agreement, Bank shall not be liable for any loss or damage arising directly or indirectly from the following: (a) any inaccuracy or incompleteness in the input of an order or instruction from the Customer; (b) any failure by Customer to obtain a confirmation of an order or instruction; or (c) any cancellation or attempted cancellation by Customer of an order or instruction.

5. Accuracy and Timeliness of Information
Bank will use reasonable efforts to provide the information requested through the Services in a prompt fashion. Bank shall not be liable for any inaccurate or incomplete information with respect to transactions which have not been completely processed or posted to Bank's system prior to being made available pursuant to the Services.

E. ACH Services

1. Introduction
If requested by Customer and agreed to by Bank, Customer (or any Authorized Signer or Authorized User) may initiate credit or debit Automated Clearing House ("ACH") transactions (each an "Entry" and collectively "Entries") for payments ("Credit Entries") and/or collections ("Debit Entries") on Business Days to its accounts or the accounts of others ("Receivers") in accordance with Bank's security procedures, this Agreement, the ACH Services Descriptions, the Deposit Agreement and the NACHA Rules, as amended from time to time. The ACH system is a batch processing, store-and-forward system that is primarily governed by the NACHA Rules for interbank clearing of electronic payments for participating depository financial institutions. Customer acknowledges that Bank may provide ACH Services to Customer pursuant to Bank's role as an Originating Depository Financial Institution ("ODFI") or Receiving Depository Financial Institution ("RDFI") as may be applicable with respect to ACH Entries under the NACHA Rules. If requested and authorized by Customer and agreed to by Bank in writing (an "Origination Agreement"), Bank will agree to provide ACH origination services to enable Customer to act as an originator ("Originator") of ACH Entries. Bank may process Entries directly, through one or more clearinghouses, or through the mechanism selected by Bank. To the fullest extent permissible under the NACHA Rules and Texas law, Customer's rights and obligations with respect to such Entries are governed by the laws of the State of Texas, the NACHA Rules, as published annually and amended from time to time, this Agreement, the ACH Services Descriptions, and the Deposit Agreement. Customer acknowledges that to the fullest extent permissible under the NACHA Rules and Texas law, it shall be bound by the NACHA Rules (to the extent such Rules are not permissibly modified by this Agreement or applicable Service(s) Descriptions) and the laws of the State of Texas, and agrees not to initiate any Entry in violation of the NACHA Rules, the laws of the United States or Texas law, or, to the extent applicable, other state or international law, regulation or clearinghouse rules, including, without limitation and where applicable, Regulation E and Regulation CC of the Board of Governors of the Federal Reserve System, regulations promulgated by the Office of Foreign Assets Control ("OFAC"), Operating Circular 4 of the Federal Reserve Bank, and Article 4 and Article 4A of the Uniform Commercial Code (the "UCC") as adopted in the State of Texas. Customer acknowledges and agrees that Bank may rely on all representations and warranties contained in the NACHA Rules, as amended from time to time, and may credit or debit Entries in accordance with such NACHA Rules, this Agreement, the ACH Services Descriptions and the Deposit Agreement as instructed by the Originator of the Credit Entry or Debit Entry. Customer acknowledges that Customer is responsible to obtain access to the NACHA Rules from NACHA at the time Customer requests ACH Services and will regularly obtain and review updates and amended versions of the NACHA Rules. Customer understands that a copy of the NACHA Rules is available through NACHA at current NACHA prices. Customer further understands and agrees that, subject to Bank's prior approval, Bank will provide ACH Services in its capacity as an ODFI and RDFI, as applicable, under the NACHA Rules, and that Bank, in addition to Bank's general right of Termination as set forth in this Agreement, Bank may suspend or terminate Customer's ACH Services in determining, in Bank's sole discretion, that such action is needed to comply with the NACHA Rules.

a. Authorization of Entries. Customer understands and acknowledges that when acting as Originator, Customer must obtain authorization from the Receiver of and for any Entry either by written authorization agreement pursuant to the NACHA Rules, or in the form or method of authorization otherwise permitted by the NACHA Rules, before initiating the Entry to the Receiver's account. Customer acknowledges and agrees that, as Originator, Customer must retain the original or a copy of each written authorization of a Receiver, or a readily and accurately reproducible record evidencing any other form of authorization, for two (2) years from the date of termination or revocation of the authorization (or such longer period as the NACHA Rules may require), and, at Bank's request, must provide the original, copy or other accurate record of authorization to Bank for Bank's use in such time and manner as to enable Bank to deliver the authorization to any requesting RDFI within ten (10) Banking Days of the RDFI's request. Customer further understands and agrees that, in addition to the other warranties stated in this Agreement, Customer warrants to Bank that Customer has obtained the appropriate authorization(s) from each Receiver each time Customer originates an Entry, and that all originated Entries conform to such authorization(s) and comply with the NACHA Rules.

b. Audit Rights. Customer understands and agrees that, to the fullest extent permitted under the NACHA Rules, following agreement to Customer's request for ACH Services Bank may, from time to time and in its sole discretion, perform a remote or onsite audit or other operations credit and risk analysis of Customer's systems, procedures, controls, files, records and/or ACH activity that Bank, in its sole and absolute discretion, deems necessary to assess the nature of Customer's ACH activity and/or any risks it presents, or Customer's capacity to perform its obligations in accordance with the NACHA Rules or this Agreement. Customer agrees to cooperate with Bank in relation to any such audit or credit and risk analysis including, without limitation, providing financial or other documentation or records in a timely manner in response to Bank's request, and implementing any ACH Entry origination procedure or process required by Bank in a timely manner.

2. Entry Origination/Processing Dates/Deadlines
Customer may initiate Entries in the manner and format agreed to by Bank. Bank will establish a Deadline for the receipt of Entries from Customer. Bank may establish different Deadlines for Entries depending on the method of delivery selected by Customer and all such Deadlines are subject to change. Bank must receive Customer's Entries at or prior to the Deadline for the Entries to be processed on the Business Day of receipt ("Same-Day Entries"). Except for Same-Day Entries received prior to the applicable Deadline, all Debit Entries not received by the specified cutoff time at least one business day prior to the effective Entry date, and all Credit Entries not received by the specified cutoff time at least two business days prior to the effective Entry date, will be processed on the next Business Day. For timely processing, Customer understands and acknowledges that all Entries must be completed and submitted to Bank in conformity with the formatting and other requirements specified in the NACHA Rules and this Agreement.

3. Late Entry Deadline
Bank may allow, at Bank's sole and absolute discretion, Customer to initiate Entries after the otherwise applicable cutoff time including after business hours, but prior to any after-hours deadline established by Bank. Customer understands and agrees that Entries are deemed to be delivered to Bank at the time when the applicable security procedure(s) with respect to a submission have been complied with and the submission of the Entry is fully completed on all information required by the NACHA Rules and Bank. Customer acknowledges that Bank may require additional Customer information in order to successfully process such late Entries as determined by Bank in its sole and absolute discretion. Bank may refuse to allow late Entries for any reason and at any time in its sole and absolute discretion, which refusal may result in the Entries being entered on the following Business Day or not at all. Customer understands and acknowledges that in no event shall Bank be liable for any loss of any nature arising from or relating to Customer's initiation of a late Entry.

4. Content
In submitting any Entry, Customer shall be responsible for providing all information required by Bank. Customer bears sole and exclusive responsibility to verify that the information set forth in Entries submitted to Bank is authentic, accurate and conforms to the NACHA Rules and all applicable law. Customer shall retain data transmitted to Bank for ninety (90) days following the date of transmittal. The Services hereunder are only designed to respond to information provided by Customer. Accordingly, any inaccuracy in any information provided by Customer may result in unintended processing by Bank. Bank bears no responsibility for detecting or reporting any error in data supplied by Customer and shall not be liable to Customer for any information provided by Customer with respect to an Entry which is inaccurate, incomplete or otherwise incorrect.

5. Entry Limits and Payment
Customer shall at all times maintain a settlement account with Bank for the purpose of funding Customer's Entries ("Settlement Account"), including costs and fees as may be applicable. Bank will establish a daily limit of the total dollar amount of Entries initiated by Customer on a single day and including any Entries that remain unsettled in the ACH Network (the "Risk Limit"). The Risk Limit will be determined by Bank, in its sole and absolute discretion, based on the typical dollar amount of Entries initiated by Customer on a single day and may be adjusted based on underwriting criteria established by Bank. Bank may require from time to time, at its sole discretion, the pre-funding of the total dollar amount of Credit Entries initiated by Customer. Pre-funding means that Customer must have good, collected funds in Customer's settlement account not subject to recall or dispute, allowing the Credit Entry file to be processed as normal on the date the file is received and processed by Bank. If Customer is pre-funded and a file is submitted without sufficient funds, the ACH Entries may be held. Bank may recheck the Settlement Account periodically and release Entries when funds are available. If a pre-funded file does not have sufficient funds by the end of the business day, the file may be deleted and Customer must reprocess when funds are available. Establishment of a Risk Limit should not be interpreted or construed by Customer as a commitment or agreement to provide any credit or loans to a Customer and is subject to modification or termination at any time by Bank in its sole discretion. Customer agrees that it will not initiate Entries in excess of its Risk Limit without the written consent of Bank, and that such submission in excess of its Risk Limit, if processed by Bank, will cause a delay in processing. Notwithstanding the foregoing, Bank may, in its sole and absolute discretion and without obligation to do so, process Entries that exceed Customer's Risk Limit. Customer shall pay Bank for all Entries and authorizes Bank to charge its Settlement Account or any other account with Bank in the amount of such Entries, and any fees, costs, fines and penalties, as may be applicable. Bank shall have the right to reject Entries initiated by Customer if Bank has reason to believe, in its sole discretion, that there will be insufficient available funds on the relevant settlement date. Bank shall notify Customer upon such rejection. Customer will receive funds for any Debit Entry on the ACH settlement date. Bank shall credit the Settlement Account in any amount payable to the Customer, subject to Bank's right to make adjustments in accordance with this Agreement. Bank may establish, monitor and periodically review Customer's Risk Limit and Customer's compliance thereof, and may cease processing Entries based on such review, after notifying Customer in writing.

6. Data Breach Notification
Customer may have gathered personal or financial information of its customers for the purpose of initiating ACH transactions. Such information may include, without limitation, the customer's bank account number together with bank routing number, or the customer's name together with the customer's social security number or tax identification number. Customer agrees to immediately report to Bank any loss, theft or unauthorized access of such information ("Data Breach") by or from Customer or an Authorized Signer or Authorized User, if circumstances indicate that the misuse of such information has occurred or is reasonably possible. Customer acknowledges that Bank may have an obligation to report any Data Breaches to NACHA and other affected parties, and agrees to establish appropriate procedures to prevent, detect, investigate and report data breaches.

7. File Confirmations; Security Procedures
Customer shall at all times comply with any applicable file confirmation procedures established by Bank and the applicable security procedures set forth in the ACH Services Descriptions, as may be amended from time to

time. Upon receipt of an FTPS Direct Send file, Bank will email the file details to a predetermined email address provided by Customer. Bank will send an additional email confirming the file was loaded successfully or advise of any errors that require Customer's attention. It is the Customer's responsibility to advise of any discrepancies between their file records and the file notification email. Such procedures of Bank are solely for the purpose of verifying the origination of Entries by Customer or Bank's receipt of the ACH file and/or batch (but not for errors in transmission or content).

Bank shall provide Customer with a confirmation that Bank received Customer's ACH file and/or batch in a manner applicable to the Service through which Entries are made. After Customer receives the confirmation, Customer will compare the confirmation information to Customer's ACH transmission information. If the information does not match, Customer shall notify Bank before Bank's established deadline, failing which, Bank shall process Customer's ACH file and/or batch. Customer acknowledges that the confirmation is for the sole purpose of verifying Bank's receipt of the file and does not signify any validation of data. Customer bears sole responsibility for any inaccurate or incomplete information provided to Bank if Customer fails to notify Bank prior to Bank's processing of Customer's file.

Bank may but is not obligated to require verbal approval from an Authorized User or an Authorized Signer for Customer's ACH file and/or batch as part of fraud detection practices, which may cause a delay in processing.

Customer understands and agrees that each Non-Consumer Originator (as that term is defined in the NACHA Rules) must establish, implement, and update as appropriate, policies, procedures and systems with respect to initiation, processing and storage of Entries that are designed to: (a) protect the confidentiality and integrity of Protected Information (as that term is defined in the NACHA Rules); (b) protect against anticipated threats or hazards to the security or integrity of Protected Information until its destruction; and (c) protect against unauthorized use of Protected Information that could result in substantial harm to a natural person.

8. Rejected and Returned Entries, Unauthorized Entries

Bank may reject any Entry that is not initiated in accordance with this Agreement or for any reason for which an Entry may be returned under the NACHA Rules. Customer understands and acknowledges that, pursuant to the NACHA Rules, Bank must accept returned Entries, including extended return Entries, that comply with the NACHA Rules. In the event that a previously initiated Entry is rejected, or returned by an ACH processor, RDFI or Bank, for any reason whatsoever, it shall be Customer's responsibility to reinitiate the Entry, within the time and to the extent permitted under NACHA Rules. Bank will give Customer or its designated Agent notice of any rejected or returned Entry in the manner agreed to by the parties. Bank is authorized to debit/credit the Settlement Account for Entries that are returned to Bank. Unless the return is caused by Bank's failure to properly execute an Entry, Bank has no obligation to pay Customer interest on the amount of any returned Entry debited from the Settlement Account. A Receiver may, in some cases, have the right to have an unauthorized or erroneous Debit Entry credited to its account. Customer agrees that Bank may deduct the amount owing to the Receiver from Customer's Settlement Account upon Bank's receipt of proper notice from the RDFI. To the fullest extent permitted under the NACHA Rules and Texas law, Bank may charge back against Customer any Debit Entry that is returned or reversed by the RDFI, including, without limitation, any late-returned Entry. Closure of Settlement Account does not excuse Customer's obligation for returned Entries.

a. Return Rate Monitoring and Reporting. The NACHA Rules require that Bank, as an ODFI, monitor and under certain circumstances report to NACHA concerning the rate at which Customer's Debit Entries are returned (the "Return Rate"), dollar amounts and related information. Customer understands and acknowledges that the NACHA Rules provide that when Customer's Return Rate or levels exceed certain thresholds specified in the NACHA Rules and/or when directed to do so by NACHA, Bank is required to undertake certain actions within the times specified in the NACHA Rules to reduce and maintain the Return Rate or levels below the specified thresholds. Customer agrees to timely respond to all requests by Bank for information concerning Return Rates and related information, and to take all actions requested by Bank, within the times specified by Bank, to reduce Customer's Return Rate, volume, levels or dollar amounts, as determined by Bank in its sole and absolute discretion. Customer understands and agrees that any failure by Customer to timely comply with any such request by Bank shall be deemed a material breach of this Agreement and may result in Bank's immediate termination of the ACH Services.

9. Notifications of Change

Bank shall provide Customer all information, as required by the NACHA Rules, with respect to each Notification of Change ("NOC") Entry or Corrected Notification of Change ("Corrected NOC") Entry received by Bank relating to Entries transmitted by Customer. Bank will provide such information to Customer within two (2) Business Days of the date in which final settlement of funds occurs as a result of an ACH entry (the "Settlement Date") of each NOC or Corrected NOC Entry. Customer shall ensure that changes requested by the NOC or Corrected NOC are made within six (6) Business Days of Customer's receipt of the NOC information from Bank or prior to initiating another Entry to the Receiver's account, whichever is later.

10. Prenotification

Prior to initiation of the first Credit Entry or Debit Entry to a Receiver's account with an RDFI, Customer may send a prenotification to the RDFI that Customer intends to initiate an Entry to the Receiver's account in accordance with the procedures set forth in the NACHA Rules or by Bank. The prenotification can be returned or result in a Notification of Change ("NOC"). If the prenotification is returned within the times specified in the NACHA Rules, Customer shall research the problem and make any necessary corrections to remedy the reason for the return before transmitting another Entry. If the prenotification results in a NOC, Customer shall make the required change requested in the NOC prior to initiating another Entry.

11. Amendment of Entries

Customer does not have the right to delete or amend any Entry after it has been received by Bank unless Bank has previously agreed in writing. If such rights are granted, Customer may initiate an amendment to ACH Entries after receipt by Bank; however, Bank shall have no liability to Customer if such requested deletion or amendment is not affected. Entries are distributed periodically to the ACH operator throughout the Business Day. Customer may initiate such amendments in accordance with the terms of this Agreement and all communications must be received by Bank prior to the established Deadlines and distribution times in order to be effective. Under certain circumstances as permitted by the NACHA Rules, Customer may seek to reverse or obtain return of a previously initiated duplicate Entry, an Entry ordering payment to or from a Receiver different from the intended Receiver or in a dollar amount different than intended, and certain prearranged payment and deposit Entries (collectively for purposes of this paragraph, an "Erroneous Entry"), or a Credit Entry originated without the Customer's authorization. Customer understands and acknowledges that reversal of Entries is governed by the NACHA Rules including, without limitation, timing requirements for reversing Entries and an RDFI's right to refuse reversal or requested return. The Bank has limited avenues to recover previously initiated Erroneous Entries and unauthorized Credit Entries and, to the fullest extent permitted under the NACHA Rules, Customer shall be liable for any unintended credits to the Receiver.

12. Customer Representations and Warranties

Customer represents and warrants to Bank that each Entry complies with the terms of this Agreement and the NACHA Rules, does not breach any warranty of Customer or Bank contained in this Agreement and the NACHA Rules, complies with applicable state and federal laws, including, without limitation, the Electronic Funds Transfer Act, Regulation E and regulations promulgated by OFAC, is accurate, timely, and authorized by each Receiver, and that any debit entry is for a sum that on its settlement date is due and owing from the Receiver to Customer or is a correction of a previously transmitted erroneous credit entry. With respect to each Entry (regardless of Standard Entry Class Code) and each time Customer uses an ACH Service, Customer is deemed to make to Bank the same representations and warranties that Bank makes, under the NACHA Rules and applicable law, to any person, RDFI, or any other transferee. Receiver authorizations shall expressly authorize Bank to transmit corrective entries to Receiver's accounts to correct a prior Entry and shall

authorize Customer to release to Bank all information concerning its Receivers that is required by Bank to recover such Entries. Customer shall immediately cease initiating Entries upon receiving actual or constructive notice of the termination or revocation of the Receiver's authorization. Customer will not initiate additional transactions to a Receiver where a transaction has been returned as unauthorized. Customer will retain each authorization received by Customer for such period of time as may be required by the NACHA Rules or applicable law and in all cases for a period not less than two (2) years after the date of expiry and shall provide Bank with copies of such authorizations upon request. Bank shall not be liable for any and all fines, claims, demands, expenses, losses, liabilities, and damages, including reasonable attorneys' fees and court costs at trial or on appeal that arise directly or indirectly out of any Entry initiated by Customer in violation of this Agreement or applicable NACHA Rules or law.

13. Re-presented Check Entries

The NACHA Rules allow Customer to initiate an Entry to collect certain checks that have been returned unpaid for insufficient or uncollected funds ("RCK Entry"). In the event that Customer initiates an RCK Entry to Bank for check collection purposes, Customer agrees that such RCK Entry will comply with all provisions of this Agreement and applicable NACHA Rules, and, in addition to other warranties contained in the NACHA Rules, makes the following additional representations and warranties regardless of which entity initiates the RCK Entry on its behalf: (a) each check is eligible under the NACHA Rules to be collected via an RCK Entry; (b) Customer has good title to or otherwise is entitled to enforce the item; (c) all signatures on the returned item are authentic and authorized; (d) the item has not been altered; (e) the item is not subject to claims or defenses; (f) Customer has no knowledge of any insolvency of the drawer or maker of the item; (g) the item will not be presented to the RDFI subsequent to the origination of the RCK Entry; (h) the RCK Entry accurately reflects the item and any information encoded after issue in magnetic ink is correct (RCK Entries cannot be used for collection fees); (i) any restrictive endorsement placed on the item is void or ineffective; (j) Customer has provided clear and conspicuous notice of its electronic check representment policy in advance of receiving the item to which the RCK Entry relates; and (k) Customer will provide to Bank immediately upon request a copy of the front and back of the returned item, provided that the request is made within seven (7) years of the settlement date of the RCK Entry.

14. Internet-Initiated/Mobile Entries

The NACHA Rules allow Customer to initiate a Debit Entry to a consumer Receiver's account pursuant to an authorization obtained from the Receiver via the Internet or a wireless network, or otherwise pursuant to an authorization where the Receiver's instruction to initiate a Debit Entry is designed by the Customer to be communicated via a wireless network ("WEB Entry"). In the event that Customer initiates a WEB Entry to Bank, Customer agrees that such WEB Entry will comply with all provisions of this Agreement and applicable NACHA Rules, and makes the following additional representations and warranties regardless of which entity initiates the WEB Entry on its behalf: (a) Customer has established and implemented a commercially reasonable fraudulent transaction detection system to screen each WEB Entry which includes account validation processes; (b) Customer has established and implemented commercially reasonable methods of authentication to verify the identity of the Receiver; (c) Customer has established and taken commercially reasonable procedures to verify that routing numbers utilized are valid; (d) Customer has established a secure, by commercially reasonable standards, Internet session prior to the key entry by the Receiver of any banking information and through the transmission of the data to Customer, including but not limited to the Receiver's routing number, account number and PIN; and (e) Customer has and will conduct, or have conducted on its behalf, annual audits to ensure that the financial information that Customer obtains from Receivers is protected by security practices that include adequate levels of (i) physical security to protect against theft, tampering, or damage, (ii) personnel and access controls to protect against unauthorized access and use, and (iii) network security to ensure secure capture, storage and distribution of financial information. Customer will provide proof of Customer's security audits to Bank upon request. Bank may cease processing Entries for Customer if Bank in its sole discretion determines that Customer's security procedures are inadequate.

15. Telephone-Initiated Entries

The NACHA Rules allow Customer to initiate a Debit Entry to a consumer Receiver's account, on a single or recurring basis, pursuant to the Receiver's oral authorization and banking information provided to the Customer via the telephone ("TEL Entry"). In the event that Customer initiates a TEL Entry to Bank, Customer agrees that such TEL Entry will comply with all provisions of this Agreement and applicable NACHA Rules, and makes the following additional representations and warranties regardless of which entity initiates the TEL Entry on its behalf:

a. Receiver Authorization. Customer has obtained the Receiver's readily identifiable and clear authorization prior to initiating a single or recurring Debit Entry to the Receiver's account. In the event that Customer obtains the Receiver's authorization related to a single TEL Entry verbally, Customer will either make an audio recording of the Receiver's oral authorization, or will provide, in advance of the settlement date of the Entry, written notice to the Receiver that confirms the oral authorization. Customer agrees that, at a minimum, the following specific information shall be included as part of to the authorization of a single TEL Entry, and acknowledged by the Receiver during the telephone call: (i) the date on or after which the Receiver's account will be debited; (ii) the amount of the Debit Entry to the Receiver's account or a reference to the method of determining the amount of the transaction; (iii) the Receiver's name or identity; (iv) the account to be debited; (v) a telephone number that is available to the Receiver and answered during normal business hours for customer inquiries; (vi) the date of the Receiver's oral authorization; and (vii) a statement that the authorization obtained from the Receiver will be used to originate an ACH debit to the Receiver's account. In the event Customer obtains the Receiver's authorization in relation to recurring TEL Entries, Customer will obtain, as part of the Receiver's authorization, all information required by the NACHA Rules for recurring TEL Entries. To the extent applicable, Customer shall retain either the original or a duplicate recording of the Receiver's oral authorization or a copy of the written notice confirming the Receiver's oral authorization for two years from the date of the authorization for single TEL Entries, or two years from the termination or revocation of a recurring TEL Entry, and shall immediately provide same to Bank upon request. For recurring TEL Entries, Customer shall also retain for two years from termination or revocation of the authorization evidence that a copy of the authorization was provided to the Receiver in compliance with Regulation E. If Customer chooses to provide the Receiver with written notice confirming the Receiver's oral authorization, Customer will disclose to the Receiver during the telephone call the method by which such notice will be provided.

b. Commercially Reasonable Security Procedures. In addition to all other representations and warranties contained herein, Customer also represents and warrants the following each time it delivers a TEL Entry to Bank: it has **(i)** established and implemented commercially reasonable security procedures to verify the identity of the Receiver, including, without limitation, name, address and telephone number and **(ii)** established and implemented commercially reasonable procedures to verify the accuracy and validity of the routing and transit number used in the TEL Entry.

16. Accounts Receivable and Back Office Conversion Entries

The NACHA Rules allow Customer to utilize Entries to collect consumer check payments received via U.S. mail, delivery service, or at a drop box location ("ARC Entry"). The NACHA Rules also permit single Debit Entries by Customer to the account of a Receiver based on an "eligible source document" (as defined in the NACHA Rules, typically, a check) provided by the Receiver at the point of purchase or a manned bill payment location for subsequent conversion during back-office processing (a "BOC Entry"). In the event that Customer initiates an ARC or BOC Entry to Bank, Customer agrees that such ARC or BOC Entry will comply with all provisions of this Agreement and NACHA Rules, as applicable, and makes the following additional representations and warranties regardless of which entity initiates the ARC or BOC Entry on its behalf: (a) prior to the receipt of each eligible source document, Customer has provided clear and conspicuous notice to the Receiver, in conformity with the requirements of the NACHA Rules and provisions of Regulation E and the Electronic Funds Transfer Act to the extent applicable, without limitation, (i) that receipt of the check is authorization to

process the payment as a check transaction or to make a one-time ACH Debit to the Receiver's account, (ii) that funds may be withdrawn from the Receiver's account the same day payment is made, (iii) that the Receiver will not receive the check back from the RDFI and (iv) of Customer's phone number for inquiries regarding BOC Entries; (b) Customer has established reasonable policies and practices to enable a Receiver to opt-out of check conversion as a form of payment (c) each check is eligible as a source document under the NACHA Rules to be collected via an ARC or BOC Entry; (d) the amount of the entry, the routing number, the account number, and the check serial number are in accordance with the eligible source document; (e) the source document to which the ARC or BOC Entry relates will not be presented for payment; (f) Customer has established and implemented policies and procedures to destroy the source document as soon as is reasonable and shall use commercially reasonable methods to securely store the source document until such destruction; (g) Customer shall use commercially reasonable methods to securely store banking information relating to the ARC or BOC Entry; (h) Customer shall retain a reproducible and legible image, microfilm or copy of the front of the Receiver's source document for two (2) years from the settlement date of each ARC or BOC Entry, and shall immediately provide same to Bank upon request, unless bank's BOC service automatically retains such image; (i) for BOC Entries, Customer has established and implemented commercially reasonable procedures to verify the identity of each Receiver of BOC Entries; and (j) for BOC Entries, Customer has established and maintains a working telephone number that is answered during Customer's normal business hours for Receiver inquiries regarding BOC transactions, and displays this telephone number on the notice required by the NACHA Rules.

17. Point of Purchase (POP) Entries

The NACHA Rules allow Customer to initiate a single Debit Entry to a Receiver's account for in-person purchases based on an "eligible source document" as defined in the NACHA Rules (typically, a check) provided at the point-of-purchase or manned bill payment location ("POP Entry"). In the event that Customer initiates a POP Entry to Bank, Customer agrees that such POP Entry will comply with all provisions of this Agreement and applicable NACHA Rules, and makes the following additional representations and warranties regardless of which entity initiates the POP Entry on its behalf: (a) Customer has posted a notice complying with the NACHA Rules in a prominent and conspicuous location at the point-of-purchase and provided Receiver with a written notice of same at the time of the transaction, including without limitation (i) that when a check is provided as payment, it is authorization to process the payment as a check transaction or for a one-time ACH debit to the Receiver's account or to use the information from the check and (ii) that funds may be withdrawn from the Receiver's account the same day payment is made; (b) each check is eligible under the NACHA Rules to be collected via a POP Entry and the Receiver has not opted out of check conversion; (c) Customer has returned the voided source document to the Receiver after capturing the necessary check information and the source document was not previously negotiated, voided, or provided by the Receiver for use in any prior POP Entry; (d) Customer has obtained the Receiver's authorization and provided a copy of same to Receiver, which (i) is in writing and signed or similarly authenticated by the Receiver, (ii) is readily identifiable as an ACH debit authorization, (iii) clearly and conspicuously states its terms and (iv) states that the check will not be processed; and (e) Customer has provided Receiver a receipt containing all information required by the NACHA Rules.

18. Tax Payment Entries

If Customer elects and Bank agrees to offer tax payment Entries through Internet Services, Customer acknowledges responsibility for enrollment in the Electronic Federal Tax Payment System ("EFTPS") through the Internal Revenue Service (IRS). Customer is also responsible for enrollment with any state taxing authorities for the purpose of making state tax payments using Internet Services. In both cases, it is the Customer's responsibility to obtain, from the applicable taxing authority, the appropriate routing numbers and account numbers required for making such Entries. Bank will make available tax payment information through Internet Services for the purpose of assisting Customer with the payment of federal and state taxes. Bank reserves the right to update tax payment information from time to time and makes no warranty that specific tax payment information will be available.

a. Requests for Payment. Requests for payment to tax authorities must be made in accordance with forms which Bank shall provide Customer, which may be amended by Bank from time to time at its discretion and will be considered complete only if actually received by Bank. All tax payments must be initiated at least two (2) Business Days before the due date, otherwise payments may be subject to IRS or state penalties. Any request by Customer to make tax payments hereunder shall be submitted to Bank prior to the Deadline. Any such request received by Bank after its Deadline may be processed on the next Banking Day. In the event that an Entry is rejected or returned by an ACH processor for any reason whatsoever, it shall be Customer's responsibility to reinitiate the Entry. Bank will give Customer notice of any rejected or returned Entry in the usual manner agreed to by the parties.

b. Liability. Bank shall not be liable for any penalties assessed by reason of failure of Customer to make any tax payments. Interruption of the Service or performance hereunder for any reason shall not relieve Customer of its obligation to make any required tax payments, and Bank shall not incur any liability to Customer for failure by Customer to make any such payment. If Customer elects to make a tax payment by any means other than through Bank, Bank shall not be liable for any penalties or interest arising from any error in due date or other calculations for payments made within the period in which such other payment was made.

19. International (IAT) Entries

An IAT Entry is an ACH Entry that is part of a payment transaction involving a financial agency's office that is not located within the territorial jurisdiction of the United States. As of the date of this Agreement, Bank does not permit Customer to initiate ACH Entries to a Receiver located in a country outside of the United States. Unless Bank agrees, in writing, that Customer may initiate IAT Entries, Customer understands and agrees that Customer's failure to abide by such restriction may result in Bank's decision to immediately suspend or terminate Customer's ACH Services. If Bank agrees, in writing, that Customer may initiate such IAT Entries, Customer understands and agrees that any such IAT Entry will comply with all provisions of this Agreement and applicable NACHA Rules, and makes the following additional representations and warranties regardless of which entity initiates the IAT Entry on its behalf: (a) Customer is in compliance with, and the Entry complies with, all applicable laws, regulations and legal requirements of the United States including, without limitation, programs administered by the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) and the Financial Crimes Enforcement Network (FinCEN); (b) Customer is in compliance with, and the Entry complies with, the laws, regulations and payment system rules of the receiving country including, without limitation, any requirement to obtain the Receiver's authorization whether oral, written or electronic; (c) Customer shall bear all risk that the laws, regulations or requirements of the receiving country may prohibit or otherwise preclude the processing, settlement, or transfer of the proceeds of the Entry, including without limitation, through blocking or other sequestration or seizure of funds; (d) Customer shall maintain either the original or a copy of any authorization required from the Receiver for the IAT Entry for the longest period of time that Bank may be required to confirm or produce such authorization pursuant to any law, regulation or requirement of the United States, or law, regulation, payment system rule or requirement of the receiving country, and Customer shall make any such authorization available to Bank for inspection within a reasonable time from Bank's request, or the request of the Receiver; (e) Customer shall bear all risk and responsibility for any and all costs and losses, including without limitation reasonable attorney's fees, relating to foreign exchange conversion with respect to any IAT Entry; and (f) Customer's obligations and responsibilities with respect to IAT Entries, including without limitation as set forth in this Agreement and in the NACHA Rules, shall survive and continue in full force and effect following termination of Customer's ACH services or Customer's ability to generate IAT Entries with respect to any IAT Entry that Customer originates prior to the effective date of any such termination.

20. Third Party Vendors

If Customer initiates Entries through a third party vendor or processor ("Vendor"), Vendor is the agent of Customer and not of Bank. If Customer

uses a Vendor, Customer shall be deemed to have authorized Bank to follow the instructions of such Vendor to the same extent and under the same conditions as would apply if the instructions came direct from Customer and Customer shall be responsible for ensuring that such Vendor fully complies with the NACHA Rules and this Agreement. Bank is not responsible for the acts or omissions of Vendor. For purposes of this Agreement, each Vendor shall be deemed an Authorized User.

21. Third Party Sender

If Customer is transmitting Entries as a third party vendor or processor on behalf of originators (each an "Originator" and collectively, the "Originators" as defined in the NACHA Rules)), Customer agrees to be bound by the applicable terms provided in this Section E and the NACHA Rules. Customer warrants to Bank that the Originator has agreed to assume the responsibilities of an Originator under the NACHA Rules and that ACH Entries shall not be initiated in violation of laws of the United States. Customer represents that it has executed an ACH agreement with each Originator and that the agreement binds the Originator to the NACHA Rules. Customer shall provide Bank with the list of Originators, copies of the agreements, and other information deemed reasonably necessary to identify the Originators within two (2) Banking Days of Bank's request. Bank reserves the right to review the list of Originators for which Customer is transmitting the Entries and to reject any in Bank's sole discretion. Customer, on behalf of the Originator, authorizes Bank to originate entries on behalf of the Originator to the Receivers' accounts. As Originator, Customer agrees that Bank shall not be liable for any and all claims, demands, expenses, losses, liabilities, and damages, including reasonable attorney fees and court costs at trial or on appeal that arise directly or indirectly from the failure of the Originator to perform its obligations as an Originator under the NACHA Rules. Customer further agrees to assume all applicable responsibilities, warranties and liabilities of the ODFI, as specified in the NACHA Rules. Customer shall cooperate fully and respond within five (5) Business Days to any inquiry from Bank relating to potential Rule inquiries or violations. Customer agrees that an annual NACHA Rules audit will be performed and available upon request by Bank within five (5) Business Days of request. For purposes of this Agreement, each Originator shall be deemed an Authorized User. Customer acknowledges that Bank is required to register all Third Party Senders to NACHA.

F. Wire Transfer Services

1. Introduction

As used in this Agreement, a "wire transfer" or "funds transfer" means the series of transactions, beginning with the originator's payment order, made for the purpose of making payment to the beneficiary of the order, as those terms are defined in Article 4A of the UCC as adopted in the State of Texas, and not governed by the Electronic Funds Transfer Act or Regulation E. As used in this Agreement, the terms wire transfer or funds transfer also do not include an electronic funds transfer or "EFT" as those terms are defined in Bank's Consumer Deposit Account Agreement and Services Disclosure**.** Bank sends outgoing and receives incoming wire transfers through Fedwire (the funds transfer system owned and operated by the Federal Reserve Banks) or other third party networks as Bank considers suitable. Our wire transfer services will be dependent upon the availability of such third-party network on conditions acceptable to Bank, in its sole discretion. All funds transfers and funds transfer services made available pursuant to this Agreement are governed by this Agreement, Subpart B of Regulation J of the Federal Reserve Board, OFAC regulations, Article 4A of the UCC, and the rules of any funds transfer system through which the wire transfer is made, including, without limitation, Fedwire. Except as otherwise expressly stated therein, wire transfers and wire transfer services made available to Customer pursuant to any separate wire transfer services agreement or addendum, including without limitation any Commercial Deposit Account Agreement and Services Disclosure, or Consumer Deposit Account Agreement and Services Disclosure, will be governed by such separate agreement or addendum. With respect to wire transfers and wire transfer services made available to Customer pursuant to such separate wire transfer services agreement, addendum, Commercial Deposit Account Agreement and Services Disclosure, or Consumer Deposit Account Agreement and Services Disclosure, in the event of a conflict between the terms of any such document, as applicable, and the terms of this Agreement, the terms of such other applicable agreement will prevail unless this Agreement specifically states otherwise. Customer agrees not to initiate or receive a wire transfer payment order in violation of applicable federal, state or local law. Customer' will designate Authorized Signers and/or Authorized Users by corporate resolution or in such format or medium as Bank may agree, who shall be authorized to act on Customer's behalf to initiate payment orders and select advice methods or confirmation methods, and to provide any or all authorizations and instructions that may be requested by Bank. The Authorized Signers may appoint Authorized Users, who may include Authorized Signers. Bank may rely on any such authorization until it has been revoked in writing by Customer, and Bank has had a reasonable time to process any such revocation received from Customer.

2. Routing/ Deadlines

Bank may use means of transmission and routes, and intermediary and correspondent banks, that Bank determines in its sole discretion are suitable for each outgoing wire transfer. Bank will establish Deadlines after which Bank will not accept an incoming payment order to be processed on the day of receipt. Bank may establish different Deadlines depending on the method of the payment order selected by Customer and all such Deadlines are subject to change at Bank's sole discretion. Wire transfer payment orders received after the Deadline or on non-Business Days will be processed on the next Business Day. A wire transfer payment order shall be considered accepted by Bank when executed by Bank.

3. Payment Orders

a. Content of Payment Orders. Customer will supply to Bank any information Bank may reasonably request regarding any payment order (as that term is defined in the UCC as adopted in the State of Texas) initiated by Customer, including, without limitation, money amounts, affected accounts, dates of transfer, the beneficiary's name and account number, the routing number or bank identifier code ("BIC") of the beneficiary's financial institution, such additional information as Bank may reasonably request and, in conjunction with our security procedures set forth below, if Bank finds it necessary in Bank's sole discretion, further evidence of authority of any Authorized Signer or Authorized User (or other agent) to transfer funds or to do any other act contemplated utilizing this Service. Customer agrees to hold Bank harmless from any loss that occurs if Customer's instructions are incomplete, ambiguous, or incorrect. Customer further understands and acknowledges that Bank is not required to detect any Customer error contained in any payment order, or to seek clarification from Customer regarding ambiguous instructions.

b. Execution of Payment Orders. Customer authorizes Bank to debit Customer's account(s) with Bank for payment orders delivered to Bank in accordance with this Agreement. Bank has no obligation to execute a payment order if the account to be debited has insufficient collected funds to cover the order.

c. Processing Payment Orders. The order in which Bank processes wire transfer payment orders is determined solely by Bank, in its discretion.

d. Retraction or Revocation of Payment Orders. Except as otherwise indicated below with respect to standing payment orders or as Bank may separately notify Customer in writing, Customer does not have any right to reverse, adjust or revoke any payment order after it has been received by Bank; provided, however that Bank may, without obligation, make a reasonable effort to act on such a request by Customer. With respect to a payment order already transmitted to the beneficiary's financial institution, at Customer's request Bank may (but is not obligated to) use its best efforts to retract or recover a payment from the beneficiary financial institution. Customer understands and agrees that the receiving institution is under no legal obligation to comply with this request. **IN ADDITION TO ANY OTHER INDEMNITY PROVISIONS SET FORTH IN THIS AGREEMENT, CUSTOMER AGREES TO INDEMNIFY, DEFEND AND HOLD BANK, ITS OFFICERS, DIRECTORS, SHAREHOLDERS, AGENTS, EMPLOYEES, SUBSIDIARIES AND AFFILIATES, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, AGENTS AND EMPLOYEES, HARMLESS FROM AND AGAINST ANY AND ALL LOSSES, COSTS, SUITS, DAMAGES, CLAIMS, LIABILITIES AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES)**

ARISING FROM OR RELATED IN ANY WAY TO ANY ATTEMPT BY BANK TO EFFECT SUCH RETRACTION OR RECOVER ANY SUCH PAYMENT.

e. Rejection of Payment Orders. Bank may, but is not obligated to, reject any payment order from Customer, in whole or in part, if such payment order is not initiated in accordance with any applicable security procedure, if there is any inconsistency between a payment order and information previously supplied to Bank, if Bank is unable to obtain confirmation of such payment order satisfactory to Bank in Bank's sole discretion, if there are insufficient collected funds in Customer's account to fund the payment order, if the payment order involves funds subject to a hold, dispute or legal process preventing withdrawal of the funds, or if Bank has other reasonable grounds not to honor the payment order. Bank will notify Customer that it has rejected a payment order. Bank may also reject an incoming payment order if it has other reasonable grounds to do so.

f. Standing Payment Orders. If requested by Customer and agreed to by Bank, Customer may establish a standing payment order (a standing wire transfer request), which is one where the Customer provides specific and fixed payment instructions to the Bank for a payment order that is to be executed on a recurring frequency. Standing payment orders must have a currency amount, beneficiary, beneficiary's financial institution, and accounts to be debited and credited. Such information remains constant for subsequent payment orders. Customer shall provide Bank with the necessary information to execute the standing payment order, as Bank determines in its sole discretion, including, without limitation, the dollar amount to be transferred, the frequency of the order and the day of week or month when the payment order is to be executed. Customer may reverse, adjust or revoke a particular standing payment order prior to Bank's execution of the standing payment order, upon notice to Bank received by Bank at a time that provides reasonable opportunity to act upon such a request. Customer may terminate a standing payment order at any time upon receipt by Bank of a written notice, provided Bank is afforded a reasonable opportunity to act on such notice.

g. **PIN Wire Transfers.** If requested by Customer and agreed to by Bank, Customer may establish a PIN Wire Transfer Service, pursuant to a PIN Wire Transfer Authorization Form, or such other form as Bank may provide. The PIN Wire Transfer Service allows wire transfers to be conducted via telephone on or against Customer's account, with the use of an assigned PIN and caller identification. Customer shall provide Bank with the necessary information to execute a PIN Wire, as Bank may determine in its sole discretion.

h. Batch Wire Transfers

(i) Service Specifications. If requested by Customer and agreed to by Bank, Customer may initiate payment orders in batch form to Bank, subject to the provisions of this Agreement. Customer will comply with interface specifications established by Bank, including, without limitation, file formats and means of data transmission (the "Specifications"). Bank may furnish Customer with modifications to the Specifications and Customer shall implement such modifications as soon as reasonably practicable.

(ii) Wire Transfer Software. Customer shall be solely responsible for creating the computer programs to implement the Specifications ("Wire Transfer Software"). Customer shall implement passwords and other security devices commensurate with the highest level of security afforded by Customer to other computer programs and confidential information of Customer.

i. Charge Backs and Returned Items. Customer understands and agrees that Bank posts all non-cash items (such as checks) deposited to an account on a provisional credit basis subject to Bank's receipt of final payment by the payor bank on which the non-cash item is drawn, that Bank has no obligation or duty to verify that Customer has sufficient collected funds in Customer's account prior to Bank charging Customer's account for and sending any wire transfer requested by Customer, and that Bank can charge Customer or Customer's account for the amount of any deposited or cashed item if Bank does not receive final payment for the item or the item is returned unpaid or charged back to Bank for any reason.

4. Notice of Wire Transfers

Bank will notify you of wire transfers debited from or credited to Customer's account through Customer's periodic account statement for the account and the period in which the transaction occurred, or through such online or electronic service that Customer has entered into with Bank. Customer agrees to exercise ordinary care and diligence to determine whether a wire transfer to or from Customer's account was unauthorized or inaccurate. Bank strongly recommends that Customer institute dual control over initiation and verification of its payment orders to confirm payment orders as part of its standard security.

a. Advices by Facsimile and/or Email. If Customer selects advice by facsimile ("fax") and/or email, Customer agrees to exercise extreme care in maintaining its own security in relation to the sending and receipt of fax and/or email advices. Customer acknowledges that the information to be sent or received by fax and/or email may include confidential information, including, without limitation, names, amounts, phone numbers, originating account information, and the text of incoming wires. Customer further acknowledges that Customer alone assumes full responsibility for maintenance of its internal security procedures to keep all such information confidential. To the fullest extent permissible under applicable law, Bank shall not be liable for any and all claims, demands, expenses, liabilities and damages, including attorneys' fees incurred by Customer or Bank arising directly or indirectly from the transmission by fax and/or email of a wire transfer advice.

b. Advices by Mail. Bank will mail daily notification(s) of all wire transfer(s) made unless Customer receives advices through another method such as facsimile ("fax"), email, and/or an online service.

c. Waiver of Advice. Customer may waive its right under the UCC as adopted in the State of Texas to receive advices by submitting the request in writing to Bank.

5. Liability for Unauthorized Wire Transfers; Security Procedures

Customer understands and agrees that Bank is not required to follow any instruction that violates this Agreement, or any security procedure agreed to between Customer and Bank, notice of which is not received at a time and in a manner affording Bank reasonable opportunity to act upon it prior to acceptance of a payment order.

a. Security Procedure. To the fullest extent permissible under Section 4A.202 of the UCC as adopted in the State of Texas, Bank and Customer agree that any security procedure selected will be deemed commercially reasonable if Customer chose the security procedure after Bank offered, and Customer refused, a security procedure that was commercially reasonable for the Customer under applicable law. If Customer adopts any security procedure other than as set forth in this Agreement, or any Treasury Services Form, addendum or separate wire transfer service agreement offered to Customer in conjunction with this Agreement or a Service, Customer will be deemed to have refused Bank's security procedure. Customer understands and acknowledges that pursuant to this Agreement, Customer agrees to be bound by any payment order, whether or not authorized, issued in Customer's name and accepted by Bank in compliance with such security procedure chosen by Customer.

The following security procedure will apply to wire transfer requests processed pursuant to this Agreement. Before processing any such wire transfer request, Bank will:

(1) verify, from its records of Customer's account, that the individual in whose name the wire transfer request is made is identified as authorized to initiate an outgoing wire transfer for the subject account; and

(2) perform validation of the identity of the individual requesting the wire transfer:

(i) for wire transfers initiated in person through a banker, in addition to validation of identity pursuant to subsection (ii) below, by review of eligible

identification documentation (Customer may contact Bank to confirm eligible identification documentation), and

(ii) for wire transfers initiated in person by telephone, electronic mail or facsimile transmission, and not governed by a separate security procedure under an applicable Treasury Management Services agreement, applicable Service Descriptions or Bank form agreed to in writing by Customer, Bank will complete a call back, using contact information for any Authorized Signer, Authorized User or signatory for Customer's account contained in our records of the account (in our sole discretion, to the Authorized Signer, Authorized User or signatory requesting the wire transfer or any other Authorized Signer, Authorized User or signatory on the account); provided,

(iii) that for standing payment orders or otherwise previously authorized, recurring wire transfers to the same beneficiary and beneficiary account number as included in prior wire transfer requests, Bank may not conduct a call back, in its sole discretion.

If Bank cannot reach an Authorized Signer, Authorized User or signatory on the account by telephone, processing of wire transfer request may be delayed.

Without limiting the foregoing, in addition to the foregoing security procedure, Bank reserves the right in its sole discretion to require additional authentication of individual wire transfer requests, including, without limitation, that the wire transfer request be submitted in writing bearing the signature of an Authorized Signatory, or Authorized User, or confirmed via a code sent by SMS message to a mobile device number associated with the account, and Bank further reserves the right to apply its confidential, proprietary system for analysis of certain transactions based on various characteristics.

Customer understands and agrees that Bank's security procedures are intended to verify authenticity of wire transfer requests made to Bank on Customer's behalf, and not to detect error in the transmission or content of the wire transfer request.

Customer further understands and agrees that it bears sole responsibility for establishing and implementing its own appropriate internal procedures and protocols to safeguard against unauthorized transmission of wire transfer requests and related instructions to Bank. Customer agrees to establish and implement appropriate internal procedures and protocols to safeguard against unauthorized disclosure of or access to Customer's systems and security-related information, such as user names, passwords, access credentials, and systems and equipment that access or interface with Bank and Bank's systems or equipment, and that Customer will take reasonable steps to maintain the confidentiality of its internal procedures, protocols, user names, passwords, PIN's, access credentials, other personally identifying information, codes, security devices and systems, and security-related information. Customer must immediately notify Bank of any loss or suspected compromise of any such information, systems or equipment. Customer agrees to confirm any such notification to Bank promptly in writing.

b. Unenforceability of Certain Verified Payment Orders. If a payment order is not an authorized order of the Customer but is effective pursuant to this Agreement or the security procedures in effect between Customer and Bank, Customer understands and agrees that Bank is entitled to enforce or retain payment of the order unless Customer proves that the order was not caused, directly or indirectly, by a person (i) entrusted at any time with duties to act for Customer or on its behalf with respect to payment orders or the security procedure(s), or (ii) who obtained access to Customer's transmitting facilities or who obtained, from a source controlled by Customer and without authority of the Bank, information (including, without limitation, any access device or computer software) facilitating breach of the security procedure, regardless of how the information was obtained or whether Customer was at fault.

c. Duty to Notify Bank of Unauthorized Payment Orders. Customer must exercise ordinary care and due diligence to determine whether a wire transfer to or from Customer's account was unauthorized or inaccurate. Customer will promptly report to Bank in writing any discrepancies between Customer's records and the notification of a payment order mailed, transmitted, or otherwise made available to Customer by Bank, including without limitation any unauthorized or inaccurate payment order. To the fullest extent permissible under applicable law, in no event will Bank be liable to pay Customer interest on any amount to be refunded in relation to an unauthorized payment order that is not effective under UCC Section 4A.202, or not enforceable in whole or in part under UCC Section 4.203, unless Customer notifies Bank in writing of the relevant facts within thirty (30) days after the date Customer receives any notification from Bank that the payment order was accepted or that Customer's account was debited with respect to the payment order. To the fullest extent permissible under applicable law, in no event will Bank be liable to Customer with respect to any subsequent unauthorized payment order submitted or requested by the same person(s) who submitted or requested the first such unauthorized payment order unless Customer notifies Bank in writing of the error or discrepancy in the subsequent payment order within thirty (30) days after the day that Bank mails, transmits or otherwise makes available notification to Customer that the subsequent payment order was accepted or that Customer's Account was debited with respect to the subsequent payment order.

6. International Wire Transfers

a. General. An "International Wire Transfer" means a wire transfer credited to an account located outside the borders of the United States, or that will be sent in currency other than U.S. Dollars.

International Wire Transfers across country borders are customarily completed by Bank through a correspondent. Unless otherwise agreed upon in writing, any fee, commission or charges assessed by the correspondent shall be passed on to the Customer or deducted from the wire transfer amount by the correspondent. Additionally, International Wire Transfers across country borders may incur additional fees or charges based on the routing of the wire through U.S. and foreign financial institutions. Payment to a foreign country is subject to the laws of the foreign country involved. Bank assumes no liability for delays, non-delivery or other events resulting from causes beyond Bank's control. In refunding unexecuted payment orders, Bank shall be liable to Customer only to the extent it receives payment from the correspondent financial institution processing the transfer. Cancellation of a wire transfer involving other than domestic currency is subject to any rate exchange loss as determined by Bank. Customer agrees to sell any canceled payment order to Bank at the then current applicable foreign currency buy rate.

b. Automatic Conversion. International Wire Transfers denominated or expressed in U.S. Dollars but instructed by Customer to be sent to an account denominated in foreign currency may, at Bank's sole discretion, be automatically converted by Bank or may be converted by an intermediary or correspondent bank, or by the receiving financial institution, at such entity's sole discretion, to the receiving financial institution's national currency prior to completion of transfer to such receiving financial institution, so long as the receiving financial institution is located in a country that, to Bank's then-current knowledge, readily accepts such previously converted funds. When such a currency conversion is made, Bank, intermediary or correspondent bank, or the receiving bank will determine, at such entity's sole discretion, the applicable currency conversion rate. Customer understands and agrees that Bank shall not have any liability to Customer for any loss or expense incurred by Customer arising from or relating to any such currency conversion. Customer must notify Bank prior to the transaction if the beneficiary of the International Wire Transfer requires that the payment be made in U.S. Dollars. If Customer has not so notified Bank, and should the receiving financial institution reject the incoming Wire Transfer due solely to Bank's automatic conversion to that financial institution's national currency, Bank shall reimburse Customer the actual amount of any fees assessed by such financial institution that are related solely to the rejection of the Wire Transfer due to Bank's automatic conversion.

c. Currency Conversion Requests. Customer understands and agrees that if Customer requests an International Wire Transfer be made in currency other than U.S. Dollars, Bank may convert the U.S. Dollar amount at Bank's applicable exchange rate in effect at the time of Bank's execution of the order for the specified foreign currency. Customer also understands and agrees that,

should Bank not have an existing exchange rate in place for the specified foreign currency, then Bank will use reasonable efforts to convert the currency through reasonably available commercial or banking channels. Customer further understands and agrees that the exchange rate(s) used by Bank for such International Wire Transfers may vary from exchange rates established by governments or other financial institutions and may not be the lowest available rate available to Customer. If the financial institution designated by Customer to receive the International Wire Transfer does not pay the designated beneficiary or credit the beneficiary's account and the funds are returned to Bank, Bank shall not have any liability to Customer for any sum in excess of the amount of the payment order after Bank has converted the funds back from the foreign currency to U.S. Dollars using Bank's applicable rate of exchange in effect at the time Bank confirms the cancellation of the payment order to Customer. Bank shall not have any liability to Customer for any loss or expense incurred by Customer arising from or relating to any currency conversion requested by Customer.

7. Wire Transfer Numbers
Customer understands and agrees that Customer bears sole responsibility to correctly identify beneficiary information for all wire transfers. Customer's obligation to pay Bank the amount of the funds transfer is not excused in the event that the Fedwire message or otherwise the payment order or instruction does not identify the same account or financial institution of the intended recipient. When the intended recipient's identified name and account number is inconsistent, the payment may be made on the basis of the account number, as controlling, even if such account is not owned by the person or entity identified by name. With respect to incoming wire transfers that do not indicate an account number recognizable to Bank, Bank may return the wire transfer to the sending financial institution without incurring any liability.

8. Reverse Wire Transfers
a. Authorized Debits. If requested by Customer and agreed to by Bank, Customer authorizes Bank to debit Customer's Account(s) upon receipt of a Fedwire drawdown request, and to send funds to the Requesting Bank. Each such transfer will be done on the Business Day Bank receives the incoming request from the Requesting Bank if the request is received within a reasonable time to determine whether Customer's Account has sufficient collected funds and to obtain access to the Federal Reserve network prior to the close of business.

b. Reverse Wire Funding. Customer agrees not to transmit any reverse wire request in excess of available collected balances on deposit in the designated account(s). Bank may reject any reverse wire request in excess of the collected and available balance. Requesting Bank will be notified if the request is rejected by Bank.

c. Authorizations. Customer's authorization for reverse wire requests shall remain in effect until Customer gives written notice to Bank to the contrary. Bank will have a reasonable time to act on any written notice received from Customer.

d. Limitation on Bank's Liability. In consideration of Bank's compliance with this agreed authorization for reverse wire requests, Customer agrees that Bank's treatment of any debit for a reverse wire transfer, and Bank's rights with respect to it, shall be the same as if the entry were initiated personally by Customer. Bank shall have no liability if any such debit is dishonored.

e. Request for Credit. Bank may, at its sole and absolute discretion, submit a non-value, request for credit message (a "Drawdown") on behalf of Customer through Fedwire. Bank shall have no liability as to the results of any such Drawdown request.

9. Provisional Credit. Customer understands and agrees that when Customer's account is credited for an incoming wire transfer, such credit shall be provisional until Bank receives final settlement for such wire transfer, and if final settlement is not received, Bank shall be entitled to a refund of the amount credited to Customer's account.

10. Disclaimer of Warranties. We do not and cannot warrant that our wire transfer services will operate without errors, or that any or all wire transfer services will be available and operational continuously and without interruption at all times. **WE PROVIDE WIRE TRANSFER SERVICES "AS IS" AND "AS AVAILABLE". IN ADDITION TO DISCLAIMERS OR WARRANTIES CONTAINED ELSEWHERE IN THIS AGREEMENT, WE MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND WITH RESPECT TO THE WIRE TRANSFER SERVICES, WHETHER EXPRESS OR IMPLIED. TO THE FULLEST EXTENT PERMITTED BY LAW, WE EXPRESSLY DISCLAIM ANY AND ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE**.

G. Foreign Exchange Online (FXO) Service

1. Introduction
Bank may provide various client-initiated foreign exchange services (collectively, the "FXO Service") to Customer through Bank's Internet Services, for the purpose of purchase or sale of a stated amount of currency against a second currency in specified amounts at the current exchange rate available to Customer on a spot or cash basis ("FX Transactions"), initiated by Customer over the Internet, or by telephone. If requested by Customer and agreed to by Bank in writing, Bank may provide such FXO Service pursuant to the terms of this Agreement, any separate term document(s) for FX Transactions and any confirmations thereof, including without limitation all terms related to security procedures. Customer understands and agrees that the terms of any separate term documents for specific FX Transactions and related confirmations of the details of an FX Transaction are in addition to, and not in place of, the terms set forth in this Agreement for the FXO Service; provided that, in the event of inconsistency between the term documents for specific FX Transactions and the terms of this FXO Service section, the terms of term documents for specific FX Transactions will prevail. Bank's FXO Service is only available to Customers who maintain a demand deposit account with Bank.

2. Customer's Authorized Users; Access
As a condition for using Bank's FXO Service, Customer shall complete and provide Bank's FXO Service documentation to Bank, including without limitation identification of all persons authorized by Customer to conduct FX Transactions, as Authorized Users. Once all documentation required by Bank has been provided, and Bank has granted Customer access to the FXO Service. Customer further understands and agrees that in all instances, Bank may act on instructions that it believes in good faith were provided by an Authorized User.

3. Procedures for Execution of FX Transactions
The following procedures apply to requests or instructions for the quotation, execution of and confirmation of FX Transactions, unless Bank and Customer have agreed otherwise in writing.

Customer, through its Authorized Users, may request, through Bank's FXO Service web portal or by telephone, and Bank in its sole discretion may (but is not obligated to) provide Customer by electronic means or by telephone, a quotation (a "Quote") at which Bank shall agree to execute an order for an FX Transaction. Any such Quote shall be deemed effective only upon acceptance confirmed by Customer to Bank within the time(s) and according to the means specified by Bank, at which time (and at no prior time) the parties shall be bound by the terms of the Quote, and Bank shall proceed to conduct the FX Transaction pursuant to the Quote. Customer understands and agrees that Customer shall have no right to cancel or reverse an FX Transaction once Customer has accepted the Quote. Bank may, in its sole discretion, cancel, reverse or amend an FX Transaction on Customer's request or in the event the wire transfer is not approved timely in FXO by an Authorized User (in which event Customer shall reimburse Bank for all costs reasonably incurred by Bank in canceling, reversing or amending the FX Transaction). If not accepted by Customer within the time(s) and according to the means specified by Bank, the Quote shall terminate and shall be of no further force or effect. The time(s) specified by Bank including deadlines may vary depending upon the currencies involved and other factors in Bank's sole discretion. The terms of the Quote shall include (as applicable) the amounts of the currency or

currencies to be purchased, and the date of payment delivery under the FX Transaction (the "Value Date"). The Value Date generally will be within two (2) Business Days for most major currencies, subject to availability and currency cut-off times. Should the Value Date fall on a day that is not a Business Day, and therefore the FX Transaction is not reasonably able to be completed on such day, the Value Date may be the next Business Day. Except as otherwise set forth herein, payment is due on the date the payment is authorized and will be debited from an Account held by Customer at Bank. Customer must maintain sufficient available funds in the Account to settle the FX Transaction at the time of the FX Transaction, and should sufficient funds not be available in the Account, Bank may, at its sole discretion and election and without liability, to the fullest extent permitted under applicable law, either cancel the FX Transaction or, without further notice of any kind, debit or withdraw funds from any Account of Customer held at Bank in an amount up to Customer's required payment obligation for the FX Transaction and apply such amount in satisfaction of Customer's payment obligation. In relation to the foregoing, should the currencies of Customer's Account to be debited and that of Customer's payment or delivery obligation under the FX Transaction be different, Bank may convert the Account currency into the currency of the FX Transaction at the prevailing currency exchange rate as determined by Bank in good faith. Bank may in its sole discretion, but is not obligated to, issue a confirmation to Customer, directed to the person(s) identified to Bank in writing as the person(s) authorized to receive confirmations from Bank, for an executed FX Transaction.

4. Wire Transfers
Customer understands and agrees that Bank is authorized by Customer to execute and debit the designated account(s) of Customer for wire transfer payment orders delivered to Bank via its web portal for FXO Services. Customer understands and agrees that any and all such wire transfer payment orders will be governed by the relevant sections of the Wire Transfer Services section of this Agreement, and any separate wire transfer terms and conditions issued by Bank and in effect at the time including without limitation all terms related to security procedures. Additional fees and costs that Bank separately discloses to Customer for related wire transfer and other services shall apply.

5. Representations, Warranties and Covenants
In addition to all other representations and warranties made in this Agreement (as applicable), Customer represents, warrants and covenants to Bank, to be deemed made and effective on the date in which Customer accepts any and all Quotes, that: (a) the person accepting the Quote on Customer's behalf or otherwise authorizing each FX Transaction on Customer's behalf is duly authorized by Customer to do so; (b) Customer intends and agrees that each FX Transaction made on a Quote accepted by Customer is binding and enforceable against Customer; (c) Customer is not entering into any FX Transaction for a speculative, trading or investment purpose; (d) Customer is acting as principal, and not as agent, with respect to each FX Transaction; and (e) Customer acknowledges and agrees that Bank shall not act as Customer's agent, advisor or fiduciary with respect to any FX Transaction; Customer is acting solely on its own assessment, or its independent advisor's assessment, of the FX Transaction.

6. Default Events; Termination
Each of the following shall be deemed to be an event of default by Customer (a "Default Event") under these FXO Service terms:
(i) the failure to pay or deliver (or Customer's available funds are insufficient to pay or deliver) to Bank when due any amount due under any FX Transaction in the currency and in the manner specified by Bank, if such failure is not cured in full by Customer immediately upon notice by Bank to Customer;
(ii) Customer fails to perform or comply with any other obligation owed to Bank under any FX Transaction, if such failure is not cured in full by Customer within the time and in the manner specified by Bank to Customer;
(iii) Customer makes any materially false representation to Bank under or in relation to these FXO Service terms or any FX Transaction;
(iv) Customer commences or has commenced against it a bankruptcy, insolvency, receivership, liquidation, conservatorship, dissolution or winding-up proceeding;
(v) Customer fails or is otherwise unable, in Bank's good faith determination and judgment, to pay Customer's debts or financial obligations as they become due;
(vi) Customer repudiates or disclaims any FX Transaction; or
(vii) any event or condition occurs which, in Bank's good faith determination and judgment, would allow the acceleration of any indebtedness owing by Customer to any person or entity.

On the occurrence of any Default Event, Bank, in its sole discretion, shall have the right to notify Customer of the Default Event, and either or both of the following: that Bank is terminating Customer's access to and right to use the FXO Service, and that all outstanding FX Transactions of Customer shall be terminated effective on any Business Day at least one (1) Business Day after and not more than ten (10) Business Days after the date of such notice. If Bank so notifies Customer that Customer's outstanding FX Transactions shall be terminated, Bank shall so terminate all outstanding FX Transactions of Customer on the date so designated, and shall calculate in good faith the net amount due and owing from or to Customer including the gains or losses of Customer as of such termination date in replacing or obtaining the equivalent of all such outstanding FX Transactions. In making any such calculation, Bank shall consider the pertinent terms of the terminated FX Transactions, and, as applicable, any loss, cost or gain incurred or received by Customer in the termination, liquidation or re-establishment of any hedge related to the terminated FX Transactions. All such net amounts due and owing from or to Customer shall be aggregated to net all such amounts to a single liquidated amount payable to or by Bank. Bank shall provide Customer with written notice of such aggregated amount, the date when such aggregated amount is due and payable, and, in reasonable detail, Bank's calculation of such aggregated amount.

7. Setoff
In addition to all rights of setoff as set forth in Customer's Deposit Agreement or any other agreement in place between Customer and Bank, or at law, Customer understands and agrees that when any Default Event has occurred, Bank shall have a general right, at Bank's sole discretion without obligation, and without further notice to Customer, (i) to set off or apply funds in any of Customer's accounts (other than an IRA Keogh plan, tax-deferred retirement account, Health Savings Account, or certain trust accounts) up to and including Customer's account balance(s) with respect to any obligation of Customer owing to Bank in relation to any FX Transaction, and (ii) to set off any obligation of Customer owing to Bank in relation to any FX Transaction against any obligation of Bank owing to Customer in relation to any FX Transaction. Following any such set off, Bank shall give Customer notice of any such set off. Nothing in this section shall be deemed to create a lien or other security interest or charge.

8. Required Reporting.
Bank shall be entitled to report information with respect to these FXO Service terms and conditions and any and all FX Transactions as may be required by law or regulation, or as requested by any governmental authority, subpoena, or investigation.

H. Positive Pay Services

1. Introduction
Positive Pay Services are offered by Bank as the most effective way to minimize loss from fraudulent check issuance or payment. If Positive Pay Services are requested by Customer and agreed to by Bank, Customer and Bank agree that in the event of an inconsistency between this Agreement and applicable law, the provisions of this Agreement shall prevail to the extent permitted. Nothing in this Agreement is intended to limit Bank's right to return an item unpaid if there are insufficient available funds in the designated account.

2. Format Specifications
Customer shall comply at all times with Bank's format and data transmission standards for the Positive Pay Service. Customer agrees to issue checks, drafts, warrants or other items (collectively, "Items") in accordance with Bank's specifications and will change the Item format when requested to do so by Bank. Bank shall not be responsible for correcting or resolving

processing problems caused by substandard quality magnetic encoding. Customer may be required to supply Bank with sample Items for testing.

3. Positive Pay

a. Customer Responsibilities. Customer shall designate to Bank all account(s) that are to be used with the Positive Pay Service ("Positive Pay Account(s)"). Customer will provide Bank with a file of all outstanding Items prior to activation of this Service although activation may not be withheld shall it be deemed necessary by Bank. On each day that an Item is written against the Positive Pay Account, Customer shall supply Bank with all required Item issue information prior to the Deadline established by Bank. Such information shall include, without limitation, the account number, the issue date, the Item number and the face amount. When Payee Positive Pay is enabled, the payee name is also required. Customer shall be responsible for the accuracy and completeness of all information provided to Bank.

b. Bank's Responsibilities. In reliance on the information provided by Customer, Bank shall create a master issue file for each designated Positive Pay Account ("Issue File"). Excluding valid stop payment orders, all Items that match by serial number, amount, and when Payee Positive Pay is enabled, payee name to Bank's Issue File will be deemed properly payable and Bank is authorized to pay all such Items.

c. Payee Positive Pay. If Customer selects this option, Customer's Item stock may require testing to ensure it meets Bank's payee name readability rate. Customer shall designate to Bank all Positive Pay Accounts that shall use Payee Positive Pay. In addition to the Item issue information provided by Customer for the positive pay service, Customer shall supply Bank, in the format and by such date and time as Bank may specify, with the payee name(s) for each Item issued by Customer. Customer shall be responsible for the accuracy and completeness of the payee information provided to Bank. In reliance on the payee information provided by Customer in the format and by such date and time as Bank may specify, Bank will compare the payee information on the Item with Customer's Issue File for Items presented in the back office and at the teller line, to verify the accuracy of the payee information on the Item posting to Customer's Positive Pay Account on the Business Day the Item is posted or presented to Bank over the counter. Customer acknowledges that Bank will not be able to validate payee information for electronically converted Items presented to Bank for payment. Bank may, in its sole discretion, impose variable parameters for which the payee information will not be reviewed for certain Items processed through the back office. If such parameters are imposed, Bank agrees to assume the risk of loss for an Item that would have been identified as an Exception Item solely on the basis of the payee information. Customer agrees to cooperate fully with Bank for the purpose of investigation and collection of such Item.

Due to the wide availability of counterfeit check technology and vulnerability of Items being lost or stolen, Customer acknowledges the importance of Payee Positive Pay in protecting against loss associated with the counterfeiting of an otherwise properly payable Item. Customers use of Positive Pay without the Payee service assumes the risk of loss against Items that would have otherwise been identified as Exception Items with the Payee Positive Pay service.

d. Exception Items. Each Business Day, Bank shall report to Customer any Items that do not match the Issue File ("Exception Items") and, if requested and available, provide the front and back images of those Items for that day's presentment; provided, however, no images shall be provided in the case of electronically converted Items. Customer agrees to review and make payment decisions on the Exception Items prior to Bank's established Deadline. If Customer's requested default setup is for Bank to pay all Exception Items, then Bank is authorized to finally pay any Exception Item unless Customer has instructed Bank to return the Exception Item prior to the established Deadline. If Customer's requested default setup is for Bank to return all Exception Items, then Bank is authorized to return any Exception Item unless Customer instructs bank to pay an Exception Item prior to the established Deadline. Bank may rely on any instructions received from Customer that Bank reasonably believes to be genuine. Bank shall have no responsibility for any liability, loss or damage resulting from: (i) payment in accordance with this Section of any Exception Item that is altered or unsigned or which bears the forged or unauthorized signature of Customer; (ii) the return of any Exception Item to the depository bank in accordance with this Section; or (iii) Customer's failure to meet Bank's established Deadlines. Customer may be required to place a stop payment order on any returned Exception Item, which shall be subject to Bank's customary stop payment fee. Bank's failure to report a discrepancy will not discharge Customer's obligation with regard to any Item and shall not obligate Bank to return any Item if it is otherwise properly payable.

e. Teller Positive Pay. All Positive Pay Accounts will interface with Bank's teller system unless otherwise agreed by Bank. Bank will compare Items presented for cash at a branch of Bank with Customer's Issue File if available. Customer agrees that Bank may refuse to cash any Item and such refusal will not be deemed to be a wrongful dishonor. In the event of dishonor, Bank will refer the presenter to Customer. Customer acknowledges that under some circumstances, issuance information submitted by Customer may not be reflected in Customer's Issue File until the opening of the following Business Day. Customer agrees to follow established procedures should it need to manually add an Item to the Issue File. Bank will make reasonable efforts to assist Customer, but Customer acknowledges that Bank may be unable to process such requests on a same day basis. In the event that Customer requests Bank not activate or temporarily deactivate teller positive pay, Customer agrees to assume all risk of loss for any Bank teller-cashed Item that would have been identified as an Exception Item prior to acceptance.

f. Teller Payee Positive Pay. If Customer selects this option, Customer shall designate to Bank all Positive Pay Accounts that shall use Teller Payee Positive Pay. In addition to the Item issue information provided by Customer for the positive pay service, Customer shall supply Bank with the payee name(s) for each Item issued by Customer. Customer shall be responsible for the accuracy and completeness of the payee information provided to Bank. In reliance on the payee information provided by Customer, Bank will compare the payee information on the Item presented for cash at a branch of Bank with Customer's Issue File. Customer agrees that Bank may refuse to cash any Item where the payee name is not an exact match and such refusal will not be deemed to be a wrongful dishonor. In the event of dishonor, Bank will refer the presenter to Customer. Customer acknowledges that under some circumstances, issuance information submitted by Customer may not be reflected in Customer's Issue File until the opening of the following Business Day.

4. Reverse Positive Pay

a. The Paid File. Customer shall identify all accounts subject to Reverse Positive Pay. When an Item is presented for payment against an identified Positive Pay Account, Bank shall notify Customer prior to the designated time, and in no case later than the Business Day following the day of presentment, of the account number, Item number and amount of the presented Item (the "Paid File") and, if requested and available, shall provide Customer with the front and back images of the Items. By electing Reverse Positive Pay, Customer assumes all fraudulent and other risks associated with teller-cashed Items unless Customer provides standing instructions to Bank to disallow encashment at the teller line.

b. Payment Instructions. Customer shall compare the information provided by Bank with Customer's Item issuance records. Customer shall notify Bank prior to the Deadline established by Bank of Customer's decision on any reported Items that should be dishonored. Bank may rely on any instructions received from Customer that it reasonably believes to be genuine. Bank is authorized to finally pay any Item listed on the Paid File unless the Customer instructs Bank to return the Item prior to the established Deadline. Bank shall have no responsibility for any liability, loss or damage resulting from (a) a payment in accordance with this Section of any Item that is altered or unsigned or which bears the forged or unauthorized signature of Customer or (b) return of any Item to the depository bank in accordance with this Section. Bank reserves the right to require Customer to place a stop payment order on any Item to be returned. Any such orders will be subject to Bank's customary stop payment fee. Customer shall notify Bank by the designated Deadline if the Paid File has not been received from Bank. Bank will make reasonable efforts to provide the Paid File to Customer and honor Customer's instructions. Bank's failure to provide a Paid File will not discharge

Customer's obligation with regard to any Item that was otherwise properly payable at the time of presentment.

5. Positive Pay – ACH Service
Positive Pay – ACH Service assists Customer in detecting fraud by electronically matching incoming ACH transactions to authorizations that Customer can create and manage online. If ACH Positive Pay Service is selected by Customer, Customer shall designate the account(s) maintained at Bank that are to be used with the ACH Positive Pay Service. Customer shall create authorizations for incoming ACH Debit Entries that it desires to post to the Positive Pay Account. Customer shall be responsible for the accuracy and completeness of all information provided to Bank. Bank will allow incoming ACH Entries that match Customer's authorizations to post to Customer's Positive Pay Account on the Business Day such ACH Entries are received. Incoming ACH transactions that do not match Customer's authorizations will be treated as Exception Items, and Customer agrees to monitor, review and make payment decisions on the Exception Items prior to Bank's established Deadline. If Customer's requested default setup is for Bank to pay all Exception Items, then such Exception Items shall remain paid unless Customer has instructed Bank to return one or more Exception Items prior to the established Deadline. If Customer's requested default setup is for Bank to return all Exception Items, then Bank is authorized to return all Exception Items unless Customer instructs bank to pay one or more Exception Items prior to the established Deadline. Bank shall have no responsibility for any liability, loss or damage resulting from: (a) payment in accordance with this Section of any exception item that is unauthorized; (b) the return of any exception item to the Originator in accordance with this Section; or (c) Customer's failure to meet Bank's established Deadlines. Bank's failure to report a discrepancy will not discharge Customer's obligation with regard to any item and shall not obligate Bank to return any item if it is otherwise authorized.

6. Recommended Security Procedures
Bank considers its Positive Pay Services and ACH Block Maintenance Service described below to be included within Bank's security procedures for protection of fraudulent activity against Customer's account(s). Customer acknowledges the availability of these Services and their effectiveness in controlling the risk of unauthorized Items and transactions. To the fullest extent permissible under applicable law, by waiving enrollment in Positive Pay Services and/or ACH Block Maintenance Service, or by choosing not to use or failing to use such Services in accordance with their applicable terms, Customer understands and agrees that Customer has assumed the risk of any losses that reasonably could have been prevented if Customer had used the Positive Pay Services and/or ACH Block Maintenance Service, as applicable, and that Bank has exercised ordinary care in the payment of Items or transactions drawn or paid against Customer's account as provided by Articles 3, 4 or 4A of the UCC as adopted in the State of Texas, or as otherwise provided in the NACHA Rules.

I. Posting Restriction Services

1. ACH Block Maintenance Service
If Customer elects and Bank agrees to offer the ACH Block Maintenance Service, Bank will return each ACH Debit Entry Bank receives for payment from account(s) except for those Entries specifically authorized by Customer as indicated on the Service Documentation. To the fullest extent permitted by applicable law, Customer waives any claim of wrongful dishonor or return associated with any Entry that is so returned and agrees that Bank will not provide other notice of the receipt or return of any such Entry. Customer further requests Bank to allow only Entries indicated on applicable Service Documentation as may be modified from time to time. Such modifications shall not be binding upon Bank until it has received the required written notice and has had a reasonable opportunity to act on such instructions.

2. Post No ACH
If Customer elects and Bank agrees, Bank will return each ACH Debit and/or ACH Credit Entry Bank receives for payment to and/or from account(s). To the fullest extent permitted by applicable law, Customer waives any claim of wrongful dishonor or return associated with any Entry that is so returned and agrees that Bank will not provide other notice of the receipt or return of any such Entry.

3. Post No Checks
If Customer elects and Bank agrees, Bank will return unpaid each check presented for payment against the account(s). To the fullest extent permitted by applicable law, Customer waives any claim of wrongful dishonor or return associated with any check that is so returned and agrees that Bank will not provide other notice of the receipt or return of any such Item.

J. Remote Deposit Services

1. Introduction
Customer subscribes to, and Bank agrees to provide, as part of the Services, Remote Deposit Services. The Remote Deposit Service enables Customer to submit to Bank, for deposit to Customer's account(s), electronic check images and associated information ("Check Image(s)") in lieu of the original checks from which such Check Images were obtained.

2. Laws, Rules and Regulations
Customer agrees to comply with all existing and future operating procedures used by Bank for processing of transactions. Customer further agrees to comply with, and to be bound by, all applicable state or federal laws, rules and regulations affecting the use of Check Images, including but not limited to, rules and procedural guidelines established by the Texas Department of Banking, the Federal Deposit Insurance Corporation ("FDIC"), Federal Trade Commission ("FTC"), the Federal Reserve, National Check Exchange ("NCE"), Small Value Payments Company ("SVPCo"), Viewpointe, Endpoint Exchange, Electronic Check Clearing House Organization ("ECCHO") and any other clearinghouse or other organization in which Bank is a member or to which rules Bank has agreed to be bound or is bound by operation of law. Customer further understands and agrees, to the fullest extent permissible under applicable law, that if Customer makes a deposit using Bank's Remote Deposit Service or mobile application, items deposited are not covered by the funds availability requirements of the Federal Reserve Board's Regulation CC, and Bank may delay availability of funds from these deposits at Bank's discretion. Decisions regarding a deposit hold are measured critically and consider current banking relationships including account tenure, account in good standing, regularity of mobile deposits, average deposit amount, and other relevant factors. To the fullest extent permitted by applicable law, we are not required to and may not send you notice of a hold on such deposits. Bank refers Customer to the Mobile Deposit User Agreement for information regarding use of mobile deposit services and/or other mobile remote deposit services. This Agreement is incorporated by reference and made part of the Mobile Deposit User Agreement, and in the event of conflict or discrepancy between this Agreement and the terms of the Mobile Deposit User Agreement with respect to the subject matter of that agreement, the terms of the Mobile Deposit User Agreement will control and take precedence.

3. Equipment and Software
Bank is not responsible for and shall not be liable with respect to any loss or damage to Customer with respect to, any failure of the equipment, software or services or any failure in the transmission of any Check Image to Bank. Notwithstanding anything in this Agreement to the contrary, if Bank provides any software in connection with the Service, Customer may use that software on only one machine. The software may not be provided to an agent without Bank's prior written consent, which may be conditioned upon the agent's agreement to contractual terms that are acceptable to Bank. Bank is not responsible for any computer virus or related problems that may be associated with using electronic mail or the Internet to deliver Services. Bank is not responsible for any errors or failures resulting from defects in or malfunctions of Customer's computer hardware or software. Bank advises Customer to scan its computer hardware and software on a regular basis using a reliable computer virus detection product in order to detect and remove computer viruses.

4. Images and Deposit Deadlines
Customer shall submit Check Images to Bank in such format, and with such associated check information, as Bank may specify from time to time. Check Images will be deemed to have been accepted by Bank for deposit on the date

that the deposit is acknowledged by Bank's systems. Unless otherwise specified, acknowledgement of deposits will be in the Central Time Zone. The Deadline for same day credit is communicated via the Service Documentation. Deposits made after the Deadline will be posted the following Business Day. Availability of deposits is based on Bank's normal availability schedule as in effect from time to time unless Bank and the Customer have agreed on a different availability schedule. Bank reserves the right to reject any single Check Image or group of Check Images for any reason, before or after confirmation.

5. Transmission of Deposits
To ensure accuracy, Customer shall balance the deposit dollar amount to the sum of the Items ("Balanced Deposit") prior to transmitting the Deposit in accordance with the procedures. Customer may send multiple deposits to Bank throughout the day unless otherwise specified by Bank. Bank may establish a daily limit of the total dollar amount of deposits transmitted by Customer on a single day ("Deposit Limit"). The Deposit Limit will be determined based on the typical dollar amount of deposits transmitted by Customer on a single day and may be adjusted based on underwriting criteria established by Bank. If the total dollar value of the deposit exceeds the Deposit Limit, Bank may, at its option, refuse to accept the deposit that exceeds the Deposit Limit, or Bank may accept and process the deposit subject to exception hold criteria. Customer agrees not to exceed the Deposit Limit. Bank reserves the right to change the Deposit Limit. These modifications are effective immediately and may be implemented prior to Customer's receipt of the newly established Deposit Limit. Customer may contact Bank at any time to verify the current Deposit Limit.

6. Representations and Warranties
Customer warrants and represents, with respect to each Check Image submitted to Bank, that: (a) Customer is authorized to deposit each Check Image; (b) the Check Image accurately represents all of the information on the front and back of the original check, and that all such information is legible on the Check Image; (c) no person will receive presentment of the original check, a substitute check based on the original check, or a paper or electronic representation of the original check or a substitute check, such that that person will be asked to make a payment based on a check that it has already paid; (d) each Check Image meets the ANSI X9.37 standards for image quality (or such additional standard as may be adopted from time to time); (e) both the Customer and the clients with whom it does business are reputable and are not using Bank as a conduit for money laundering or other illicit purposes; and (f) transactions processed by Bank are not prohibited by any applicable law, regulation, rule, order or judgments.

7. Physical Check Retention and Internal Controls
Customer shall assume all responsibility for destroying the imaged physical checks with a minimum retention of sixty (60) days after processing. Physical checks shall be stored in a secure manner during the retention period and shall be properly shredded in accordance with industry standards after the retention period has expired. Upon request, Customer shall allow Bank to review Customer's controls with respect to the storage and destruction of the physical checks and adhere to Bank provided best practices and procedures. Customer shall provide written notice to Bank of any changes to the information provided by Customer to Bank, including but not limited to: additional locations, any change in business, any new business, the identity of principals and/or owners, the form of business organization, type of goods and services provided, and method of conducting sales. Such notice must be received by Bank within five (5) Business Days of the change. Further, upon Bank's request, Customer shall provide updated information within five (5) days of such request. Bank retains the right to (a) review Customer's Item and business activity from time to time to confirm Customer is conducting business as stated by Customer at the time of the execution of this Agreement, and (b) re-price or terminate Bank's services based on changes to the facts previously stated by Customer.

8. Foreign Deposited Items
Customer shall not scan any foreign Items for deposit, even if they are in U.S. Dollars. Bank cannot allow any Item drawn on a foreign bank to be scanned and sent via electronic image. Examples of items that would not be accepted are those drawn on Banks in Canada, Mexico, or Europe, among others.

9. Endorsements
Customer is responsible for proper endorsement of checks and Check Images prior to submitting the same to Bank for deposit via Remote Deposit Services, including, without limitation, the inclusion of any restrictive endorsement language required by Bank. Customer understands and agrees that all items deposited by Customer via Remote Deposit Services must contain the restrictive endorsement "For mobile deposit at PlainsCapital Bank only" followed by the Customer's account number and date of deposit. Customer further agrees to indemnify and hold harmless Bank, as set forth in and in addition to all matters addressed in Section A(10) of this Agreement, from and against any and all losses, costs, suits, damages, claims, liabilities and expenses (including reasonable attorney's fees) arising from or relating to the deposit of the original check at any other financial institution or business. Additionally, Customer may request that Bank endorse checks electronically in lieu of physical endorsement if transmitted to Bank through Remote Deposit Services software. In such case that Customer directs Bank to make an electronic endorsement, Customer shall indemnify and hold Bank harmless for any endorsement made on Customer's behalf.

10. Substitute Checks
Customer shall not scan any substitute checks for deposit. Substitute checks are printed representations of the original check that were converted to paper from an electronic image.

11. Contingency Plan
Customer agrees that in the event that Customer is not able to capture, balance, process, or otherwise transmit a deposit to Bank for any reason, including but not limited to communications, equipment or software outages, interruptions or failures, Customer will transport the physical checks and deposits to the closest office of Bank and deposit the original checks with Bank until such time that the outage or other interruption can be identified and resolved.

K. Lockbox Services

1. Lockbox Service Requirements
Bank provides retail and wholesale lockbox services ("Lockbox Services") in house or through third party vendors to assist Customers in expediting receipt of their remittances. As it relates to Lockbox Services, "Bank" shall have the meaning of Bank and / or third party vendor where applicable. Customer agrees to terms of this entire Agreement where applicable to third party vendors. Customer will have its customers forward their payments to the location designated by Bank ("Lockbox"). Prior to initiation of Lockbox Services, Customer must maintain a demand deposit account with Bank.

2. Access to Mail
Customer authorizes Bank to pick up mail at the appropriate postal facility, to have custody of the keys or combinations and unrestricted and exclusive access to such box, and to collect the mail therein to be processed by Bank as agreed by the parties. Bank shall process remittances in accordance with its standard procedures or in accordance with prior instructions received from Customer and agreed to by Bank. Upon termination of Customer's Lockbox Service, mail will be marked "Return to Sender" unless otherwise instructed by Customer.

3. Proprietary Rights
Bank possesses all proprietary rights to written material, including, without limitation, all computer programs written for Bank's Lockbox processing system, portable media, listings, and other documentation originated and prepared by Bank. Customer shall not duplicate, sell, or use in any manner such programs or documentation without the prior written consent of Bank.

4. Collections/Availability
Unless otherwise agreed, while Customer receives Lockbox Services, all collected funds held in the account shall be deemed to be Customer's funds for all purposes, including adjustment, attachment, execution, garnishment and other forms of legal process. The crediting and collection of items will be handled under the same agreement as applied to other commercial deposits and shall be subject to Bank's then current funds availability schedule.

5. Transmission of Information
Bank shall transmit to Customer remittance information or other information received at the lockbox ("Lockbox Information") via secure electronic transmission. Customer acknowledges that the Lockbox Information may include consumer information that is confidential and may be subject to privacy laws and regulations, including unauthorized access or breach notification regulations. Customer further acknowledges that Bank has a duty to protect Lockbox Information and ensure that it is safely delivered to Customer and that Bank has deemed secure electronic transmissions to be the safest mechanism for delivery. If Customer elects to receive the Lockbox Information using other delivery means including paper reports, CDs, DVDs, or other portable electronic media, Customer acknowledges that such delivery means are susceptible to risk and agrees that Bank shall not be liable for any obligations, liability or losses that results from the non-receipt, disclosure, dissemination, alteration or unauthorized access of the Lockbox Information.

6. Retail Lockbox Processing
Bank is authorized to open each envelope and remove the contents, disregarding all notations and other marks on the envelopes. Bank shall not examine checks or other items with respect to payee names, check dates and check signatures. Bank is not required to retain remittance envelopes or forward them to the Customer. Bank will disregard any restrictive notation on any check, including but not limited to "paid in full", whether preprinted or handwritten, and shall treat any such check as though such language did not appear thereon. Bank will process, endorse and deposit remittances in accordance with its standard procedures. If Bank is unable to determine the amount of a check, such check will be forwarded to Customer as non-processable. Bank will deliver miscellaneous enclosures, non-processable transactions and remittance data in accordance with the Implementation Documents. Payment coupons and envelopes submitted to Bank for processing must meet the specifications designated by Bank from time to time. All changes in coupon and return envelope design are subject to prior testing and approval by Bank. Bank may adjust the price for processing Customer's payments if changes are made to Customer's coupons and/or envelopes (including coupon scan line configuration) without such prior approval.

7. Wholesale Lockbox Processing
Bank is authorized to remove and examine the contents of each envelope in accordance with Bank's wholesale lockbox servicing guidelines and shall observe the following guidelines provided in this Section unless otherwise dictated by Customer in accordance with the Service Documentation. Bank shall capture, format and send remittance data to Customer via information reporting or data transmission in accordance with the Service Documentation. Customer shall not use any form of prepaid business reply mail envelopes for its lockbox remittances and shall review any proposed envelope changes with Bank prior to use.

a. Check Date. Bank will not examine any checks or other items with respect to check dates.

b. Check Amount. If Bank is unable to determine the amount of a check, such check will be forwarded unprocessed to Customer as an exception.

c. Payee. Checks made payable to the acceptable payees listed in the Service Documentation or any reasonable derivation thereof are acceptable for deposit. Checks made payable to others will be returned by Bank as exceptions.

d. Missing Signature. In the absence of a signature, Bank will process the check.

e. Exceptions. If a check is treated as an exception, it will be forwarded by Bank to Customer with the remittance data, and not deposited or otherwise reflected in the account of Customer.

f. Correspondence. Any correspondence, invoices and miscellaneous enclosures which are included with a payment, as well as any envelope that does not contain a check, will be returned to Customer.

g. Notation. Customer agrees that Bank shall make reasonable efforts to act on Customer's instructions regarding checks containing "paid in full" or other restrictive notation, whether preprinted or handwritten. Customer further agrees that Bank shall not be liable for identifying or failing to identify such notations.

8. Imaging Services
If Customer elects and Bank agrees to provide imaging services for all Customer remittance, correspondence, and checks, Customer agrees that Bank shall destroy all original documentation in a period not to exceed thirty (30) days unless otherwise requested by Customer. Customer also agrees that if document retention services are requested beyond thirty (30) days, additional fees may apply.

L. Controlled Disbursement Services

1. Disbursement Account
If requested by Customer and agreed to by Bank, Customer will open and maintain a demand deposit account ("Disbursement Account") and a primary funding account ("Funding Account") in accordance with Bank's Deposit Agreement. Bank reserves the right to require customer to use Bank's positive pay service in conjunction with the use of Disbursement Account(s). Customer hereby authorizes and directs Bank to act on its behalf and as it's agent, as Bank in its sole discretion deems necessary or advisable, in performing any of the Controlled Disbursement Services and related Services.

2. Funding Procedures
On each Business Day, Bank shall electronically provide Customer with a report of the total aggregate amount of all presented disbursement checks to the Disbursement Account (the "Total Clearings"). Customer agrees to maintain sufficient collected balances in the Funding Account by the established deadline to fund the Total Clearings. Bank is hereby authorized to debit the Funding Account in an amount equal to the actual or estimated Total Clearings and to transfer funds in said amount for credit to the Disbursement Account. Bank reserves the right to convert the Disbursement Account into a standard prepaid checking account at any time upon notice to Customer. If Customer elects and Bank agrees to allow ACH disbursements drawn on the Disbursement Account, Customer agrees to utilize Bank's primary Routing Number (111322994) for those ACH disbursements. Customer also acknowledges that the Total Clearings report will only reflect total disbursement checks drawn on the Disbursement Account and agrees to fund the entire amount of ACH disbursements in addition to Total Clearings.

3. Special Circumstances
Customer acknowledges that Bank, under some circumstances beyond its control, may at times be unable to provide a report of the total amount of its Total Clearings early enough for Customer to make a complete and acceptable funding of the accounts. Customer nevertheless agrees to fund the Funding Account completely by using an estimate of the Total Clearings.

4. Return of Items Unpaid
Bank reserves the right, with reasonable notification, to return unpaid any or all Items presented for payment against the Disbursement Account in the event that: (a) there are insufficient collected and available balances on deposit in the Funding Account by the established deadline to fund the Total Clearings; (b) debits cannot be posted because the Disbursement Account or Funding Account is frozen, blocked, closed or because of any other condition; or (c) any communications failure or other condition prevents Bank from monitoring Customer's Items presented for payment.

5. Stop Payment Orders
Customer may issue stop payment orders on Items drawn on the Disbursement Account in accordance with Bank's procedures.

M. Instant Payment Services

1. Introduction
This section describes our instant payment services and the additional terms applicable to these services. An "instant payment" is a type of digital funds

transfer from or to a deposit account for the moving of money electronically in real time, through an electronic payments network using a faster payments system, that is typically irrevocable upon transmission and completed within seconds of transmission by the sender. We may limit the availability of these services at any time, and all of these services may not be available at each Bank location. We may require you to sign a separate agreement to obtain these services. If there is a conflict between the subject matter of the separate agreement and this Agreement, the separate agreement will control to the extent of the conflict.

2. Applicable Terms
There is no guarantee that we will make instant payments available to you, and we reserve the right not to provide access to instant payments in the future, regardless of this Section. In the event we make instant payments available to you, the following terms apply to any instant payments sent or received to your account through an instant payments network, which may be the RTP® network operated by a third party, The Clearing House, or FedNow, operated by the Federal Reserve (each, a "Network"). We reserve the right to impose limits on the amount and frequency of instant payments sent or received through an instant payments network. In our sole discretion, we may provide access to other instant payments networks in the future.

a. RTP® network. Instant payments made or received through the RTP® network, a service from the Clearing House allowing for eligible depository institutions to provide immediate payment services between bank accounts 24 hours a day, 365 days a year, are governed by the network guidelines under Section 4A of the UCC without regard to its conflict of laws principles.

b. FedNow. Instant payments made or received through FedNow, an instant payment service developed by the Federal Reserve allowing eligible depository institutions to provide instant payment services for real-time payments between bank accounts 24 hours a day, 365 days a year, are governed by Section 4A of the UCC as incorporated by Regulation J, Subpart C, and the Electronic Funds Transfer Act ("EFTA"). In the event of an inconsistency between the provisions of subpart C and the EFTA, the EFTA shall prevail to the extent of the inconsistency.

3. Eligibility
Instant payments networks may be used only for eligible payments between a sender and receiver whose accounts are located in the United States. You may not send or receive instant payments into an account not domiciled in the United States. Instant payments that are permitted under the rules of the RTP® network and FedNow, in addition to our requirements are considered eligible payments for purposes of this Agreement.

4. Irrevocability
Instant payments are considered irrevocable and cannot be reversed. If we receive a request to return an instant payment previously credited to your account, the Bank may attempt to contact you but will have no liability for failing to do so. Any dispute between you and a sender or recipient must be resolved directly between you and the sender or recipient, and you agree that the Bank will have no liability in connection with such a dispute.

N. Cash Vault Services

1. U.S. Currency
The Terms "cash", "coin", "note", "check" and "currency" as used herein shall refer to coin and currency of the United States. Customer shall not deposit coin or currency of any other country.

2. Account
All deposits of cash, currency, coin, notes and checks will be credited to, and all withdrawals of cash, currency, coin, notes and checks will be debited against, Customer's deposit account at Bank which Customer has designated as being covered by the Services described herein.

3. Deposits
a. Customer shall supply and maintain clear, disposable, and tamper proof plastic bags for deposits. Plastic bags shall be sealed according to manufacturers' instructions. Customer will prepare deposits in good order as follows: (i) currency will be batched separately with each accompanied by a deposit ticket fully completed by Customer; (ii) currency will be banded with one hundred (100) notes of the same denomination whenever possible; (iii) deposits will be delivered by Customer's certified armored carrier to the secured facility specified by Bank; and (iv) to receive same date credit, deposits must be made prior to the daily cut-off time established by Bank from time to time; any deposits received by Bank after its daily cutoff time may be considered to have been received on the next Business Day.

b. Bank will process Customer's deposits as follows: (i) deposits will be receipted and conditional (subject to verification) credit assigned based on the amount identified on the deposit ticket; (ii) deposit tickets that are missing, blank or do not contain legible "declared balances are subject to delayed ledger credit of one Business Day; and (iii) coins and currency will be counted and Bank's count will be the valid and controlling count.

c. If there is a currency and coin variance from the declared amount on Customer's deposit ticket, Bank shall adjust Customer's currency and coin deposits through a separate debit or credit to Customer's account. Any such adjustment shall not be reflected on Customer's deposit ticket. Deposit tickets containing a declared total that includes check deposits, may require a separate and additional adjustment for any variances to Customer's check deposits. Bank will notify Customer by means deemed appropriate by Bank of any deposit for which Bank's count varies from Customer's count. Upon request, Bank will provide Customer with any available information which may assist Customer in reconciliation of the difference.

d. Deposited items will be deemed received on the day of delivery if Bank receives the deposit prior to Bank's established Deadline. Deposits will be processed in accordance with normal Bank procedure and any applicable availability schedules. All deposits made by Customer shall be subject to verification and adjustment by Bank. Bank's verification shall be deemed correct and binding upon Customer for all purposes, absent manifest error.

4. Withdrawals
a. Bank may provide Customer with United States currency and coin in designated denominations from time to time as requested by Customer ("Change Orders"). All Change Orders will be charged to the account designated by Customer and must be picked up by Customer's agent. Only armored couriers may pick up Change Orders directly from a cash vault operated by Bank. Bank may release any Change Order to any individual that Bank reasonably believes to be Customer's agent. Customer shall be responsible for any Change Order after receipt thereof by the agent. Bank may specify a daily Change Order limit and Customer agrees that it will not initiate a Change Order in excess of the designated limit. In no event shall Customer initiate a Change Order in excess of the immediately available funds in the designated account.

b. Customer may order currency and coin from Bank as follows: (i) the preferred order for currency is in standard full strap quantities only; (ii) coin may be ordered in standard full box units (50 rolls), individual rolls or loose standard bags only; (iii) a charge for the face value of the monies ordered will be made to the account on the day the order is processed by Bank; (iv) orders for coin and currency may be placed no later than the Deadline established by Bank from time to time for delivery on the next Business Day (depending on Customer's location, select cash vault sites may require a minimum two-day lead time for coin and currency orders); and (v) Bank must be notified of any discrepancies pertaining to currency or coin orders within two Business Days of receipt by Customer of such currency or coin. Customer must return documentation to back-up outages such as strap, coin, wrapper and/or box.

5. Carrier Service
Any carrier service utilized to deliver or secure coin, currency or other property to or from Bank will act as the agent of Customer and not of Bank. Customer and carrier shall agree upon the delivery days and times. Customer will bear the entire risk of loss of coins, currency or other property of Customer when in the custody or control of Customer's carrier service.

6. Representations

Customer represents and warrants to Bank that (a) all funds deposited with Bank will be the proceeds of, and all funds ordered and withdrawn from Bank will be intended for use in, Customer's lawful activities and (b) all of Customer's transactions hereunder will be conducted solely on Customer's behalf and not on behalf of any other person or entity.

7. Regulatory Compliance
Customer shall provide Bank immediately upon request with any information, and otherwise shall cooperate with Bank in every way necessary in order to enable Bank to fulfill its obligations with respect to the reporting of transactions in coin and currency or any other regulatory requirement.

8. Cash Vault Agents
Bank from time to time may use any third party or agent of Bank's choosing, at its sole discretion, to receive Customer's deposits, to deliver Customer's coin and currency orders, or to perform any other Cash Vault Services of Bank hereunder. Bank will provide Customer with all necessary instructions for contact with any such third party or agent. Except as otherwise specified herein, Bank's use of such a third party or agent shall not relieve Bank of its obligations or liabilities hereunder. Bank's ability to provide Cash Vault Services may depend upon its ability to provide or obtain access to a third party or agent, and in the event Bank determines, in its sole discretion, that it is unable to provide or obtain such access, Bank may discontinue the Cash Vault Services and shall have no liability to Customer for the unavailability of the Service.

In order to facilitate customer Change Order requests through a third party or agent, Bank may require a minimum lead time of one (1) Business Day, and in some cases longer, in order to fulfill the request. In all cases a customer's account will be debited the date the order is prepared, not the date of receipt.

Additionally, if cash vault deposits are accepted and processed through a third party or agent, funds will be made available one (1) Business Day after the third party or agent has reported the deposit. All deposits are subject to the accurate and timely reporting of the third party or agent.

O. Collection Items

1. Introduction
If requested by Customer and agreed to by Bank, Customer may initiate and receive collection items regarding automobile drafts ("Automobile Drafts"), oil and gas lease drafts ("Lease Drafts"), insufficient funds checks ("NSF Checks") and foreign dollar checks ("Foreign Checks") (Automobile Drafts, Lease Drafts, NSF Checks and Foreign Checks are sometimes referred to herein individually as a "Collection Item" and collectively as "Collection Items") through Bank, pursuant to the additional terms and conditions contained in this Section.

2. Compliance with Codes/Law
In addition to all other laws and regulations applicable to this Agreement, this Section is specifically and additionally subject to all applicable provisions of the Uniform Rules for Collections 522 ("URC 522") (together with applicable provisions of the UCC as adopted in the State of Texas, the "Codes"), the sanctions, laws, regulations and orders administered by Office of Foreign Assets Control, and all other applicable federal, state and local laws.

3. Preparation of Collection Items
a. Incoming Collection Items. Bank shall prepare all incoming Collection Items and related trust receipts.

b. Outgoing Collection Items. Customer shall prepare and deliver to Bank all outgoing Collection Items in accordance with the terms hereof, including the additional collection requirements set forth in the Service Documentation (the "Additional Collection Requirements"). Bank shall transmit outgoing Collection Items in accordance with the terms hereof, including the Additional Collection Requirements.

4. Processing and Settling Collection Items
Bank shall process and settle Collection Items in accordance with the terms hereof and the requirements of the Codes. Collection Items shall be deemed received by Bank when actually received at one of Bank's collection locations (each, a "Collection Location" and collectively, the "Collection Locations") set forth in the Additional Collection Requirements. Bank is under no requirement to process any Collection Item that does not conform to the terms of this Agreement. Bank shall notify Customer of the receipt of any nonconforming or returned Collection Item within one (1) Business Day of Bank's receipt thereof; provided, however, that Bank shall have no obligation to resubmit a returned Collection Item.

5. Credit for Outgoing Collection Items
Customer may receive immediate ledger credit for deposited Automobile Drafts only, so long as Customer's account with Bank is subject to negative collected balance assessments. Credit to Customer for Collection Items other than those subject to the terms of the preceding sentence shall be given upon Bank's receipt of funds from the collecting bank.

6. Payment for Collection Items
a. Incoming Collection Items. Customer shall pay all incoming Collection Items identified as "Site Collection" within three (3) Business Days of receipt thereof. Customer shall pay all other Collection Items within the time prescribed for each specific Collection Item. If payment from Customer for a Collection Item is not received by Bank on or before the Bank's due date, Bank may either return such Collection Item to Customer or debit Customer's account for payment.

b. Outgoing Collection Items. Bank shall debit Customer's account (i) for any outgoing Collection Item for which Customer received credit and for which payment in full has not been received by Bank on or before thirty (30) calendar days from the date that such Collection Item was processed by Bank, and (ii) for any outgoing Collection Item that is returned to Bank without payment.

7. Customer Account
Bank may, without prior notice or demand, obtain payment of any amount due and payable to it under this Agreement by debiting Customer's accounts identified in the Collections Authorization Form to be provided by Bank upon request. Customer shall at all times maintain a balance of available funds in such accounts sufficient to cover its payment obligations under this Agreement. In the event that there are not sufficient available funds in such accounts to cover Customer's obligations under this Agreement, Customer agrees that Bank may debit any account maintained by Customer with Bank in order to obtain payment of Customer's obligations under this Agreement. Upon request of Bank, Customer agrees to promptly provide to Bank such information pertaining to Customer's financial condition as Bank may reasonably request.

8. Account Reconciliation
Collection Items processed by Bank or credited to Customer's account maintained with Bank will be reflected on Customer's periodic statements issued by Bank with respect to the account pursuant to the Deposit Agreement. Customer agrees to notify Bank promptly of any discrepancy between Customer's records and the information shown on any periodic statement in accordance with the Deposit Agreement.

9. Data Retention
Customer acknowledges that it is bound by, and agrees to comply with, all applicable provisions of the Codes, and the State of Texas Retention Guide, with regard to Customer's responsibilities to retain Collection Items and related source documents. Customer agrees to provide Bank with copies of any such documents upon request by Bank.

10. Exposure Limits
Customer agrees that the ability to deposit Collection Items is subject to and limited by Exposure Limits determined by Bank in its sole and absolute discretion, which Exposure Limits may be adjusted by Bank from time to time upon fifteen (15) days' written notice to Customer. For purposes hereof, Exposure Limits are limits to the total deposited amount of Collection Items for which a corresponding Collection Item payment has yet to have been received.

11. Collection Authorized Users

a. Customer may designate authorized agents or individuals (each, a "Collection Authorized User" and collectively, "Collection Authorized Users") by completing the Collections Authorization Form, to act on behalf of Customer with regard to Collection Items. Customer may change Collection Authorized Users at any time by completing and delivering to Bank a new Collections Authorization Form; provided, however, that any such changes will not be effective upon Bank until Bank's Central Collection Department has received such Collections Authorization Form and has had a reasonable opportunity to act thereon.

b. If Customer believes or suspects any Collection Items to have been obtained from Bank by unauthorized persons, Customer agrees to immediately notify Bank. Notwithstanding the foregoing, no such notice shall affect the good faith Collection Services of Bank made prior to receipt of any such notification and Customer shall remain liable for the same.

c. Any Collection Item (or any request for cancellation, return or amendment of a Collection Item) received by Bank in good faith, which purports to have been authorized by Customer in accordance with the terms of this Agreement, shall be deemed a valid Collection Item or request and a valid obligation of Customer.

d. Bank may rely, and shall in no event incur any liability with respect to any action taken or omitted to be taken in reliance, upon any representation by an individual purporting to be a Collections Authorized User and having the reasonable appearance of one who is authorized to act as such pursuant to the Collections Authorization Form, and Bank shall not be responsible nor liable in any respect for any lack of actual authority of any such person.

12. Verbal Instructions

From time to time, Bank may choose, as an accommodation to Customer, to honor Customer's request to give Bank verbal instructions regarding Collection Items. Customer agrees that Bank may, in good faith, rely on such verbal instructions that purport to come from Customer or its Collection Authorized Users and Customer shall hold Bank harmless from and against any and all losses, claims, liabilities, damages, costs and expenses incurred or experienced as a result of Bank's reliance on such verbal instructions.

13. Rejection of Collection Items/Instructions

Bank is under no obligation to honor, either in whole or in part, and may reject, any Collection Item, or any instruction related thereto, which does not comply with the terms and conditions of this Agreement, or which violates any provision of the Codes or other federal, state or local law. Additionally, Bank may, at its sole and absolute discretion, reject any Collection Item that is not transmitted between financial institutions.

14. Cancellation or Amendment by Customer

Customer shall have no right to cancel or amend any Collection Item after its receipt by Bank. Notwithstanding the foregoing, Bank shall use reasonable efforts to act on a request by Customer for cancellation of or amendment to any Collection Item prior to Bank processing such item. Customer shall reimburse Bank for any expenses, losses, or damages Bank may incur in effecting or attempting to affect the cancellation or amendment of a Collection Item.

15. Responsibility for Content

In the performance of Bank's services with regard to Collection Items, Bank shall be entitled to rely solely upon the information, and the representations and warranties provided by Customer pursuant to this Agreement and shall not be responsible for the accuracy or completeness thereof. Customer shall at all times remain liable for the content and accuracy of each Collection Item.

P. Cash Management Sweep Services

1. Definitions

For purposes of this Section, the following definitions shall apply: (a) "Sub Account" means Customer's account that initiates Transactions for Zero Balance Sweep; (b) "Master Account" means Customer's Account that is affected by Sub Account Transactions; (c) "Available Funds" means the total of the collected funds in the account as of the close of business on any Business Day, determined in accordance with the manner in which Bank generally provides credit for deposited checks and other Items; (d) "Credit" means any loan arrangement which is designated as a line of credit where Bank has agreed will be subject to the Services described herein; (e) "Credit Agreement" means any loan agreement, promissory note, guaranty or other agreement, instrument or document which evidences, secures or guarantees the Credit; (f) "Deficiency Amount" means the amount by which the Target Balance exceeds the amount of available funds as of the close of business on any Business Day; (g) "Excess Funds" means the amount of Available Funds as of the close of business on any Business Day which exceeds the Target Balance; (h) "Guarantor" means any guarantor, surety, accommodation party or joint obligor of the obligations of Customer under the Credit; (i) "Target Balance" means that amount of funds which Customer desires to maintain in the account and which is mutually agreeable to Bank and Customer from time to time; and (j) "Transaction" means a Loan Transaction, Repayment Transaction, or Book Transfer between account(s) at Bank.

2. Overdrafts

Bank may debit the account(s) as set forth below, even though, subsequent to such debit, and as a result of additional transfers or withdrawals from the account, the return of checks unpaid, or any other cause, the account becomes overdrawn. In such event, Customer will be assessed Bank's then prevailing charges for overdrafts. Bank encourages Customer to use the balance alert features available to Customer as part of Bank's Internet Banking and Mobile Banking to avoid situations that may lead to insufficient funds in Customer's account and the possibility of incurring multiple insufficient funds ("NSF") item fees and/or overdraft item fees.

3. Zero Balance Sweep Option

a. As of the close of business on each Business Day, Bank will determine the amount of Excess Funds, if any. If Bank determines that there are Excess Funds, Bank will debit the Sub Account and credit the Master Account in an amount equal to the amount of Excess Funds.

b. As of the close of business on each Business Day, Bank will determine the Deficiency Amount, if any. If Bank determines that there is a Deficiency Amount, Bank will debit the Master Account in an amount equal to the amount by which such available balance is less than the Target Balance.

c. If Bank has agreed to provide any other service to Customer pursuant to which Bank is authorized to transfer Excess Funds from the account, (i) these Terms and Conditions shall prevail over the terms and conditions of such other service, and (ii) Bank shall not be in default as to such other service solely by reason of not initiating the transfer of Excess Funds under such other service.

4. Credit Sweep Option

a. As of the close of business on each Business Day, Bank will determine the amount of Excess Funds, if any. If Bank determines that there are Excess Funds, Bank will debit the account and credit the Credit in an amount equal to the lesser of (i) the amount of Excess Funds or (ii) the outstanding principal balance of the Credit (a "Repayment Transaction"); provided, however, that Bank will not be required to initiate any Repayment Transaction in an amount less than a minimum sum mutually agreeable to Bank and Customer. Customer grants Bank a security interest in and right of set-off with respect to the account for purposes of effecting Repayment Transactions.

b. As of the close of business on each Business Day, Bank will determine the Deficiency Amount, if any. If Bank determines that there is a Deficiency Amount, Bank will charge the Credit in an amount equal to the lesser of (i) the amount by which such available balance is less than the Target Balance or (ii) the amount which is available to be borrowed under the Credit (the lesser of such amounts being referred to as the "Loan Amount"), plus the amount of any fees and charges under the Credit, and credit the account in an amount equal to the Loan Amount (a "Loan Transaction"); provided, however, that Bank will not be required to initiate any Loan Transaction in an amount less than a minimum sum mutually established by Bank, and Bank will not be

required to initiate any Loan Transaction if any default exists under any Credit Agreement or these Terms and Conditions or Bank is otherwise excused or prohibited under any Credit Agreement or applicable law from making an advance to Customer. In addition, Bank will not be required to initiate any Loan Transaction, and the Services hereunder shall immediately and automatically terminate without notice, if: (1) the Credit has matured or been terminated by Bank; (2) Customer has cancelled the Credit; or (3) Bank has demanded payment under the Credit.

c. If Bank has agreed to provide any other service to Customer pursuant to which Bank is authorized to transfer Excess Funds from the account, (i) these Terms and Conditions shall prevail over the terms and conditions of such other service, (ii) Bank may initiate a Repayment Transaction or Loan Transaction under these Terms and Conditions in lieu of or prior to initiating the transfer of Excess Funds under such other service and (iii) Bank shall not be in default as to such other service solely by reason of not initiating the transfer of Excess Funds under such other service.

5. General Terms Applicable to All Investment Options

a. If an Investment Sweep Option has been requested and agreed to by Bank, Customer authorizes Bank to transfer funds on a manual or automated basis to and from the demand deposit account ("DDA") and investment device selected by Customer. Funds will be transferred between the accounts so that: (i) to the extent funds are available in either account, Customer's DDA maintains an average collected balance equal to a pre-established balance ("Peg Balance"); and (ii) any collected funds in the DDA that exceed the Peg Balance are invested by Bank as directed by Customer in accordance with this Agreement. Amounts invested in money market mutual funds, including investment income, will be liquidated and credited back to the DDA as needed so that the average collected balance of Customer's DDA equals the Peg Balance. Amounts invested in other investment options, including interest or other investment income, will be credited back to the Investment Option account. Bank may limit the amount of excess collected funds that it will invest on behalf of Customer on any particular Business Day. Bank may also impose a maximum redemption amount to bring the DDA to the Peg Balance on a particular Business Day. If Customer's Investment Option is not available on a given Business Day, then all excess funds will remain in the DDA until the next Business Day.

b. Bank is authorized to execute as Agent for Customer all certificates of ownership and other instruments required by law or by contract. Bank shall not be accountable for errors in judgment but only for gross negligence or willful misconduct. Bank shall not be required to comply with any direction of Customer which in Bank's judgment, may subject it to liability or to defend or prosecute any suit or action unless indemnified in a manner and amount satisfactory to it.

c. Customer may, by written instrument executed by Customer and delivered to Bank, terminate this Service and withdraw from the account the principal and accumulated income upon paying all sums due to Bank and indemnifying Bank to its satisfaction against liabilities incurred in the administration of the account. (d) Bank will act as agent to invest on the order and for the benefit of Customer. The Services described herein are provided by Bank to Customer solely as bona fide treasury management services. Bank does not undertake any fiduciary obligation to Customer with respect to these services. Bank's duties to act for Customer hereunder are solely mechanical and administrative in nature.

6. DDA Sweep

a. Terms. If Customer chooses to invest excess funds in a DDA Sweep Account, Customer and Bank agree that such DDA Sweep Account shall be governed by the terms of the PlainsCapital Bank DDA Sweep Agreement, to be entered into by and between Customer and Bank.

b. IMPORTANT DISCLOSURES REGARDING DDA SWEEP ACCOUNTS.

DEPOSITS IN DDA SWEEP ACCOUNTS ARE UNCONDITIONAL OBLIGATIONS AND DEPOSITS OF PLAINSCAPITAL BANK. DEPOSITS IN DDA SWEEP ACCOUNTS ARE INSURED BY THE FDIC UP TO APPLICABLE LIMITS.

7. Mutual Fund Sweep

a. Terms. If Customer chooses the Mutual Fund sweep option, excess funds will be invested in the INVESCO fund offered for this service. INVESCO or related parties serve as investment advisor, custodian, transfer agent, and accounting services agent and receive compensation for such services as disclosed in the prospectus for the selected fund.

b. IMPORTANT DISCLOSURES REGARDING MUTUAL FUND SWEEPS.

FUNDS INVESTED IN THE MUTUAL FUND ARE NOT DEPOSITS, ARE NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION, ARE NOT OBLIGATIONS OF, OR GUARANTEED BY, THE UNITED STATES GOVERNMENT OR ANY AGENCY OR INSTRUMENTALITY THEREOF, PLAINSCAPITAL BANK, OR ANY OF ITS AFFILIATES, AND ARE SUBJECT TO INVESTMENT RISKS, INCLUDING LOSS OF PRINCIPAL OF THE AMOUNT INVESTED. IN ADDITION, AN INVESTMENT IN A MONEY MARKET MUTUAL FUND IS NEITHER INSURED NOR GUARANTEED BY THE U.S. GOVERNMENT AND THERE IS NO ASSURANCE THAT THE FUND WILL BE ABLE TO MAINTAIN A STABLE NET ASSET VALUE OF $1.00 PER SHARE.

c. CUSTOMER ACKNOWLEDGMENTS.

BY ACCEPTING THIS SERVICE, CUSTOMER HEREBY ACKNOWLEDGES THAT IT HAS RECEIVED A COPY OF THE PROSPECTUS OF ANY DESIGNATED FUND. PLAINSCAPITAL BANK IS NOT PROVIDING ANY INVESTMENT ADVICE HEREIN TO CUSTOMER AND MAKES NO REPRESENTATION OR WARRANTY AS TO THE SUITABILITY OR SAFETY OF THE INVESTMENTS IN ANY FUND OFFERED UNDER THIS SERVICE.

Q. ZSuite Digital Sub Accounting Service

1. Definitions

ZSuite Technologies, Inc. offers a general-purpose escrow account opening and servicing platform known as ZEscrow ("ZEscrow") for the purpose of allowing Customers to digitally open and manage online escrow sub accounts. If Bank, Customer, and ZSuite agree, Bank shall enable Customer access to the ZEscrow platform and maintain appropriate accounts at Bank to facilitate Customer's use of ZEscrow.

2. ZSuite Obligations

ZSuite shall be responsible for providing Customer with access to the ZEscrow software through a sub-Uniform Resource Locator (URL) for the purposes of allowing Customer to open, close and maintain online escrow accounts created through the ZEscrow platform. ZEscrow shall serve as the "database of record", thereby maintaining a separate accounting system of all individual escrow subaccount funds held in the holding account that is established by Bank in the name of Customer through ZEscrow. Further, ZSuite shall be responsible for generating output for all incoming and outgoing electronic transactions initiated through ZEscrow for Customer, generating all required disclosures, statements, and 1099-INT forms through ZEscrow.

3. Customer Obligations

In order to access the ZEscrow platform, Customer shall (i) submit to any client identification and fraud prevention protocols instituted by ZSuite for ZEscrow and clear the standards set by ZSuite under those protocols, in ZSuite's sole determination and discretion; (ii) agree to the "ZEscrow Terms and Conditions" or other equivalent document ("ZEscrow Terms") as may be required by ZSuite for use of ZEscrow at any time, and any amendments to those ZEscrow Terms as required by ZSuite; (iii) agree that ZSuite may share with Bank information regarding Customer's use of the ZEscrow program as part of the ZEscrow Terms; (iv) agree that Bank may share with ZSuite banking information of Customer that ZSuite informs Bank is needed or requests to create sub accounts for Customer and otherwise to provide the ZEscrow services to Customer; (v) comply with the ZEscrow Terms, as originally proposed or amended, during Customer's use of ZEscrow, in

ZSuite's sole determination and discretion, and (vi) maintain such computer hardware and software, including without limitation any malware, antivirus, or anti-spyware software, as may be required by ZSuite.

4. Sub Account Records

Customer understands and acknowledges that sub accounts opened, closed, and maintained on the ZEscrow platform are the responsibility of Customer and are not owned or maintained by Bank. Customer serves as Agent for sub account holders for which Customer makes the ZEscrow platform available. Further, all records and communications generated or sent from the ZEscrow platform to sub account holders are solely the responsibility of Customer and ZSuite.

PlainsCapital Bank

COMMERCIAL BANKING

COMMERCIAL DEPOSIT ACCOUNT AGREEMENT AND SERVICE DISCLOSURE

STRENGTH MOMENTUM



EFFECTIVE AS OF JANUARY 1, 2026

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Commercial Deposit Account and Services Agreement

Introduction

This Commercial Deposit Account and Services Agreement (the "Agreement" as further defined below) contains the general terms and conditions and other disclosures for the account(s) and services that you have established at PlainsCapital Bank solely for business purposes, and other important information about your commercial account(s). Some of our printed documents may refer to this Agreement as either a "Deposit Agreement" or "Commercial Deposit Agreement." We urge you to read this Agreement and all other PlainsCapital Bank documents and disclosures carefully, and save them for reference. By signing a deposit account Signature Card, a services application, or by otherwise opening or maintaining a commercial deposit account with PlainsCapital Bank, you acknowledge that you have received and reviewed this Agreement, and accept and agree to be bound by its terms and conditions, including as amended from time to time. This Agreement, together with any specific terms and conditions governing your commercial account(s) provided separately, establishes and details our relationship with you with respect to all of your commercial accounts with us. Additional copies of this Agreement are made available to you, and you may obtain additional copies of this Agreement (the most current version) at a branch location, at www.plainscapital.com, or by calling the telephone number on the back of this Agreement.

General Account Terms and Conditions

Business Purpose

You agree to use your account solely for business or commercial purposes, and not to use, authorize or make any transactions on the account for personal, family or household purposes.

You understand and agree that any card issued in relation to your account will not be subject to the Consumer Financial Protection Bureau Regulation E, the Electronic Fund Transfer Act governing funds transfers for consumer transactions, or other regulation or law concerning consumer transactions.

Amendments and Changes to This Agreement

We may supplement, amend or change (collectively, "change") this Agreement at any time including, without limitation, through existing or future agreements, terms and conditions, notices, new Signature Cards or account applications. We may add new terms and conditions and we may delete or amend existing terms and conditions. We may add new accounts and services and discontinue existing accounts or services. We may convert your existing accounts and services into new accounts and services. Unless otherwise required by law, we may apply any such changes after sending you advance notice of an adverse change via U.S. Mail to your most recent address contained in our records for your account, or by delivering the notice electronically, including email to your email address contained in our records for your account, or making the notice available with the periodic statement of your account (as applicable), or by making the amendment available in a branch location for your account, or on www.plainscapital.com (or, any subsequent official Bank website), or on the Bank's mobile banking platform. However, we may change this Agreement without prior notice unless otherwise required by law. No such amendment or change will apply to any dispute with you arising, or arising out of events occurring, prior to such amendment or change, as to which we receive actual notice. We do not have to notify you of changes that we believe are beneficial to you or of changes that we make for security reasons. If we change this Agreement, the newly

updated (most current) version of this Agreement supersedes all prior versions and contains the terms and conditions governing your account as of the effective date of the newly updated Agreement. If you continue to use your account or keep it open after a supplement, amendment or change to the Agreement, you will be deemed to have accepted and agreed to the supplement, amendment or change and will be bound by all such supplements, amendments and changes.

Definitions

In this Agreement, certain words have special meaning and are therefore defined. You will find certain terms and their definitions in this section and others in the text of this Agreement.

"Account"

The term "account" refers to each and every deposit account you have established with us solely for business purposes. As used in this Agreement, the term "account" does not include any deposit account that you have established with us for personal, family or household purposes.

"ACH"

The term "ACH" means automated clearing house. The ACH system is a batch processing, store-and-forward system that is governed by the NACHA Operating Rules for interbank clearing of electronic payments for participating depository financial institutions.

"Agreement"

Unless otherwise noted herein, "Agreement" means this document and all terms and conditions set forth herein, any addenda, and any related disclosures, supplements and/or amendments that we give you, or make available to you, including, without limitation, the Signature Card and any agreement for banking services connected with this account.

"ATM"

"ATM" means automated teller machine. The term ATM includes teller assisted transactions performed at interactive ATMs also known as Interactive Teller Machines (ITM) or Personal Teller Machines (PTM).

"Authorized Signer"

An "authorized signer" is a person whom you have authorized to conduct transactions on your account, whether or not such person has signed the Signature Card or other documentation for your account. We may continue to recognize your authorization or the record of it until we have received and have had a reasonable time to act upon your written modification or revocation of it.

"Available Balance"

The Available Balance is the Ledger Balance plus any pending credit transactions less any pending debit transactions that we are legally obligated to pay or have already paid. Pending transactions may include, but are not limited to cash deposits, internal transfers, Card transactions, checks presented for cash, withdrawals and electronic transactions such as wire transfers, ATM, ACH and digital payments. Additionally holds or freezes on the account such as, but not limited to, liens, levies, and writs of garnishment will lower the available balance. The available balance in an account may change between the time a transaction is authorized at the time of purchase or order

and the time the transaction is posted to your account, and the available balance thus does not include transactions you may have initiated but that have not been posted to your account.

"Business Day"

A "business day" is every Monday through Friday or any day that we are open for banking business. Saturdays, Sundays and Federal holidays are excluded.

"Card"

"Card" includes every type of debit card, check card or ATM card that we may issue to the owner(s) of an account ("Cardholder") including: PlainsCapital Mastercard® Debit Card and any Gift Card that we may issue.

"Clearing House"

"Clearing house" means an association of banks or other payors regularly clearing items.

"Customer"

A "customer" is a natural person corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association who establishes a deposit account, loan or other account with us primarily for business or commercial purposes.

"Demand Drafts/Remotely Created Items"

An item that does not bear the maker's signature, but purports to be authorized by the maker.

"Depositor"

A "depositor" is an authorized signer, signatory, or other person or entity who has an ownership interest in your account.

"Instant Payments"

An "instant payment" is a type of digital funds transfer from or to a deposit account for the moving of money electronically in real time, through an electronic payments network using a faster payments system, that is typically irrevocable upon transmission and completed within seconds of transmission by the sender.

"Internet Banking"

As used in this Agreement, "Internet Banking" refers to our online banking services that provide access to your deposit account(s) and any other Bank accounts via the Internet.

"Item"

An "item" is any instrument or a promise or order to pay money handled by a bank for collection or payment in the broadest sense of the definition set forth in Chapter 4 of the Texas Business and Commerce Code, whether in paper, electronic or other form. Examples of an item include, but are not limited to, a paper check, substitute check, remotely created item, bill of exchange, note or order for the payment of money, whether written or oral, draft, withdrawal slip, bill payment instruction, funds transfer, ACH transfer, ATM or debit card/ POS transaction, any re-submission of a previously rejected funds transfer or ACH transfer or other transfer, written document created or authorized in your name that would be a check or draft but for the fact that it has not been signed, and a photocopy or an image of any of the foregoing.

"Ledger Balance"

"Ledger balance" is the balance in the account that reflects posted transactions, which include deposits, credits, withdrawals, and other debits posted to the account.

"Mobile Banking"

As used in this Agreement, "Mobile Banking" refers to the Mobile Banking service offered as part of the Bank's Internet Banking services, allowing access to accounts via a web-enabled cell phone or smart phone or other mobile device capable of accessing the Internet and sending SMS text messages.

"Non-Sufficient Funds"

"Non-sufficient funds" (sometimes referred to as NSF or insufficient funds) refers to the circumstances where we do not pay a check or other item or permit a withdrawal or debit transaction for an amount that exceeds the available balance in the account at the time such check, other item, withdrawal or debit transaction posts to the account.

"Overdraft"

Overdraft refers to the circumstances where we pay a check or other item or permit a withdrawal or debit transaction for an amount which exceeds the available balance in the account at the time such check, other item, withdrawal or debit transaction posts to the account.

"PIN"

"PIN" means the unique personal identification number assigned with a card or for PIN Wire services.

"PIN Wire"

"PIN Wire" means a wire transfer conducted via telephone through Bank's PIN Wire Service, by use of the assigned PIN and caller identification.

"POD"

The term "POD" means payable on death.

"POS"

The term "POS" means point-of-sale.

"Schedule"

Except as may otherwise be stated in this Agreement, the term "Schedule" refers to any document setting forth rates, fees or transaction limits relating to the specified account including, but not limited to, a Truth in Savings disclosure document or any schedule setting forth PlainsCapital Bank fees and/or limits.

"Signatory"

A "signatory" is a person who signs a Signature Card to become an authorized signer on an account.

"Signature Card"

The "Signature Card" is the document signed by a customer to become an authorized signer on an account, providing a customer's authorized signature for transactions on the account, and establishing the contract expressly entered into between the customer and the Bank.

"We", "Our", "Ours", "Us", and "Bank"

The terms "we", "our", "ours", "us" and "Bank" refer to PlainsCapital Bank.

"You", "Your", and "Yours"

The terms "you", "your" and "yours" refer to each and every Depositor.

Your Responsibility

You understand it is your responsibility to protect and safeguard your personal banking information, items and devices, including, as applicable, the account number, PIN codes, access codes, passwords, checks, debit and ATM cards, mobile phones, tablets, computers, and security tokens provided for or used in connection with your accounts. You should not discuss, compare, or share personal or private banking information or credentials with anyone unless you are willing to give them full access to your account and the funds in your account. An account number and other personal banking information can be used to issue an electronic debit, a demand draft or other items against your account. If you furnish such personal or private banking information or provide device access to another person, such as a family member, friend, bookkeeper, or coworker, to conduct transactions, you may be liable for transactions conducted by such person, regardless of whether the actions taken by such person exceed the authority given. Any such private banking information can be used to electronically remove money from your account, and payment can be made from your account even when you have not contacted us directly to authorize the payment. Notify us at once if you believe your account information or access devices have been compromised. You can contact the Bank by calling (866) 762-8392 or visiting one of the Bank's locations, a list of which can be found at www.plainscapital.com.

If you fail to exercise ordinary care in protecting or safeguarding your account information or access devices , or if you fail to notify us that you believe your account information or access devices have been compromised to the maximum extent allowable by applicable law, we may require you to bear the resulting loss entirely yourself. Except as otherwise prohibited by applicable law, you agree that if we offer you products or services appropriate for your account to help identify and limit fraudulent or other unauthorized access to or transactions against your account, such as positive pay services or commercially reasonable security procedures, and you decline or otherwise do not obtain such products or services, you will be responsible for any fraudulent or unauthorized transactions which could have been prevented by the products or services we offered, except to the extent the resulting loss was caused by our gross negligence, willful misconduct or bad faith.

Deposits; Cashed Items

Deposited and Cashed Items

You understand that all deposits and cashed items may be subject to verification and corrections. We can accept an item for deposit or collection, refuse it or return it. Even if we verify a deposited or cashed item and tell you that it has been paid, doing so will not release your liability as an endorser. In receiving items, we are acting only as your agent. We have no responsibility beyond ordinary care.

You will not hold us responsible for default or negligence of our correspondents or loss of items in transit. Each correspondent we use will be liable only for its own negligence. You further understand and agree that if a deposited item is lost, destroyed

or misrouted during the collection process (either at the Bank or at another point in the payments system): (i) we shall have no responsibility to you for the actions or inactions of any collecting bank; (ii) we may charge your account for the amount of the deposited item (and reverse any interest that may have accrued to your account in connection with the deposited item); and (iii) you will cooperate fully with us to locate, reconstruct or recreate the deposited item by promptly (a) providing us with a copy of the front and back of the deposited item from your or the issuer's records; (b) asking the issuer to place a stop payment on it (at the Bank's expense) and issue a replacement item to you (if the deposited item has not been paid); or (c) reviewing your records and other information and conducting any additional research as may be reasonable to determine the issuer's identity (if you do not know the identity of the issuer of the deposited item). If we give you credit for an item, we can revoke it if the item is not paid. Items deposited by mail may not be considered received by us until we actually receive them. You will not hold us responsible for loss of any item until we have received it. You will reimburse us for any loss or expense we incur because of any missing endorsement, whether yours or another's, on a deposited item. You will not attempt to create a substitute check for deposit. You will not deposit any check that was written in such ink or that has any other features that would prevent it from being imaged or copied clearly and completely. We do not have to notify you of any nonrecurring ACH credits or wire transfers to the account. We may refuse to accept for deposit or collection an item that is payable in currency other than U.S. dollars or an item that is not drawn on a financial institution chartered in the United States (each, a "non-U.S. item"). If we accept a non-U.S. item for deposit or collection to your account, you accept all risks associated with foreign currency fluctuation (exchange rate risk) and any late return of the non-U.S. item. You agree that we may use our current buying and selling rate, as applicable, when processing a non-U.S. item and may recover from your account any loss we incur as a result of processing such an item for you. We may place longer holds than specified in the Funds Availability Disclosure on non-U.S. deposited items.

Remotely Created Items

Unless we have otherwise agreed in writing to you, we also may refuse to accept for deposit remotely created items such as, without limitation, remotely created checks (as defined in Regulation CC). If we agree in writing to accept remotely created items for deposit, and you deposit a remotely created item, you agree and warrant that any such remotely created item has been authorized by the person identified as the drawer or maker of the item or otherwise on whose account the remotely created item is drawn, in the amount and in accordance with the terms stated on the face of the item. You further agree to indemnify and hold us harmless from any and all loss, cost, expenses, damages or liability, including, without limitation, reasonable attorney's fees, in relation to or arising from a claim that any such remotely created item was not authorized by the person(s) on whose account the item is drawn.

Endorsements

If an item requiring your endorsement is presented to us for deposit or cashed without it, you authorize but do not require us to supply it, and any such item presented for deposit to your account or cashed that lacks an endorsement may be deemed to be endorsed by us on your behalf. However, we may, in our sole discretion, require your endorsement on any such item. You also authorize the Bank to collect any unendorsed item that is

made payable to you without first supplying your endorsement, provided the item was deposited to or cashed against your account. If an item is deposited to or cashed against your account bearing your stamped or facsimile endorsement, we may deem such endorsement to have been made or supplied by you whether or not such endorsement was made or supplied by you or someone acting without your authority. With respect to an Unauthorized Endorsement item, please refer to the Account Statements section of this agreement.

Final Payment and Returned Items

All non-cash items (such as checks) deposited to or cashed against your account are subject to our receipt of final payment by the payor bank (as that term is defined in Chapter 4 of the Texas Business and Commerce Code) or other payor upon whom the item is drawn. All such transactions are provisional until final payment by the payor. We can charge you or your account for the amount of any deposited or cashed item, any returned item fee, any interest paid on the item and any other fee or charge that we pay or incur in relation to the item, without further notice to you, if we do not receive final payment or the item is returned unpaid or charged back to us for any reason. An item is not considered to be collected until receipt of final payment. We may reprocess the item, but you may not require it. We can process and rely upon a copy, electronic entry or any other generally accepted notification or evidence of the returned item. You understand and acknowledge that our making funds "available" to you following a deposit or the cashing of an item, and your withdrawing funds following a deposit or cashing of an item, does not signify or confirm that final payment has been made on the item. You further understand and acknowledge that no employee or representative of ours is able to confirm that an item will be finally paid or will not be returned, and you may not rely on any such statement by any employee or representative. You waive presentment, notice of dishonor and protest. We may refuse to accept all or any part of any item for deposit or credit to your account, and will not be liable to you even if doing so causes outstanding items to be dishonored or returned.

Collection Items

At our discretion, we may process a paper item as a collection item instead of as a deposit by sending it to the issuer's bank for payment and crediting your account after we have received payment for the item.

Checks and Our Approved Forms

You will use only our approved checks, withdrawal forms and deposit slips. We are not responsible for any loss in relation to or due to improper printing on, or otherwise your use of forms not provided by or approved by us. You will not use ink of a color or type that is not legible when imaged or copied to write a check, complete a withdrawal form or complete a deposit slip. You will verify your name, address, telephone number and the numbers in the magnetic ink character line across the bottom of the face of each document in each order of checks and deposit slips. If there is an error, you will not use the affected documents, and you will notify us and the printer immediately. You will not hold us responsible for any amount beyond the replacement cost of the order, provided the checks were ordered through us. You will maintain adequate safeguards to protect against unauthorized use of the forms in your possession, and agree that you will notify us immediately if you suspect or become aware that any checks or other forms are lost or stolen.

Cashing Your Checks

Before we allow a person to cash an item, we can, but are not obligated to, require identification, such as a driver's license or passport. We may also require further identification by methods such as photography, fingerprinting and other technological means. If the person does not provide or permit such identification, we can decline to cash the item and you will not claim that we wrongfully dishonored it.

Check Cashing for Others

You may be presented with a situation when a person or company asks you to negotiate a check or other item on their behalf. You understand and agree that, whether or not a Bank employee questions your authority to negotiate the check or item, you assume the risk of loss if you use your account to cash checks or other items payable to other persons or entities. Although we may make some or all funds on cashed checks or items provisionally available to you as discussed in the Final Payment and Returned Items section above, you shall be responsible for any loss that occurs if a cashed check or item is returned to us for any reason (e.g., because the check or item is unauthorized or fraudulent). You agree that you cannot rely on any oral representation or promise by any of our employees that a check or item payable to another person or entity, whether drawn on or issued by us or another financial institution and whether or not the check or item is a cashier's check or official bank check, will be paid. You understand that even if a Bank employee may believe a deposited check or item has been "collected," otherwise informs you that good funds have been received, or provides you with an estimated date or time when the funds on the check or item should be available, various circumstances and events may arise that may delay or prevent final payment and/or availability of the funds. You also understand and agree that even if funds on a check or item are made available and even if the check or item is "finally paid," various circumstances and events may arise under which the Bank may have to debit the amount of the check or item out of your account in the future, e.g., due to a claim the negotiation of the check was not authorized by the payee.

Material Appearing on the Back of Paper Items; Legends on Paper Items

You are responsible for losses incurred by any person that cashes or accepts your checks or other paper items for deposit if: (i) the loss is due to a delay in the return of the item; and (ii) the delay is caused by material appearing on the back of the item when it was issued or transferred by you. This material may include, but is not limited to, carbon bands, blacked out areas and printed or written text or numbers. You are responsible for all losses, claims, damages or expenses that result from a restrictive legend or notation on your paper items.

Withdrawal Rules

Examination of Items

You may not and do not require us to comply with a conditional or restrictive legend on any item, such as "void if not cashed within 90 days", "paid in full", "Void over $100," or any other impermissible marking. Permissible markings include the following: drawee bank name and location, payee name, endorser name, the dollar amount (either numeric or amount in words if contradictory), drawer signature and the magnetic ink characters across the bottom front of the item (the MICR encoded information).

To the extent permitted under Texas law, we have no duty to honor, are not bound by and may disregard any other

information on a check presented for payment. You will not hold us responsible for any item's late return caused by an endorsement stamp or other marking outside the area allowed for it by law. You agree that we do not fail to exercise ordinary care because our procedures do not require sight examination of each item including, without limitation, in relation to an amount below a set figure as determined by us from time to time.

You understand that we have adopted commercially reasonable automated processing procedures for the processing of items for collection and payment to assist in processing the largest volume of items at reduced cost to our customers, and that we have no duty to visually inspect signatures.

You also understand and agree that we have no duty to review endorsements on items presented to us for payment by depositary or collecting banks (as those terms are defined in the Texas Business and Commerce Code) or other third parties who make a presentment warranty to us. While we have no duty to review endorsements on such items, we may, in our sole discretion, refuse to pay or accept any item for deposit or collection unless we are able to verify to our satisfaction that all necessary endorsements are present on the item. For example, we may require that all endorsers be present at the time that an item is presented to us for payment or accepted for deposit or collection.

Facsimile Signatures

You agree that if you utilize an automated or electronic check writing process, or a machine, software, mechanism, stamp, tool or device (such as, without limitation, a personal computer or desktop publishing) to supply a facsimile signature on your checks, or otherwise supply a mark, notation, symbol or other form of signature that is not your personal signature appearing on the signature card that you signed when you opened your account (collectively, "Facsimile Signature"), you authorize us to pay any check that bears a signature, mark, notation or symbol that reasonably resembles the Facsimile Signature, and you shall be solely responsible for any unauthorized use of the Facsimile Signature. You also agree to indemnify, defend and hold us harmless from and against all claims, costs, losses, damages, liability and expenses (including without limitation attorney's fees and costs) that we may incur as a result of any unauthorized use of the Facsimile Signature or any signature, mark, notation or symbol that reasonably resembles the Facsimile Signature. You further agree to assume any and all responsibility for any and all payments we make in good faith reliance upon the Facsimile Signature or a signature mark, notation or symbol reasonably resembling the Facsimile Signature.

Multiple Signatures

You understand and agree that if you establish an account requiring two or more authorized signatures on any item drawn on or paid against the account, any such multiple- signature requirement is solely for your own internal control or accounting purposes, and we will not be responsible or liable for paying any item with one (1) authorized signature or less than the number of authorized signatures specified by you.

Undated or Postdated Items

You agree that when you write a check, you will date it on the date it is written, and you will not write a check for payment on a date in the future. If you do write a check and it is presented for payment before the date stated on the check, or without a date stated on the check, we may, without inquiry or liability and in our sole discretion, pay it when it reaches us

regardless of the date on the check, or return it unpaid. If we are required by law not to honor a postdated or undated check following notice from you, you agree to provide us written notice sufficiently in advance of presentment, and to identify the check by check number, date and dollar amount, to allow us reasonably sufficient time and information to act upon your notice.

Stale Items

We can, in our sole discretion, either pay or dishonor an item presented to us more than six (6) months after the date on the item, without prior notice to you. If you do not want us to pay such an item, you will place a stop payment on it in a dated, authenticated record, and, to renew any such stop payment order after six (6) months, in a new authenticated record given to us within the period during which the stop payment order is effective.

Incomplete Items

You agree that you will not issue or present for payment any item that is not completed. If you do, you will not hold us responsible for paying it as completed by anyone unless we actually know that it was completed in an unauthorized way.

Third Party Debits

Telemarketers and others trying to sell you goods or services may ask for information about your account, such as your account number, next unused check number or our routing number. If you give any such information about your account to such a person, you agree that we may treat any debit to your account initiated by that person as having been authorized by you.

Demand Drafts

You may not deposit demand drafts (items not bearing the maker's signature, but purporting to be authorized by the maker) to an Account with us without our prior, express written consent. If you make such a deposit you are liable for any loss or cost we incur as a result.

Stop Payments

You or any person authorized to draw on your account may order us to stop payment on your checks and other items payable from your account, subject to certain limitations set forth in this Agreement and applicable law. If the signature of more than one person is required to draw on your account, any such person individually may make the stop payment. If you want us to stop payment on a check or other item, we will require you to provide a dated, authenticated writing describing the check or other item by number, date, payee name and exact dollar amount. At our sole discretion, without waiving our requirement that you provide such a dated, authenticated writing, we may choose to honor your stop payment request made orally by telephone or in person and describing the check or item by number, date, payee name and exact dollar amount. You understand that if any such information that you provide is not correct, our processing equipment may not catch the check or other item in time or we may otherwise not be able to stop payment on the item, and you will not hold us responsible. Your stop payment request will be effective if we receive your instruction sufficiently in advance of payment, acceptance, certification, settlement without a right to revoke, or we become accountable for the item, and in such a manner to afford us a reasonable opportunity to act on the stop payment request. You understand that a stop payment expires in six months from the date of your stop payment request. You will

place a new stop payment in writing within the period during which the original stop payment request is effective if you do not want us to pay the check or other item after the stop payment expires. If you use Internet Banking to process a stop payment, stopping the payment of a check is different from the cancellation of a bill payment. Once the bill payment has been debited from your account, you CANNOT cancel or stop the bill payment. You also understand and agree that you cannot stop payment of a certified, cashier's or teller's check that we issue, or other official check that we issue, and you generally may not stop payment of checks or other items after we have accepted the same, except as otherwise set forth in the Stop Payment of a Preauthorized Transaction section of this Agreement or as expressly permitted under NACHA Rules with respect to ACH transactions. You may initiate a stop payment request online through your bank account (not system bill payer).

You will incur stop payment charges as disclosed in the current Schedule of Fees for the applicable account.

You may place a stop payment on an item in any of the following ways, subject to our requirement that you provide us with a dated, authenticated writing:

Telephone:	By calling PlainsCapital Bank Customer Service at 1-866-762-8392.
Internet Banking:	By logging into Internet Banking.
In Person:	By visiting any of our branch locations.
Mail:	By mailing request to PlainsCapital Bank, Attn: Deposit Support 5010 University Avenue Lubbock, TX 79413

For further confirmation, we may, at our sole discretion, mail you a stop payment verification notice. Should we mail you a stop payment verification notice and the information in said notice is NOT correct you must notify us immediately. If you did not request that the stop payment be placed on your account you must notify us immediately. Otherwise the stop payment will be valid for six (6) months.

Please see the Stop Payment of a Preauthorized Transaction section of this Agreement for stop payments on regularly scheduled or preauthorized ACH payments.

Lost, Destroyed or Stolen Cashier's Checks, Teller's Checks or Certified Checks

You understand and agree that, if you intend to claim the right to receive the amount of a cashier's check, teller's check or certified check that has been lost, destroyed or stolen, your and our rights and obligations with respect to such a lost, destroyed or stolen cashier's check, teller's check or certified check will be governed by Article 3 of the Uniform Commercial Code (the "UCC") as adopted in the State of Texas, including, without limitation, UCC Section 3.312.

Acts and Omissions of Other Financial Institutions

You understand and agree that we are not liable for the insolvency, neglect, misconduct, mistake or default of another bank or person, or for a notice of nonpayment relating to the loss or destruction of a deposited item.

Order of Payment

You understand that we will post deposits and credits to your account before we pay items presented for payment. When two or more items are presented for payment against your

account on the same day, applicable law allows us to pay or charge them in any order and before or after our regular banking hours. The order in which items are paid is important if there is not enough money in your account to pay all of the items that are presented. You also understand that we are not obligated to determine the time of day an item is received and, without liability, may withhold the amount thereof pending a determination of the effect, consequence or priority of any knowledge, notice, stop-payment order, or legal process concerning the item, or may interplead such amount and the claimants thereto. For now, we have chosen the following order of payment:

1. Bank service fees, maintenance fees and payments you have pre-authorized us to establish on your behalf, such as automatic loan payments and account-to-account transfers, will post to your account in an order of smallest dollar amount to largest dollar amount. These items may overdraw your account if sufficient funds are not available; however, we will not assess a per item overdraft fee in such cases.
2. Next, payments we have authorized for you at time of purchase or order, such as wire transfers, ATM withdrawals, debit card transactions, online banking transfers, telephone banking transfers, and withdrawals at our teller counters, will be presented to post against your account in an order of smallest dollar amount

   to largest dollar amount. These are all non-returnable items that must be paid as they were authorized at the time of purchase; therefore, we post these items before ACH debits, drafts and checks (excluding checks used to withdraw funds at our teller counters). These items may overdraw your account if sufficient funds are not available when the item posts to your account.

   Debit card transactions that were authorized on a sufficient available balance at time of purchase or order may overdraw your account when the item posts to your account. We will not assess a per item overdraft fee for transactions that were authorized on a sufficient available balance at time of purchase or order that overdraw your account when posted to your account.

   If the available balance at time of authorization was insufficient, a per item overdraft fee may be assessed for each item authorized against insufficient funds.

   At any given time, if you review your account, you may see that we show some transactions as "in process".

   These transactions impact your available balance but have not yet posted to your account.
3. Finally, payments you have initiated that did not require an authorization by us at the time of purchase or order, such as ACH debits, drafts, bill payments and checks (excluding checks used to withdraw funds at our teller counters) will be presented to post against your account in an order of largest dollar amount to smallest dollar amount. We, in good faith, have chosen to present these items for payment against your account in an order that prioritizes important payments, such as your rent, payroll or insurance payments before other smaller items. If the available balance in your account is not sufficient to pay these items when presented to post to your account, in our discretion, we may choose to pay or return the item unpaid. In cases where we pay the item against insufficient funds you may incur a per item overdraft fee.

Note: This order of payment could possibly cause multiple per item overdraft fees.

We can, in good faith, choose a different order of payment after giving you any legally required notice.

Your account statement does not necessarily report debits and credits in the order that we posted them to your account.

Insufficient Funds

Items presented to an account with an insufficient available balance will be processed as either an overdraft item or an insufficient (NSF) item. An overdraft occurs when you do not have enough money in your account to cover a transaction, and we pay it, resulting in a negative account balance. An NSF item occurs when you do not have enough money in your account to pay an item, and we return the item due to an insufficient balance in the account. If the Bank receives an item against your account and there are insufficient funds in your account to cover the item, we may, in our discretion and without prior notice to you, return the item (an NSF item) or pay the item (an overdraft item). You will be notified by mail of any insufficient funds items that were paid or returned.

Overdraft Items and Fees

An overdraft item fee will be assessed for the payment of an overdraft item. You will be charged a fee each time we pay an overdraft item. Please refer to the Schedule of Fees within this Agreement for our current Overdraft fee amount.

Non-Sufficient Funds Items and Fees

An NSF item fee will be assessed when an item is returned unpaid to the payee due to an insufficient available balance in the account to pay the item at the time the item is presented for posting to the account. You will be charged an NSF item fee each time an item or transaction is presented and returned as NSF due to insufficient funds. This means that you may be charged an NSF item fee each time the same item or transaction is re-presented for payment against insufficient funds in the account and may result in you incurring multiple NSF item fees for the same item. Please refer to the Schedule of Fees within this Agreement for our current NSF fee amounts.

We encourage you to use the balance alert features available to you as part of the Bank's Internet Banking and Mobile Banking to avoid situations that may lead to insufficient funds in your account and the possibility of incurring multiple NSF item fees and/or overdraft item fees.

Optional Overdraft Protection Transfers

You may request overdraft protection via overdraft protection transfers from a personal line of credit, savings account or another checking account that you have with us. In Texas, overdraft protection is not available on a home equity line of credit. If you utilize overdraft protection transfers, you will be notified on your monthly account statement of the amount of transfer(s) and any applicable fees.

Insufficient Funds; Overdraft Items and NSF Items

Items presented to an account with an insufficient available balance will be processed as either an overdraft item or a non-sufficient funds (NSF) item. An overdraft occurs when you do not have enough money in your account to cover a transaction, but we pay it anyway, resulting in a negative account balance. A NSF item occurs when you do not have enough money in your account to cover an item, and we return the item due to an insufficient available balance in the account to pay the item.

If the Bank receives an item (or an authorization request) against your account and there are insufficient funds in your account to cover the item, we may, in our discretion and without prior notice to you, return the item (a NSF item) or pay the item (an overdraft item). You will be notified by mail of any insufficient funds items that were paid or returned. It is possible that a NSF item may be re-presented for payment again before our notice of NSF reaches you.

Our payment of any checks, transfers, withdrawals or other items which exceed the available balance in your account in no way obligates us to continue the practice at a later time. We may discontinue this practice at any time without notice to you unless we have agreed otherwise. You should not consistently overdraw your account to pay ordinary or routine expenses, as these items may be returned.

The amount of any overdrafts including our fees that you owe us shall be due and payable immediately. We may use deposits you or others make to your account to pay overdrafts, fees and other amounts you owe us.

If there is an overdraft paid by us on an account with more than one (1) owner on the signature card, each owner, and agent if applicable, drawing/presenting the item creating the overdraft, shall be jointly and severally liable for such overdrafts including our fees.

You agree to pay the Bank's fees for any action taken in accordance with the Schedule of Fees. Any negative balance on your account is immediately due and payable, and you agree to reimburse the Bank for the costs and expenses (including without limitation, attorneys' fees and expenses) it incurs in recovering the negative balance.

You can avoid fees for overdrafts and NSF items and the possibility of returned items by ensuring that your account contains sufficient available funds for all of your transactions. We offer tools and services to help you avoid overdrafts, returned items, Overdraft and NSF fees on your account, such as Internet Banking, Mobile Banking and Voice Banking. You may talk to a PlainsCapital Bank representative to learn more about these services as well as overdraft protection.

Authority; Power of Attorney

You understand and agree that you will not grant anyone authority to conduct business with us on your behalf until we have reviewed and accepted the proposed terms of authorization. This includes authority such as under power of attorney, bill-paying arrangement or other method. If you wish to grant someone a power of attorney over your account, or designate someone your attorney-in-fact with authority over your account, or otherwise grant someone authority to act with respect to your account in the capacity of agent for you as principal, you agree to provide us the terms of authorization in the form of a completed power of attorney form that has been recognized as legally binding under Texas law, and also to provide on our request an agent's certification pursuant to Section 751.203 of the Texas Estates Code (as may be amended from time to time), or an opinion of counsel under Section 751.204 of the Texas Estates Code (as may be amended from time to time). We may in our sole discretion, however, accept and act upon any power of attorney form or terms of authorization in other form that we believe you to have executed. You agree to indemnify and reimburse us for any and all claims, costs, losses, damages and liability that we incur in accepting or acting upon any power of attorney form or terms of authorization in other form that we believe you to have executed. You will not claim that we wrongfully dishonored items presented to us before we accepted the authorization. If you have not given us the proposed authorization for advance

review, we may, in good faith and in our sole discretion, honor items and instructions from the person you purportedly authorized. You will not hold us responsible if someone you authorized to conduct transactions on your account on your behalf misapplies your money. You assume all risk of improper acts by such person. We can consider an authorization valid until we receive written revocation of it from you and have had reasonable time to review and act upon any such revocation.

If we accept an authorization, we may revoke our acceptance of that authorization at any time at our discretion. Please note that the power of attorney or other form of authorization must be acceptable to us in our sole discretion and, unless prohibited by law, we reserve the right, in our sole discretion, to refuse to honor or follow the instruction of any power of attorney or terms of authorization in other form presented to us. We also reserve the right, in our sole discretion, to refuse to accept or act upon a power of attorney when an agent purporting to act under the power of attorney seeks to expand your existing customer relationship with us, seeks to acquire a service under the power of attorney that we do not offer, or asks us to perform any act that we believe would violate the terms of any agreement in place between you and us, and we further reserve our right not to accept or act upon a power of attorney for any of the reasons stated in Section 751.206 of the Texas Estates Code. We also reserve our right, in our sole discretion, to require you or any proposed agent to provide additional information or documentation that we believe, in our sole discretion, sufficient to satisfy any question or concern we may have. Unless a power of attorney executed by you expressly so states, an agent that you appoint cannot appoint another agent. If you disclose information about the account that would permit someone to initiate a debit to the account (such as the account number, bank routing number and next unused check number), then you will be deemed to have authorized us to pay any debit to your account that person initiates.

Account Statements

You agree to examine your periodic account statements and any accompanying items (front and back sides) promptly upon receipt or when the statements and any accompanying items are otherwise made available to you, whichever occurs first, and to promptly report any error, irregularity, discrepancy, unauthorized transaction or fraudulent transaction, including without limitation any forged signature, unauthorized signature, unauthorized debit, unauthorized transfer or alteration (collectively for purposes of this section, "Error")

or any unauthorized, fraudulent, improper or missing endorsement (collectively, for purposes of this section, "Unauthorized Endorsement") to us. You understand and agree that your duty to report any such Error or Unauthorized Endorsement applies to each individual item, and that general references to a series or group of items or transactions is insufficient to comply with this duty.

You also agree to notify us promptly if you do not receive any periodic account statement or any accompanying items.

Statements and any accompanying items that we send to your statement mailing address as maintained in our

records shall be deemed to be received by you within five

(5) business days of the date of mailing. Internet account statements and any accompanying items shall be deemed to be made available to you when the account statements or their electronic equivalent are posted on the Internet and we send or transmit to you an electronic mail notification of availability, and account statements and any accompanying items otherwise transmitted to you electronically shall be deemed

to be made available to you when we send or transmit the electronic account statement to you. By making your periodic

statement with check images available to you, it is as though we have included cancelled checks and other items with your statement. Account statements that we hold at your request or because you fail to provide us with a current address shall be deemed made available to you as of the date the statement is prepared. For checking and money market accounts, we

will send or otherwise make available your account statement on a monthly basis, or at the frequency and in the manner advised to you from time to time. For savings accounts, we will send or otherwise make available your account statement on a quarterly basis, or at the frequency and in the manner advised to you from time to time. If you have an electronic fund transfer (such as an electronic direct deposit or ATM withdrawal) to or from your account during any month, we will send or otherwise make available a statement for that month. Additionally, you understand and agree that we make your account statements and any accompanying items available to you by making them available to you to access or obtain at any of our bank branch locations.

You must notify us in writing of any Unauthorized Endorsement. This notification should be made as soon as you are aware of the Unauthorized Endorsement, and must be made to us in writing within 3 years of the date when the item(s) or your account statement identifying or detailing the item(s) containing the Unauthorized Endorsement is sent, transmitted or otherwise made available to you. Except as otherwise expressly stated in this Agreement, you must notify us in writing of any other Error within thirty (30) calendar days of the date when the item(s) or your account statement identifying or detailing the item(s) containing the Error(s) is sent, transmitted or otherwise made available to you. You agree that if you do not so notify us of Unauthorized Endorsement(s) or Error(s) within the time frames set forth above, such Unauthorized Endorsement(s) or Error(s) shall be fully enforceable against you, we will not be liable for any such Unauthorized Endorsement(s) or Error(s), and you shall not have and will not bring any claim against us in relation to any such Unauthorized Endorsement(s) or Error(s).

You also agree to provide in writing (complete Fraud Affidavit) all relevant facts, including a description of the Unauthorized Endorsement or Error, and to identify any suspected wrongdoer. Additionally, if you fail to notify us in writing within a reasonable time (not to exceed 30 days from the date you discover the problem or have access to an account statement or notice reflecting the first Error or

Unauthorized Endorsement, whichever occurs first), we will not be responsible for subsequent Errors or Unauthorized Transactions on any of your accounts by the same wrongdoer. Note: Different notification and liability rules apply to certain electronic funds transfers and wire transfers.

Additionally, in the event that an item was fraudulently altered or drawn without authorization in such way that a reasonable person could not detect the fraud and we were not grossly negligent in any way, you will not hold us responsible for any loss resulting from such fraud, unless we have otherwise agreed with you in writing.

You are responsible for monitoring and reviewing the activity of your account and, if applicable, the work of your employees, agents and accountants. Toward that end, we expect that you will have a reasonable process in place with a separation of duties to inspect statements on a regular basis to look for improper and unauthorized signatures, alterations, forged endorsements, overpayments or any other irregularities, and to ensure that the accounts are being handled in a proper manner. To the fullest extent permissible under applicable law, we may deny any claim for loss due to forged or unauthorized checks if you fail to have such a process in place to locate this activity.

At your request, we will provide you with copies of your

paper transactions. However, your request for such items will not extend the time within which you must notify us of the discrepancies shown on your account statement. The Substitute Checks and Your Rights section of this Agreement provides further information concerning substitute checks and your rights with respect to substitute checks, and governs the reporting of Errors with respect to substitute checks.

Written notice that you send or otherwise provide to us regarding your account statements shall be deemed effective when actually received by us. Written notice should be sent to PlainsCapital Bank, ATTN: Research Department, 5010 University Avenue, Lubbock, Texas 79413. Written notice that we send or otherwise provide to you regarding your account

statements shall be deemed effective upon deposit in the U.S. Mail, postage prepaid and addressed to you at your statement mailing address or, in the case of hand delivery, upon hand delivery to you.

If we are safekeeping or truncating your checks or deposit slips, you understand and agree that we will not return your original cancelled checks, substitute checks or deposit slips with your account statement, and that they may be retained or destroyed in accordance with our applicable record retention policy or schedules. You further understand and agree that our retention of checks does not alter or waive your responsibility to examine your account statements and report to us any Unauthorized Endorsements or Errors within the time periods set forth above.

Account statements that we send or make available to any account holder shall be deemed to be received or made available to all account holders.

As a commercial account holder, you understand and agree that you have inquired of, and conducted due diligence

to determine if any of your employees or applicants to employment with you who act with responsibility with respect to your checks and other items or accounts, or who are or become responsible for the handling of your financial affairs (including, without limitation, handling or reconciliation

of your account statements), have ever been charged with or convicted of a felony, and that you have implemented a system of reasonable financial controls and procedures,

including, without limitation, to avoid and detect employee embezzlement and the unauthorized completion or use of your negotiable instruments and/or accounts.

Your Insurance Coverage

Many businesses carry special insurance for employee fraud/ embezzlement. We recommend that you carry such insurance to help protect you from employee theft, fraud and embezzlement. If you do, we reserve the right to require that you file any such claim with your insurance company before making any claim against us. In such event, we will consider your claim only after we have reviewed your insurance company's decision. In any event, our liability to you, if any, will be reduced by the amount your insurance company pays you.

Account Type

Commercial and business accounts include, without limitation, accounts held by a corporation, limited liability company, partnership, unincorporated association, or sole proprietorship. The account type is noted on the Signature Card. If the account is a savings account, or to the extent we may offer a negotiable order of withdrawal (NOW) account, a NOW account, we reserve the right to require seven (7) days' written notice before any withdrawal. We have given you disclosures explaining applicable transaction limits, fees, interest rates and balance

requirements. You agree that our fees and charges need not be based upon the cost of providing the service or administering the event to which the fee or charge is associated, but may be based on other considerations such as the expense of providing account services, similar charges of other financial institutions with which we compete, revenues to the Bank and the deterrence of abuse of an account.

Interest Calculation – Interest Bearing Accounts, Accrual and Payment

We use the daily collected balance method to calculate interest. For accounts that earn interest, interest is calculated at the annual rate and in the manner specified in the applicable Schedule using a 365-day-year (366 days in a leap year). The daily collected balance method applies a daily periodic rate to the collected balance each day. If you deposit a non-cash item, such as a check, interest begins to accrue no later than the business day we receive credit for its deposit. This may not be the same day that you deposit the non-cash item to your account. Interest is typically credited to checking accounts monthly and savings accounts quarterly. The Schedule may specify a minimum balance requirement for the payment of interest.

Authorized Persons; Beneficial Owners

You understand and agree that in opening any such commercial or business account, with respect to any and all transactions on the account you authorize us to act on the instruction or direction of each and every person authorized in the resolutions, certificate of authority or banking agreement to act on behalf of the entity or business for whom the account is established.

You also understand that for certain types of legal entities, on and at any point after the commencement of our account relationship with you, we may require you to identify, verify and certify each individual who, directly or indirectly, holds an ownership interest of twenty five percent (25%) or more in the entity, and an individual who has significant responsibility to control, manage, or direct the entity ("Beneficial Owners" as defined in Title 31 of the Code of Federal Regulations). If you are obligated to identify and/or certify Beneficial Owners at account opening, you are responsible for notifying us of any subsequent change in identified and/or certified Beneficial Owners as soon as practicable in a form and manner acceptable to us.

Signatures to Come

If you ask us to create an account for multiple owners or authorized signers, we can limit the use of the account until all owners and authorized signers have signed the Signature Card.

Your Address and Changes of Account Related Information

We may send notices, statements and other communications regarding your account to you at the most recent electronic and/or street address we have in our records for your account. You agree to notify us immediately if you change your street or electronic address. You may send us communications,

such as change of address requests (street or electronic) at the address on the back cover of this Agreement or you may

make the request over the telephone. If you request to update your information over the telephone we may take appropriate measures to authenticate your identity.

We may act on any such instruction made on your behalf within

a reasonable time after our receipt. We may destroy all articles that are sent to you and returned to us as undeliverable items. We may also stop sending communications to you until you provide us with a new street or electronic address. You further agree to notify us immediately of any change in your name, telephone number, taxpayer identification number or other pertinent account information which allows us to service your account.

Date of Notices

Except where this Agreement requires that something be "actually received", the date on which communication occurred is determined by the postmark or postage meter date for postal mail and by the email sent date for electronic communications.

Deposit Reclassification of Account

This account consists of a checking sub account and a savings sub account. The Bank may periodically transfer funds between these two sub accounts. On a sixth (6th) transfer during a calendar month, any funds in the savings sub account will be transferred back to the checking sub account. If your account is a plan on which interest is paid, your interest calculation will remain the same. Otherwise, the savings sub account will be non-interest bearing. The savings sub account will be governed by the rules governing our other savings accounts. This process will not affect your available balance, the interest you earn, FDIC insurance protection or your monthly statement.

Special Rules for Sweep Arrangements

As an insured depository institution, we are required to disclose whether swept funds are deposits within the meaning of 12 U.S.C. 1813(l), a U.S. Code statute describing those deposits eligible for FDIC Insurance. If the funds are not deposits under this statute, we must further disclose the status of such funds should the institution fail. If the Bank were to fail, the swept funds under this Agreement do not meet the FDIC deposit definition and, therefore, would not be guaranteed by the FDIC nor be eligible for FDIC insurance.

Dormant and Unclaimed Accounts or Safe Deposit Boxes

Checking, Savings, Money Market and Time Deposit

When the funds in your checking, savings, money market or time deposit accounts are considered to be abandoned for three (3) years, we are required to escheat the account to the state comptroller.

When the funds in your account are delivered to the state, your account is closed, no interest accrues, and we will have no further liability to you for such funds.

To recover the funds delivered to the state, you must file a claim with the state.

You can prevent the escheatment of checking, savings, money market or time deposit accounts by making contact with us or communicating with us in ways which may include, without limitation: depositing or withdrawing funds, updating your account address, signing into your account on our website, writing or calling us concerning your dormant account.

Checking, Savings or Money Market Accounts

- Your checking, savings or money market accounts are considered inactive and dormant if there is no customer-

initiated debit or credit activity for more than one (1) year, and you have not communicated with us during that time.

- If your checking, savings or money market account is considered inactive and dormant, we may hold all statements for your account.
- If your checking, savings or money market account is considered inactive and dormant, card privileges (including ATM and Point-of Sale access) may be blocked or terminated, and we may refuse to honor other transactions.
- If your checking, savings or money market account remains inactive and dormant for at least three (3) years, we may presume it to be abandoned.

Time Deposit Accounts

- Your time deposit accounts are considered inactive and dormant if there is no customer-initiated contact for more than one (1) year after the first maturity date.
- If your time deposit account is considered inactive and dormant, we may hold all statements for your account.
- If your time deposit account remains inactive and dormant for at least three (3) years (after the first maturity date), we may presume it to be abandoned.

Safe Deposit Boxes

When your safe deposit box is considered to be abandoned for five (5) years, we are required to escheat the property; that is, to deliver the property in your safe deposit box (the contents) to the state comptroller.

When the property (contents) from your safe deposit box is delivered to the state, your box is closed, and we will have no further liability to you for such property.

You can prevent escheatment of your contents by paying your safe deposit box rent.

Safe Deposit Boxes

- Your safe deposit box is considered inactive and dormant if the rent on the box is delinquent. Safe deposit box rent becomes delinquent nine (9) months after the last rental payment expired.
- If your safe deposit box remains inactive or dormant for at least (5) years, we may presume it to be abandoned.

Recording and Monitoring Telephone Calls

To provide you better service and for quality assurance and our mutual protection, we may record and/or monitor any of our telephone and electronic communications with you, such as video calls, electronic chats, online sessions, communications through social media, etc.

You consent to the recording or monitoring of telephone calls and electronic communications between you and us. We will remind you of this practice before each call only as required by law. Additionally, to the extent permitted by applicable law, we may create and use a digital biometric recording and representation of your voice or other biometrics such as how you hold your phone or walk with your phone for authentication of your accounts, in an effort to reduce fraud on your account. If you authorize someone such as an attorney to do business with us on your behalf, you will be responsible for obtaining their permission to allow us to record their communications with us, and we may assume they have given you such consent by virtue of their doing business with us on your behalf.

Consent to Autodialed and Prerecorded Phone Calls and Text Messages, Consent to Fraud Alert Text Messages and Email Communications, Consent to Geo-Location Based Fraud Prevention and Consent to Voice Biometrics, other Biometrics and Video Recordings of all interactions with our website or other video recordings of any kind.

You understand and agree that, by this Agreement and to the fullest extent permissible under applicable law, you are providing your express consent for the Bank and any of our third-party service providers to call you, to send text messages to you, or both at any phone number (including any mobile phone number) you provide to us or any of our third-party service providers using auto-dialed phone calls or otherwise phone calls placed through an automatic telephone dialing system, prerecorded phone calls, or both for any or all of the following reasons: (i) transactional purposes; (ii) informational purposes; (iii) to provide account alerts; (iv) to provide servicing information; (v) fraud prevention purposes; and (vi) any other purposes provided for this Agreement or in any other applicable Bank agreements, including, but not limited to, the PlainsCapital Bank Privacy Notice. If you change any phone number you have provided to us or any of our third-party service providers for any reason, you agree to immediately notify the Bank to ensure that the above communications are not interrupted or inadvertently delivered to another recipient who may be reassigned to your prior phone number. You may change your phone number by calling PlainsCapital Bank Customer Service at (866) 762-8392.

We are committed to providing you with fraud protection services and tools. The capability and availability of these services and tools are constantly evolving with developments in and access to new technology. We may in the future utilize or offer certain geo-location fraud prevention services. By entering into this Agreement, you understand, agree, and expressly consent to our use of your unique mobile device ID, and IP address for your laptop or desktop computer, your device's location services, and any security tokens or cookies that we may place on such mobile or other devices, in order to monitor transaction location and activity for our fraud prevention purposes. To the fullest extent permissible under applicable law, you also expressly authorize us to record data about how you hold your phone or other devices or walk with those devices for our purpose in attempting to reduce fraud on your accounts.

Customer Authentication Requirements

You may contact us by telephone to request account maintenance, updates and/or account transactions be performed on your account. Maintenance and/or transactions will only be processed if we are able to authenticate your identity. We may take the appropriate measures to authenticate your identity.

Credit Reports

You authorize us to request and obtain one or more reports about you periodically from organizations such as consumer reporting agencies, check reporting services and other credit reporting entities for purposes of considering your account or loan application(s), reviewing and collecting on any of your accounts or for other permissible business purposes, and to provide them information about your accounts. You understand that late payments, missing payments and other defaults may be reflected in your credit reports.

Cash Bonus

A cash bonus in excess of $9.99 will be reported on a 1099 INT Form as Interest Income.

Other Services

Certain services offered by the Bank may be governed by terms covered outside of this Agreement. Should you elect to use other services offered by the Bank, you agree to be bound by the terms applicable to each such service, as well as the terms of this Agreement.

Safe Deposit

We will mail you a Safe Deposit Box Billing Notice ten (10) days prior to your annual rental payment due date. If you do not pay your safe deposit box rent within nine (9) months after the due date, your box rent is delinquent. If your box rent is delinquent for at least six (6) months, at our option, we may send notice to you that we will drill your Safe Deposit Box and remove its contents if the delinquent rent is not paid within sixty (60) days after the date such notice is sent. If the delinquent rent is not paid within such 60-day period, we may drill your Safe Deposit Box and remove its contents in accordance with the Texas Finance Code. At such time, your box will be officially closed. The box contents will be inventoried pursuant to the Texas Unclaimed Property Division's written instructions and stored at our Bank under dual control access. In order to claim the contents, you must pay the delinquent rent and fees; pay the drilling expenses; provide valid identification; and sign the inventory sheet.

Additional Terms for Time Deposit Accounts

We may refer to a time deposit account as a "Time Certificate of Deposit", "Certificate of Deposit" or a "CD".

Time Deposit accounts include deposits which are payable, either on a specified date or at the expiration of a specified time, no less than seven (7) calendar days after the date of deposit. Time Deposit accounts require a minimum balance of $1,000. If your Time Deposit account balance falls below the minimum balance of $1,000, we may close the Time Deposit account. You agree to keep your funds on deposit until the maturity date. You may make withdrawals from your Time Deposit account on the maturity date or within the grace period after the maturity date without penalty. Your Time Deposit account will mature at the end of the term stated on your Certificate of Deposit, Time Deposit or Receipt of Time Deposit, as applicable. If you make a withdrawal of all or part of the funds prior to the maturity date, early withdrawal penalties may apply as discussed below.

Presentment of Time Certificate of Deposit

You are not required to present your Certificate of Deposit, Time Deposit or Receipt of Time Deposit to withdraw funds from your Time Deposit. You will comply with our Time Deposit withdrawal procedures which may include, but may not be limited to, signing a Time Deposit Withdrawal Agreement.

Date of Issue

The date of issue will be the day that you opened your account.

Interest Calculation – Interest Bearing Accounts, Accrual and Payment

We use the daily collected balance method to calculate interest. Interest is calculated at the annual rate and in the manner specified in the applicable Schedule using a 365-day- year (366 days in a leap year). The daily collected balance method applies a daily periodic rate to the collected balance each day. If you deposit a non-cash item, such as a check, interest begins to accrue no later than the business day we receive credit for its

deposit. This may not be the same day that you deposit the non-cash item to your account. If you elected a payment of interest other than a credit to your time deposit account, we may, at our sole discretion, terminate it in favor of crediting your time deposit account. Ordinarily, we exercise such discretion when an interest payment is returned undelivered or because the account to which your interest payments are automatically credited is closed.

Renewals

If noted on the Receipt of Time Deposit that your Time Deposit account is automatically renewing, we will renew the time deposit at each maturity date for the same term. The interest rate will be the one we offer on that renewal date for deposits of the same term and amount. You will have a grace period of ten (10) days after renewal in which you may withdraw funds without penalty. We can decline to renew at any renewal date by notifying you beforehand.

Early Withdrawal Penalty

We do not have to permit early withdrawals. For each one, we can charge a penalty calculated as follows: for Time Deposit accounts with a maturity date of seven (7) days or less, seven (7) days interest on the amount withdrawn; for Time Deposit accounts with a maturity date of eight (8) days to three hundred sixty-four (364) days, thirty (30) days interest on the amount withdrawn; for Time Deposit accounts three hundred sixty-five (365) days and over, ninety (90) days interest on the amount withdrawn. If there is enough accrued interest to cover the penalty, we deduct the penalty from the accrued interest.

If not, we deduct the remainder of the penalty from principal. If a variable-rate account, we calculate the penalty using the interest rate applicable at withdrawal. You understand the law requires us to charge at least seven (7) days simple interest on any amount withdrawn (a) within the first six (6) days after the account is opened, or (b) within six (6) days after a partial early withdrawal.

Exceptions

We may permit you to withdraw funds prior to maturity without incurring an early withdrawal penalty under the following circumstances:

- The death or judicial determination of incompetence of a Time Deposit account owner
- The disability of a Time Deposit account owner
- The re-titling of a Time Deposit due to transfer of ownership into a living trust held within the Bank
- Capitalized (not accrued) interest withdrawals

Identification

Federal law, including the USA Patriot Act, requires all financial institutions to obtain, verify and record information that identifies any business entity, along with its owners, that opens an account with that financial institution. In addition, financial institutions are required to know and record the primary business function and/or purpose of their commercial customers. When you apply for a commercial account, we will ask for the legal name of the business entity, the address, the taxpayer identification number (TIN) and applicable documentation. We may require a TIN confirmation letter or income tax return if we are unable to verify the tax identification number. We may validate the information you provide to us to ensure we have a reasonable assurance of your identity. We

may contact you for additional information. If your account is funded before we verify the information you provided, you may not have access to the funds. If we are not able to verify the identity of the business entity to our satisfaction, we will not open the account or we may close the account if it was previously funded.

Severability

If a court, arbitrator, or other decisional authority determines or finds any part or provision of this Agreement illegal, invalid or unenforceable, you understand and agree that such determination or finding shall not render the remainder of the Agreement illegal, invalid or unenforceable, and that the remainder will be enforced and, if reasonably feasible, the offending provision shall be modified to make it valid and enforceable. If it is not reasonably feasible to so modify the offending provision, then such provision shall be stricken and the remainder of the Agreement shall in all other respects remain valid and enforceable.

Limitation of Liability; Indemnification; Statute of Limitations

TO THE FULLEST EXTENT PERMITTED BY LAW, WHETHER IN CONNECTION WITH YOUR ACCOUNT OR A SERVICE, IN NO EVENT OR CIRCUMSTANCE WILL EITHER PARTY TO THIS AGREEMENT OR ITS RESPECTIVE DIRECTORS, OFFICERS, SHAREHOLDERS, EMPLOYEES, OR AGENTS BE RESPONSIBLE OR LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY OR PUNITIVE DAMAGES FOR ANY ACTION THAT EITHER PARTY TAKES OR FAILS TO TAKE, WHETHER ANY SUCH CLAIM IS BASED ON CONTRACT OR TORT OR OTHER DUTY IMPOSED AT LAW, OR WHETHER THE LIKELIHOOD OF SUCH DAMAGES WAS KNOWN TO EITHER PARTY.

The foregoing limitation of liability will not apply where expressly prohibited by the laws governing your account, and is not intended to and will not avoid or limit your liability or responsibility for payment of attorney's fees, costs and court costs or other costs or expenses for which you are liable or responsible under other provisions of this Agreement. The Bank will not have any liability to you if there are not sufficient available funds in your account to pay your items due to actions taken by the Bank in accordance with this Agreement or any authorized third party instruction or activity.

In addition to our rights of indemnity set forth in other provisions of this Agreement, except to the extent that the Bank fails to exercise ordinary care or breaches this Agreement, you understand and agree that you will indemnify us against and hold us and our directors, officers, shareholders, employees, and agents harmless from all claims, demands, losses, liabilities, judgments, costs and expenses (including without limitation attorney's fees and legal expenses) arising out of or in any way connected with the Bank's performance under this Agreement. You agree that this indemnification will survive the closing of your account and the termination of any service.

You further understand and agree that, to the extent permitted by law and unless a different time period is stated in this Agreement, any action, claim, suit or proceeding for damages against the Bank, resulting in any respect from the Bank's acts or omissions in its performance under or non-performance with this Agreement, must be brought within two (2) years of the date of the Bank's alleged act or omission.

Headings

Section headings within this Agreement are for convenience only and shall not affect the meaning of any terms or conditions of the Agreement.

Force Majeure

You understand and agree that we will not be deemed to be in default of any of our obligations under this Agreement, and will not be held responsible or liable for loss or damages or failure to complete a transaction or if our performance is delayed, hindered, or becomes impossible because of an event or circumstances beyond our control, such as any act of God or of any public enemy, hostilities, war (declared or undeclared), guerilla or terrorist activities, act of sabotage, blockade, earthquake, flood, landslide, tremor, ground movement, hurricane, storm or natural disaster, explosion, fire, labor disturbance, riot, insurrection, strike, accident, civil commotion, epidemic, act of government or its agencies or officers, power interruption or transmission failure, computer or server problem, communication or transport problem, or any cause beyond our control.

Laws and Regulations

We are subject to federal and state laws and regulations. You will not hold us liable for anything we do or decline to do based on a good faith belief that it is required or prohibited by law or regulation. Some laws and regulations allow parties to contract out of their provisions and establish rules by contract. You understand and agree that whenever a term or provision of this Agreement conflicts with any applicable law, regulation or rule, the terms and provisions of this Agreement shall govern to the extent any such law, regulation or rule may be modified by agreement. You will abide by the rules of any clearinghouse or automated clearinghouse that handles any part of a transaction.

No Waiver

Failure to insist upon your strict performance of any obligation under this Agreement will not create any duty on our part to continue to do so, and our failure to exercise any right will not waive that right or any other right. You will not claim that we waived our right to insist on proper performance, or to exercise or enforce any of our rights in the future. To be effective, any waiver of any default or breach of this Agreement must be in writing and shall not constitute a waiver of any other or subsequent default or breach.

Rights are Cumulative

You agree that our rights under this Agreement are cumulative, not exclusive, and that we may exercise any of them without giving up the right to exercise others.

Account Closing

Either you or we may close your account at any time with or without cause. If we close your account we will send you written notice by mail to your statement mailing address on the date that we close the account, except that if we reasonably believe that closing the account will prevent loss to us, or that you have violated this Agreement or abused your account relationship with us, we may provide notice of the account closure by mail or by electronic transmission on the business day of the closure or, if closure occurs on a Saturday, Sunday or federal holiday, on the next business day.

You may close your account by notifying us in writing. You understand and agree that, absent your written request, we

have no obligation to close your account on your behalf. You understand and agree that you must pay any fees and costs incurred prior to the closing of your account and any fees and costs incurred in relation to closing the account, as well as any outstanding items and obligations. Our rights and your obligations survive any closing of the account or cancellation of this Agreement. After your account is closed we will have no obligation to pay any outstanding items or to accept any deposit to the account. You will not claim we wrongfully dishonored items we return unpaid on or after the day the account was closed, and you agree to hold us harmless for any check or other item drawn on or otherwise presented for payment against a closed account.

Setoff

To the fullest extent permitted by law including, without limitation, the Texas Finance Code, the Texas Business and Commerce Code, and Texas common law, you grant us the right to apply or set off the funds in any of your accounts, whether held individually or jointly, up to and including your account balance(s) to or for payment of any debt that you or any owner of the account(s) owes us, whether jointly or individually, without prior notice to you, including, without limitation, direct obligations such as promissory notes and agreements (including this one), and indirect or contingent obligations such as guarantees, assigned debt, endorsements, garnishments, levies or attachments, and/or any fees or service charges owed to us, and you expressly grant us a security interest in all of your accounts to secure any and all such debts, as they may arise. You expressly agree that, to the fullest extent permitted by law, this right of setoff also applies to any federal or state benefits payments, including without limitation Social Security benefits payments, deposited or transferred into your account, and that you may change your deposit instructions to the payor at any time if you wish to avoid having your benefits payments so applied. If your account is a multiple- party or joint account, you understand and agree that each of the account owners or signatories authorizes us to exercise this right of setoff against each and every account of each of the account owners or signatories. Our right of setoff does not apply to your account if it is an IRA Keogh plan or other tax-deferred retirement account, a Health Savings Account, or certain trust accounts, and we may not exercise the right of setoff against your account for liability arising from a home equity loan secured by a Texas Homestead Property.

Disputed Authority; Conflicting Claims

If we are presented with, become subject to, or have reasonable grounds to anticipate conflicting claims or demands, rival claims or demands, a controversy concerning or competing claims or demands to an account or funds held in an account, or if we have any reason to believe there is a dispute over signatory authority or the authorized signers to your account, including, without limitation, with respect to ownership or control of the account, then, whether or not the person making such claim or demand is a depositor, co-owner or a third party claiming an interest in your account or funds, and / or if the Bank believes that a conflict exists between or among the signatories on your account or is unable to determine whether a person asserting an interest in your account has authority to give us instructions concerning the account or to conduct transactions on the account, we may, in our sole discretion and without any liability to you, take one or more of the following actions:

- Continue to rely on our records to determine the ownership of or the identity of the authorized signer(s) for your account;

- Honor the claim or demand upon receipt of evidence satisfactory to the Bank, in our sole discretion, to justify such claim or demand;
- Place a hold on (or "Freeze") all or part of the funds in your account, including without limitation a credits-only hold, until the dispute, controversy or conflicting claim is resolved to our sole satisfaction;
- Require written agreement by and signatures of all existing signatories on the account for approval of any requested transaction(s) on the account, and pay only such approved transactions until the dispute, controversy or conflicting claim is resolved to our sole satisfaction;
- Close your account and send a check for the available balance in your account payable to you at the statement address for your account, or payable jointly to you and to each claimant; or
- Pay all or part of the account balance into an appropriate court or arbitration authority in an interpleader or other legal action to determine ownership of or control of the account and/or funds held in the account.

You understand and agree that we do not have any duty to determine if any such claim, demand or dispute has merit. You will not claim that we wrongfully dishonored or refused to pay or returned any items presented to us or requested to be paid after we hold or freeze some or all of the account balance, or while any such dispute or action is pending. You further agree that you will be responsible and liable to us for any and all loss, costs and expenses (including without limitation attorney's fees and costs) that we may incur as a result of any such dispute, controversy, conflicting, rival or competing claim or demand or legal proceeding involving your account or the funds held in your account, and that we may either deduct and retain any and all such costs and expenses from your account(s) involved in any such dispute or controversy without prior notice to you, or bill you separately, in our sole discretion. Your responsibility and liability to us for any and all such loss, costs and expenses includes, without limitation, disputes between you and us involving your account and situations where we are presented with a dispute between authorized signers, joint owners, or a third party asserting an interest in your account or funds held in your account.

Freezing Your Account

In addition to the reasons discussed in the "Disputed Authority; Conflicting Claims" section of this Agreement, when irregular, unauthorized or unlawful activities are suspected with your account, we may place a hold on (or "freeze") the balance in your account and in other accounts you maintain with us, in our sole discretion and without any liability to you, pending our investigation of any such suspected activities. We will, if required by applicable law, give you notice as soon as reasonably possible if such a hold is placed on your account. Such notice may be made in writing by mail to your account statement address as reflected in our records, by electronic transmission to your last known email address as reflected in our records for your account or by posting notice via Internet Banking, or orally in person or via telephone. We may also block suspected illegal transactions.

Standard of Care

The Bank will meet its standard of care for your account by exercising ordinary care (as defined in Chapter 3 of the Texas Business and Commerce Code where applicable, except as otherwise modified herein or otherwise in this Agreement) in the transaction at issue. When the Bank takes an item for processing for collection or payment by automated means, "ordinary care" does not require the Bank to examine the item.

You understand that we have adopted commercially reasonable automated processing procedures for the processing of items for collection and payment to assist in processing the largest volume of items at reduced cost to our customers, and that we have no duty to visually inspect signatures. You also understand and agree that we have no duty to review endorsements on items presented to us for payment by depositary or collecting banks (as those terms are defined in Chapter 4 of the Texas Business and Commerce Code) or other third parties who make a presentment warranty to us. While we have no duty to review endorsements on such items, we may, in our sole discretion, refuse to pay or accept any item for deposit or collection unless we are able to verify to our satisfaction that all of the necessary endorsements are present on the item. We also may, in our sole discretion, refuse to pay or accept any item presented to us by other means unless we are able to verify to our satisfaction that all of the necessary endorsements are present on the item. For example, we may require that all endorsers be present at the time that an item is presented to us for payment or accepted for deposit or collection.

In all other cases, except to the extent modified by this Agreement, "ordinary care" requires only that the Bank follow commercial standards that do not vary unreasonably from the general standards followed by similarly situated banks in the area in which the Bank is located. The Bank's policies and procedures are general internal guidelines for the Bank's use and do not impose on us or in any way establish a higher standard of care for the Bank than is otherwise established by the laws governing your account. A mere clerical error or an honest mistake will not be considered a failure of the Bank to perform any of its obligations.

Legal Process

We may accept, rely upon and act on any legal process served upon us that we believe to be valid, effective or binding, regardless of how or where we are served, and you will not hold us responsible for any loss or damages you suffer from our actions in reliance on any order or other legal process. "Legal process" includes, but is not limited to, a levy, garnishment or attachment, withholding order, injunction, restraining order, subpoena, search warrant, government agency request for information, forfeiture, seizure, or other legal process relating to your account. The entire balance or a portion of the balance in an account may be subject to a hold or frozen, or subject to such encumbrances as, among others, garnishments, levies or attachments. Any fees or expenses that we incur in responding to any such legal process may be charged against any account you maintain with the Bank, without prior notice to you.

Expenses

In addition to expenses covered in other provisions of this Agreement, you agree to pay any expenses we incur in good faith related to this Agreement, such as fees on items sent for collection, foreign exchange charges and non-reimbursed research and copying fees incurred when a third party requests records about your account or our relationship. You agree to pay any and all attorneys' fees and court costs we incur in good faith due to concerns about the account, whether or not litigation has been filed, and through the trial and all appeals. You also agree to pay any expense that we incur, including without limitation attorney's fees, in response to any subpoena, writ, government agency or judicial order, search warrant or other order, demand or request to which we may be required to respond regarding your account or your relationship with us.

No Assignment

You understand and agree that neither the account nor your

rights under this Agreement may be assigned without our written permission. You further understand and agree that you may not pledge the account without our written permission, and that any pledge to which we agree shall remain subject to our rights under this Agreement and at law. Your permitted successors and assignees are bound by this Agreement.

Governing Law, Jurisdiction and Venue

The laws of the State of Texas shall govern this Agreement, and all disputes that arise out of or from or are related to your account. Additionally, certain federal regulations and national and/or local clearing house rules may apply. You understand and agree that the courts in the State of Texas (state or federal) shall have jurisdiction of any dispute in connection with this Agreement or your account. You agree that venue will be proper in the courts in the county and city of our office in Texas where you signed the Signature Card(s) for your account(s), or, if you signed your Signature Card(s) outside the State of Texas, in the courts in the county and city of our office in Texas to which your Signature Card(s) was or were sent or otherwise delivered. You further agree that in any dispute concerning an item or items paid by us or deposited in your account(s) in a Texas county different than the county where you signed the Signature Card(s) for your account(s), in our sole discretion venue will be proper in the county where the item(s) was or were paid or deposited.

Waiver of Jury Trial

THIS PROVISION LIMITS YOUR RIGHTS TO A JURY TRIAL. YOU SHOULD REVIEW THIS SECTION CAREFULLY. TO THE FULLEST EXTENT PERMITTED UNDER THE LAW OF THE STATE OF TEXAS,YOU KNOWINGLY, VOLUNTARILY, IRREVOCABLY AND UNCONDITIONALLY AGREE TO WAIVE YOUR RIGHT TO A TRIAL BY JURY OF EACH AND EVERY ISSUE, CLAIM, COUNTERCLAIM, ACTION, CAUSE OR DISPUTE WITH US ARISING, IN WHOLE OR IN PART, FROM OR IN ANY WAY RELATING TO YOUR ACCOUNT(S) OR THIS AGREEMENT, INCLUDING WITHOUT LIMITATION ANY ADDENDA, SCHEDULES OR APPENDICES ATTACHED TO THIS AGREEMENT.

SUBJECT ONLY TO THE RIGHT OF ARBITRATION SET FORTH IN THE ARBITRATION SECTION OF THIS AGREEMENT, ANY AND ALL SUCH DISPUTES MAY BE TRIED BEFORE A JUDGE ONLY. TO THE FULLEST EXTENT PERMITTED UNDER THE LAWS OF THE STATE OF TEXAS,THIS WAIVER OF RIGHT TO TRIAL BY JURY IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH AND EVERY INSTANCE AND ISSUE AS TO WHICH THE RIGHT TO TRIAL BY JURY WOULD OTHERWISE ACCRUE.

Arbitration

YOU UNDERSTAND AND AGREE THAT TRANSACTIONS PROCESSED IN, THROUGH, OR TO YOUR ACCOUNT OR PURSUANT TO THIS AGREEMENT INVOLVE "COMMERCE" UNDER THE FEDERAL ARBITRATION ACT (THE "FAA").

PLEASE REVIEW THIS PROVISION CAREFULLY. IF YOU HAVE A DISPUTE WITH US, WE PREFER AND HOPE THAT THE DISPUTE MAY BE RESOLVED BY AGREEMENT AND IN A TIMELY MANNER. WE BELIEVE THAT ARBITRATION MAY BE A BENEFICIAL MEANS TO RESOLVE DISPUTES WHEN AGREEMENT MAY NOT BE QUICKLY OBTAINABLE, AS A MEANS TO OBTAIN A LEGALLY BINDING DECISION IN A COST EFFECTIVE MANNER OUTSIDE THE JUDICIAL PROCESS OF COURT PROCEEDINGS. ACCORDINGLY, EITHER YOU OR WE MAY, WITHOUT THE OTHER'S CONSENT, ELECT TO SEEK BINDING ARBITRATION OF

ANY DISPUTE, CONTROVERSY OR CLAIM ARISING OUT OF OR RELATING IN ANY WAY TO YOUR ACCOUNT (INCLUDING WITHOUT LIMITATION ANY APPLICATION FOR OR APPROVAL OF YOUR ACCOUNT) OR THIS AGREEMENT (THE "CLAIM" OR "CLAIMS") EXCEPT AS OTHERWISE STATED HEREIN, BY WRITTEN REQUEST TO THE OTHER, PROVIDED THAT THE PARTY SEEKING ARBITRATION HAS NOT SUBSTANTIALLY INVOKED THE JUDICIAL PROCESS WITH RESPECT TO ANY SUCH CLAIM TO THE DETRIMENT OR PREJUDICE OF THE OTHER PARTY. IF SO ELECTED, ARBITRATION REPLACES THE RIGHT TO GO TO COURT. ALL SUCH CLAIMS ARE SUBJECT TO ARBITRATION REGARDLESS OF THE THEORY THEY ARE BASED ON OR THE REMEDY SOUGHT, WITH THE EXCEPTION OF INTERPLEADER AND OUR RIGHTS SET FORTH IN THE "DISPUTED AUTHORITY; CONFLICTING CLAIMS" AND "FREEZING YOUR ACCOUNT" SECTIONS OF THIS AGREEMENT, AND ANY CLAIM THAT IS WITHIN THE JURISDICTIONAL LIMITS OF AND IS FILED IN A SMALL CLAIMS COURT, AND PROCEEDS ON AN INDIVIDUAL BASIS.YOU UNDERSTAND AND AGREE THAT IF EITHER PARTY TO THIS AGREEMENT REFUSES TO COMPLY WITH A TIMELY AND LAWFUL REQUEST PURSUANT TO THIS AGREEMENT

TO SUBMIT TO ARBITRATION, THE OTHER PARTY SHALL BE RESPONSIBLE FOR ALL COSTS AND EXPENSES, INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEY'S FEES AND COSTS, INCURRED BY THE PARTY REQUESTING ARBITRATION IN SUCCESSFULLY COMPELLING ARBITRATION. EXCEPT AS OTHERWISE MODIFIED HEREIN, THE ARBITRATION WILL BE CONDUCTED AND ADMINISTERED BY THE AMERICAN ARBITRATION ASSOCIATION (THE "AAA") UNDER ITS COMMERCIAL ARBITRATION RULES, AND THE FEDERAL ARBITRATION ACT (TITLE 9 OF THE UNITED STATES CODE). THIS AGREEMENT WILL CONTROL AND GOVERN ANY CONFLICTS BETWEEN THE AAA COMMERCIAL ARBITRATION RULES AND THIS AGREEMENT. JUDGMENT ON ANY AWARD RENDERED BY THE ARBITRATORS MAY BE ENTERED IN ANY COURT HAVING JURISDICTION.

TO THE FULLEST EXTENT PERMITTED BY LAW, AND NOT WITHSTANDING ANY RULE TO THE CONTRARY,THE ARBITRATION WILL BE CONDUCTED AND WILL PROCEED ONLY AS AN INDIVIDUAL ACTION; THE ARBITRATORS SHALL HAVE NO POWER OR AUTHORITY TO ARBITRATE ANY CLAIM ON A CLASS-WIDE OR REPRESENTATIVE BASIS, OR TO CONSOLIDATE CLAIMS OR OTHER ACTIONS OR CAUSES ASSERTED BY DIFFERENT CLAIMANTS OR COUNTER- CLAIMANTS, WHETHER PRIVATE OR PUBLIC, OR TO AWARD ANY RELIEF ON A CLASS-WIDE OR REPRESENTATIVE BASIS. THIS ARBITRATION PROVISION EXPRESSLY APPLIES TO AND COVERS ANY CLAIM OR OTHER CAUSE OR ACTION BROUGHT OR MADE AND ANY REMEDIES SOUGHT AS PART OF ANY CLASS ACTION PROCEEDING OR REPRESENTATIVE ACTION (WHETHER BY PRIVATE ATTORNEY GENERAL OR OTHERWISE). THEREFORE, ANY CLAIM BETWEEN YOU AND US THAT IS RAISED OR OTHERWISE INCLUDED IN ANY CLASS ACTION LAWSUIT OR REPRESENTATIVE ACTION IS AND WILL BE SUBJECT TO AN INDIVIDUAL ARBITRATION CLAIM PURSUANT TO THIS ARBITRATION PROVISION SHOULD EITHER YOU OR WE SO ELECT.

THE ARBITRATION AND ARBITRATION HEARINGS WILL BE HELD IN AND TAKE PLACE IN THE TEXAS CITY CLOSEST TO YOUR PRIMARY PLACE OF BUSINESS IN TEXAS OR, IF YOUR PRIMARY PLACE OF BUSINESS IS LOCATED OUTSIDE THE STATE OF TEXAS, IN DALLAS,TEXAS.

FOR CLAIMS OF MONETARY DAMAGES TOTALING

$100,000.00 OR MORE, EXCLUSIVE OF ATTORNEY'S FEES AND COSTS, THE ARBITRATION SHALL BE CONDUCTED BEFORE A PANEL OF THREE (3) ARBITRATORS, SELECTED AND APPOINTED AS FOLLOWS. WE AND YOU SHALL EACH APPOINT ONE

(1) ARBITRATOR, AND THE THIRD ARBITRATOR WILL BE APPOINTED BY MUTUAL AGREEMENT OF THE PARTIES.TO BE ELIGIBLE FOR SELECTION AND APPOINTMENT, EACH OF SUCH THREE (3) ARBITRATORS MUST BE LISTED BY AAA ON ITS NATIONAL ROSTER OF ARBITRATORS AS OF THE TIME OF SELECTION AND APPOINTMENT, UNLESS EXPRESSLY AGREED TO IN WRITING BY THE PARTIES. IF THE PARTIES ARE UNABLE TO REACH AGREEMENT ON THE APPOINTMENT OF THE THIRD ARBITRATOR WITHIN A REASONABLE PERIOD OF TIME, OUR AND YOUR APPOINTED ARBITRATORS SHALL JOINTLY SELECT THE THIRD ARBITRATOR FOR THE PANEL, PROVIDED THAT SUCH ARBITRATOR ALSO MUST BE LISTED BY AAA ON ITS NATIONAL ROSTER OF ARBITRATORS AS OF THE TIME OF SELECTION. FOR CLAIMS OF MONETARY DAMAGES TOTALING LESS THAN $100,000.00 OR FOR INJUNCTIVE OR OTHER NON-MONETARY RELIEF,THE ARBITRATION SHALL BE CONDUCTED BY ONE (1) ARBITRATOR, SELECTED BY THE AAA PURSUANT TO ITS COMMERCIAL ARBITRATION RULES. YOU UNDERSTAND AND AGREE THAT NO COURT OR OTHER JUDICIAL BODY WILL HAVE ANY AUTHORITY TO APPOINT AN ARBITRATOR, OR OTHERWISE TO DETERMINE WHETHER OR NOT ANY ARBITRATOR MAY BE SELECTED OR APPOINTED.

THE ARBITRATOR(S) WILL CONSIDER AND APPLY APPLICABLE SUBSTANTIVE LAW, INCLUDING WITHOUT LIMITATION THE APPLICABLE UNIFORM COMMERCIAL CODE AND ANY APPLICABLE STATUTE OF LIMITATIONS OR STATUTE OF REPOSE, INCLUDING WITHOUT LIMITATION ANY STATUTE OF LIMITATIONS OR STATUTE OF REPOSE SET FORTH IN THIS AGREEMENT AND/ OR CONTRACTUAL CONDITION PRECEDENT, AND WILL HONOR ALL CLAIMS OF PRIVILEGE RECOGNIZED UNDER TEXAS LAW. EITHER YOU OR WE MAY FILE A MOTION FOR DISPOSITIVE RELIEF OR FOR SUMMARY JUDGMENT IN THE ARBITRATION, SEEKING DISPOSITIVE OR SUMMARY JUDGMENT IN WHOLE OR IN PART, IDENTIFYING EACH CLAIM OR DEFENSE ON WHICH DISPOSITIVE RELIEF OR SUMMARY JUDGMENT IS SOUGHT.THE MOTION MAY BE SUPPORTED BY AFFIDAVIT(S) OR DECLARATION(S) MADE ON PERSONAL KNOWLEDGE, INCLUDING IN THE CAPACITY OF A RECORDS CUSTODIAN, AND SHOWING THAT THE AFFIANT OR DECLARANT IS COMPETENT TO TESTIFY ON THE MATTERS STATED.THE ARBITRATOR(S) SHALL GIVE FULL CONSIDERATION TO ANY SUCH MOTION, SHALL BE BOUND TO APPLY APPLICABLE LAW, AND SHALL GRANT DISPOSITIVE RELIEF OR SUMMARY JUDGMENT IF THE MOVANT SHOWS THAT THERE IS NO GENUINE DISPUTE AS TO ANY MATERIAL FACT AND THE MOVANT IS ENTITLED TO JUDGMENT UNDER APPLICABLE LAW.THE ARBITRATOR(S) SHALL HAVE NO AUTHORITY TO AWARD OR GRANT CONSEQUENTIAL, SPECIAL, INCIDENTAL, EXEMPLARY OR PUNITIVE DAMAGES OR ANY OTHER DAMAGES NOT MEASURED BY THE PREVAILING PARTY'S ACTUAL DAMAGES. THE ARBITRATOR'S OR ARBITRATION PANEL'S DECISION SHALL BE EXPRESSED IN A WRITTEN ARBITRATION AWARD SUPPORTED BY ANY FINDINGS MADE BY THE ARBITRATORS, WILL BE FINAL AND BINDING ON THE PARTIES, AND A JUDGMENT MAY BE ENTERED ON THE AWARD IN ANY COURT HAVING JURISDICTION.YOU UNDERSTAND AND AGREE, HOWEVER, THAT THE ARBITRATORS' DECISION AND FINDINGS, AND ALL ARBITRATION SUBMISSIONS AND PROCEEDINGS SHALL REMAIN CONFIDENTIAL BETWEEN

YOU AND PLAINSCAPITAL BANK, EXCEPT TO THE EXTENT NECESSARY TO OBTAIN JUDICIAL REVIEW OR CONFIRMATION, FOR TAX OR ACCOUNTING PURPOSES, OR AS OTHERWISE REQUIRED BY LAW.

SUBSTITUTE CHECKS (CHECK 21)

The Check Clearing for the 21st Century Act and regulations established by the Federal Reserve Board pursuant to that Act require that we provide the following disclosure entitled "Substitute Checks and Your Rights". A substitute check is the legal equivalent of an original check.

Substitute Checks and Your Rights
What is a Substitute Check?

To make check processing faster, federal law permits banks to replace original checks with "substitute checks". These checks are similar in size to original checks with a slightly reduced image of the front and back of the original check. The front of the substitute check states, "This is a legal copy of your check. You can use it the same way you would use the original check." You may use a substitute check as proof of payment just like the original check.

Some or all of the checks that you receive back from us may be substitute checks. This notice describes rights you have when you receive substitute checks from us. The rights in this notice do not apply to original checks or electronic debits to your account. However, you have rights under other law with respect to those transactions.

What are my rights regarding substitute checks?

In certain cases, federal law provides a special procedure that allows you to request a refund for losses you suffer if a substitute check is posted to your account (for example, if you think that we withdrew the wrong amount from your account or that we withdrew money from your account more than once for the same check). The losses you may attempt to recover under this procedure may include the amount that was withdrawn from your account and fees that were charged as a result of the withdrawal (i.e., NSF or Overdraft fees).

The amount of your refund under this procedure is limited to the amount of your loss or the amount of the substitute check, whichever is less. You also are entitled to interest on the amount of your refund if your account is an interest bearing account. If your loss exceeds the amount of the substitute check, you may be able to recover additional amounts under other law.

If you use this procedure, you may receive up to $2,500 of your refund (plus interest if your account earns interest) within ten (10) business days after we received your claim and the remainder of your refund (plus interest if your account earns interest) not later than forty-five (45) calendar days after we received your claim.

We may reverse the refund (including any interest on the refund) if we later are able to demonstrate that the substitute check was correctly posted to your account.

How do I make a claim for a refund?

If you believe that you have suffered a loss relating to a substitute check that you received and that was posted to your account, please contact us in writing at PlainsCapital Bank, Attn: Research Department, 5010 University Avenue, Lubbock, TX 79413.

You must contact us within forty (40) calendar days of the date

that we mailed (or otherwise delivered by a means to which you agreed) the substitute check in question or the account statement showing that the substitute check was posted to your account, whichever is later. We will extend this time period if you were not able to make a timely claim because of extraordinary circumstances.

Your claim must include all of the following:

- A description of why you have suffered a loss (for example, you think the charge to your account was incorrect);
- An estimate of the amount of your loss due to the substitute check, including any fees charged and interest you may have lost;
- An explanation of why the substitute check you received is insufficient to confirm that you suffered a loss, and include why you believe the original or a better version of the substitute check is needed to determine whether the substitute check should have been deducted from your account, and
- A copy of the substitute check and the following information to help us identify the substitute check: the check number, the name of the person to whom you wrote the check and the amount of the check.

FUNDS AVAILABILITY DISCLOSURE

Your Ability to Withdraw Funds

Our policy is to make funds from your cash and check deposits available to you on the first (1st) business day after the day we receive your deposit. Electronic direct deposits will be available on the day we receive the deposit. Once the funds are available, you can withdraw them in cash and we will use the funds to pay checks that you have written.

When your deposit is received:

For determining the availability of your deposits, every day is a business day, except Saturdays, Sundays and Federal holidays.

Deposits made with a teller at a branch location:

If you make a deposit with a teller at one of our branches before close of business on a business day we are open, we will consider that to be the day of your deposit. However, if you make a deposit after close of business on a business day we are open, or on a non-business day we are open (i.e., Saturdays, Sundays, Federal Holidays), we will consider the deposit to have been made on the next business day we are open.

- Please note, some of our branches have a different closing time. Contact the branch where you transact business to verify the closing time. We may change our closing times whenever we determine it to be a necessary business decision.

Deposits and Transfer made through a PlainsCapital ATM:

Self-Service Deposits

Deposits made through a PlainsCapital Bank ATM prior to 7:00 p.m. Central Time on a Business Day will post to the account the same day.

Deposits made through a PlainsCapital Bank ATM after 7:00 p.m. Central Time on a Business Day will post to the account the next Business Day.

Self-Service Transfers

Transfers made through a PlainsCapital Bank ATM prior to 6:00 p.m. Central Time on a Business Day will post to the account the same day.

Transfers made through a PlainsCapital Bank ATM after

6:00 p.m. Central Time on a Business Day will post to the account the next Business Day.

Teller-Assisted Deposits

Deposits and transfers made via a virtual teller (assisted transaction) through a PlainsCapital Bank ATM prior

to 7:00 p.m. Central Time on a Business Day will post to the account the same day.

Deposits and transfers made via a virtual teller (assisted transaction) through a PlainsCapital Bank ATM after 7:00 p.m. Central Time on a Business Day will post to the account the next Business Day.

Deposits made through (placed in) a Night Depository at a branch location:

If you make a deposit through (placed in) a night depository at a PlainsCapital Bank branch location, we remove deposits from the night depository no later than the next business day. Your deposit is considered received when we remove the deposit from the night depository.

- It is possible that branches in some locations may be closed on business days because of an emergency. Deposits made through a night depository when the branch is closed will be considered received on the next business day when the branch is open.

Deposits made by mail:

If you mail your deposit to a PlainsCapital Bank branch, your deposit will be considered received on the date the deposit is received by the location.

Longer Delays May Apply

If we are not going to make all of the funds from your deposit available on the first (1st) business day, we will notify you at the time you make your deposit. We will also tell you when the funds will be available. If your deposit is not made directly to one of our employees, or if we decide to take this action after you have left the premises, we will mail you the notice by the end of the business day after we receive your deposit.

If you will need the funds from a deposit right away, you should ask us when the funds will be available.

Case-by-Case Hold

In some cases, we will not make all of the funds that you deposit by check available to you on the first (1st) business day after the day of your deposit. Depending on the type of check that you deposit, your funds may not be available until the second (2nd) business day after the day of your deposit. The first $275 of your deposits, however, may be available on the first (1st) business day.

Exception Hold

In addition, funds you deposit by check may be delayed for a longer period under the following circumstances:

- We believe a check you deposit will not be paid.
- You deposit checks totaling more than $6,725 on any one (1) day.
- You redeposit a check that has been returned unpaid.
- You have overdrawn your account repeatedly in the last six (6) months.
- There is an emergency, such as failure of computer or communications equipment.

We will notify you if we delay your ability to withdraw funds for any of these reasons, and we will tell you when the funds will be available. The funds will generally be available no later than the seventh (7th) business day after the day of your deposit.

Special Rules for New Accounts

If you are a new customer, the following special rules will apply during the first thirty (30) days your account is open.

Funds from deposits of cash, wire transfer and electronic direct deposits to your account will be available on the day we receive the deposit.

The first $6,725 of a day's total deposits of cashier's, certified, teller's, traveler's, federal, state and local government checks and United States Postal Service (USPS) money orders will be available on the first (1st) business day after the day of your deposit if the deposit meets certain conditions. For example, the checks must be payable to you (and you may have to use a special deposit slip). The excess over $6,725 will be available on the ninth (9th) business day after the day of your deposit.

If your deposit of these checks (other than a U.S. Treasury check) is not made in person to one of our employees, the first

$6,725 will not be available until the second (2nd) business day after the day of your deposit.

Funds from all other check deposits will be available on the ninth (9th) business day after the day of your deposit.

Holds on Other Funds (Check Cashing)

If we cash a check for you that is drawn on another bank, we may withhold the availability of a corresponding amount of funds that are already in your account. Those funds will be available at the time funds from the check we cashed would have been available if you had deposited it.

Holds on Other Funds (Other Account)

If we accept for deposit a check that is drawn on another bank, we may make funds from the deposit available for withdrawal immediately but delay your availability to withdraw a corresponding amount of funds that you have on deposit in another account with us.

The funds in the other account would then not be available for withdrawal until the time periods that are described elsewhere in this disclosure for the type of check that you deposited.

Deposits made through mobile banking or remote deposit capture

If you make a deposit using the PlainsCapital Bank mobile application or other remote deposit capture device, then you agree that, to the fullest extent permissible under applicable law, items deposited are not covered by the funds availability requirements of the Federal Reserve Board's Regulation CC ("Regulation CC"), and we may delay availability of funds from these deposits at our discretion.

Decisions regarding a deposit hold are measured critically and consider current banking relationships including account tenure, account in good standing, regularity of mobile deposits, average deposit amount, and other relevant factors. We are not required to and may not send you notice of a hold on such deposits in these instances. Refer to the Mobile Deposit User Agreement for information regarding use of mobile deposit services and/or other mobile remote deposit services. This Agreement is incorporated by reference and made part of the Mobile Deposit User Agreement, and in the event of conflict or discrepancy between this Agreement and the terms of the Mobile Deposit User Agreement with respect to the subject matter of that agreement, the terms of the Mobile Deposit User Agreement will control and take precedence.

Deposits made to Other Account Types

Items deposited to accounts other than regular checking accounts are not covered by the funds availability requirements of the Federal Reserve Board's Regulation CC ("Regulation CC"). Other account types include savings accounts, money-market accounts, time deposits, and individual retirement accounts. We may delay the availability of funds deposits to other account types at our discretion. Decisions are measured critically considering current banking relationships, account tenure, account in good standing, regularity of deposits, and average deposit amount, and other relevant factors. The Bank is not required by regulation to send you a notification of a hold in these instances.

SUGGESTED FRAUD PROTECTION MEASURES; UNAUTHORIZED ITEMS

You should be aware of and acknowledge the ongoing risk of losses resulting from unauthorized items. We offer services that provide an effective means for controlling the risk from unauthorized items. These recommended services include:

- Positive Pay
- Positive Pay with Payee Validation
- ACH Positive Pay
- ACH Block Services

These recommended services are covered by our Treasury Management Services Terms and Conditions and are available to you upon request. You acknowledge the availability of these Services and their effectiveness for controlling the risk of unauthorized items. If you decide not to use the recommended services, or fail to use them in accordance with their applicable terms, you understand and agree that you will have assumed the risk of any losses that could have been prevented if you had used the recommended service, or if you had used the recommended service, as applicable, in accordance with the applicable terms.

It is important for you to do your part to help prevent fraud with respect to your account. You agree to take reasonable steps to ensure the integrity of your internal procedures with respect to your account and items drawn on your account or deposited into it. To help prevent embezzlement and protect your business assets, the Bank recommends that you:

- Assign responsibilities for your account to multiple individuals. Those who reconcile statements for your account should be different from those who issue items drawn on your account.
- Reconcile statements for your account as received and notify the Bank immediately of any problem.
- Contact the Bank immediately if you do not receive the statement for your account when you would normally expect to receive it.
- Watch for paper items cashed out of sequence or made out to cash. These are classic red flags for embezzlement.
- Secure your supply of paper items at all times. Stolen paper items are a common method of embezzlement.
- Periodically reassign accounting duties such as reconciling your account or making a deposit.
- Review transaction activity on your account for unexpected fluctuations. For example, compare the percentage of cash deposits to total deposit size. Most businesses will maintain a constant average. A large fluctuation might indicate embezzlement.
- Destroy any paper item that you do not intend to use.
- Use tamper-resistant paper items at all times.

- Notify Bank immediately when an authorized signer's authority ends so that his/her name can be removed from all signature cards and online banking access, and any cards that the Bank has issued to him/her can be cancelled.
- Do not sign blank paper items.
- Frequently update your computer and other device security software, and protect yourself against malware and computer viruses.
- Obtain insurance coverage for these risks.

Use caution if you receive any email requesting a wire or ACH transfer from your account, even if the request appears to be from someone you know. You should always verbally verify the request with the sender of the email prior to conducting the transaction. Several types of phishing and similar fraud scams include hacking of email accounts and sending fraudulent requests for the transfer or payment of funds via ACH or wire transfer. We strongly encourage you to always independently verify the identity of any person or entity requesting a transfer of funds via ACH or wire transfer, and the authenticity of any such request, and your action to verify identity of the requesting party and authenticity of the request is particularly important when dealing with unknown third parties. You agree that you will not rely on any Bank employee for advice or confirmation of the identity of any person or entity requesting an ACH or wire transfer, or the authenticity of the request, and otherwise will not rely on any Bank employee regarding your decision whether or not to transfer funds via wire transfer or ACH. You understand that we are not acting as your fiduciary or representative, and do not undertake any duty to verify the identity of the recipient or receiver of any ACH or wire transfer that you authorize, or to verify the authenticity of any third-party request to you to transfer funds via ACH or wire transfer . You understand that once a wire transfer or ACH transaction has been conducted, the chance of recovering the funds is very limited. For more information on this fraud please go to our website.

This is by no means a complete list of preventive measures, and additional actions may be necessary in order to help control your risk.

Employer's Responsibility for Fraudulent Endorsements by Employees , and Negligence contributing to Forged Signatures or Alterations

You understand and acknowledge that to the fullest extent permissible under applicable law, including the UCC as adopted in the state of Texas, even if you timely discover and report unauthorized items (such as checks), you may still be responsible for items that are fraudulently endorsed by your employees (which may include independent contractors), and for items that bear a forged signature or alteration to the extent you fail to exercise ordinary care substantially contributing to an alteration of or to the making of a forgery on the item. You understand and acknowledge that if you entrust an employee with responsibility with respect to an item and the employee (or a person acting in concert with the employee) fraudulently endorses the item, the indorsement may be legally effective as the indorsement of the payee. You further understand that even if we fail to exercise ordinary care in paying or taking the item for value and that failure contributes to loss resulting from the fraudulent endorsement, you may be limited in any recovery from us according to the extent to which our failure to exercise ordinary care contributed to the loss, meaning the loss may be allocated between you and the Bank on a comparative basis. Similarly, you understand and acknowledge that if your failure to exercise ordinary care substantially contributes to the forgery or alteration of an item, which is paid against your account, you may be precluded from asserting such forgery or alteration (and any loss related to same) against us. You further understand that even if we fail to exercise ordinary care in paying or taking

the item and that failure contributed to the loss, the loss will be allocated between you and the Bank according to the extent to which the failure to exercise ordinary care contributed to the loss, that is, on a comparative basis. You therefore understand and acknowledge that your acts and omissions which contribute to the presentment and payment of forged, altered, or fraudulently endorsed item may preclude or limit you from asserting such forgeries, alterations or fraudulent endorsements against us. Additionally, to the fullest extent permissible under applicable law, we will not be liable on items that are forged or altered such that the forgery or alteration could not have been detected by a Bank exercising ordinary care.

CLAIMS OF UNAUTHORIZED TRANSACTIONS

Unauthorized Claims Investigation

You should be aware of and acknowledge the ongoing risk of losses resulting from unauthorized items. We have tools and security procedures in place to ensure the integrity of our internal procedures with respect to your account and items drawn on your account or deposited to it. It is important for you to do your part to help prevent fraud with respect to your account and protect your assets. You are in the best position to discover and report any discrepancies including unauthorized debits to your Account. The Accounts Statements section of this Agreement sets forth the periods within which you must discover and report Errors and Unauthorized Endorsements as those terms are defined in the Account Statements section.

You agree to safeguard your blank checks and take reasonable steps to prevent their unauthorized use. You agree to notify us immediately if it appears that any blank checks are missing or otherwise unaccounted for, or if you become aware of the use of counterfeit checks purportedly drawn on your account. Further, to the extent that we have exercised ordinary care in paying or taking the checks, you agree to accept responsibility for any failure to safeguard your bank checks.

You also agree to make a report to the police if requested and to provide us with a copy of the report. We will have a reasonable period of time to investigate the circumstances

surrounding any claimed loss. During our investigation we will have no obligation to provisionally credit your account, unless otherwise required by law (e.g. in connection with certain consumer electronic fund transfer transactions).

If we do provide provisional credit to your account we have the right to reverse the credit if you fail to (i) sign any required affidavits and/or other necessary documents, (ii) cooperate fully with the Bank's investigation of your claim of an unauthorized transaction, (iii) cooperate fully with the Bank's efforts to recover funds related to your claim of unauthorized transaction, (iv) if the Bank determines that the transaction was indeed authorized or (v) you failed to exercise ordinary care in the safeguarding of your blank check stock.

Lost or Stolen Paper Items; Unauthorized Items

If any of your unissued paper items have been lost or stolen, you agree to notify us at once. In addition to the obligations stated in the Account Statements section and the Lost, Destroyed or Stolen Cashier's Checks, Teller's Checks or Certified Checks section of this Agreement, to the extent that your failure to so notify the Bank hampers our ability to prevent loss, we will be relieved of any liability for such items to the fullest extent permissible under applicable law. Upon receipt of any such notice, the Bank may at its sole discretion and without any liability to you take one or more of the following actions: (i) close your account and open a new account for

you; (ii) dishonor any paper item you or an authorized signer has indicated may have been lost or stolen (unless you or an authorized signer subsequently has instructed the Bank to honor such an item); or (iii) pay any paper item presented for payment on your account, provided you have instructed the Bank to pay such paper item and given the Bank the number of that paper item. If we open a new account for you and you have authorized a third party to automatically make regular deposits to or withdrawals from your account (such as wire or ACH transfers), the Bank shall have no liability to you if you do not receive any regularly scheduled deposit or if a regularly scheduled payment is not made for you due to your failure to notify that third party in a timely fashion of the number of your new account.

CYBER RISK AND SECURITY

We are committed to the safety and security of your assets, and to helping you protect yourself from cyber-based attacks. However, you remain responsible for taking appropriate steps to ensure the security and protection of your information and account. You acknowledge that our online and mobile services and applications are provided without any warranty or representation of any kind, including, but not limited to, any warranty or representation regarding security or availability of service. You should notify us immediately if you suspect fraud has occurred on your account (e.g., a stolen password or an unauthorized transaction).

Transaction Instructions; Restrictions; Breaches of Your Security

You understand and agree that, to the fullest extent permissible under applicable law and to the extent we have not agreed otherwise in writing, we are not required to act upon any instruction that you provide via facsimile transmission, telephone (including voice mail, text or instant message), or email, even if we may have acted on instructions received by any of these means in the past. Our acceptance of any instruction by any such method of communication does not establish a course of conduct or dealing and shall not obligate us to accept any such instruction in the future. You understand that we are not responsible for the security of your Internet, email, chat, instant messaging or your other electronic communication systems (your communication systems). If you experience a breach of any of your communication systems, whether physical or electronic, or a data breach at any third-party entity resulting in disclosure of your personal information or data, or unauthorized access to one or more of your communication systems, that results in the issuance or alteration of transaction instructions to us (whether from you or a third-party "hacker" or other unauthorized person), you will assume all risk of loss on any such transaction, and agree that we have no liability or responsibility for any resulting loss that you sustain.

If we suspect that your account has been subject to irregular, unauthorized, fraudulent, illegal or unlawful activity, and we notify you of such activity, it is strongly advised that you close the affected account and open a new account. We may also recommend that you implement certain fraud monitoring products or services to assist in preventing fraudulent activity in the event that your account has been compromised due to unauthorized, fraudulent, illegal or unlawful activities. If we make such recommendations and you refuse to close the affected account as recommended, or refuse to implement the recommended fraud monitoring products or services, as applicable, then, to the fullest extent permissible under applicable law, you will be precluded from asserting any claims against us for any subsequent fraudulent activity on the affected account(s).

We reserve the right to inquire about any account transactions or activity on your account, including, without limitation, any requested transaction or other disposition of funds. If we suspect that fraudulent, illegal, or unlawful activity is involved with respect to a requested transaction or other disposition of funds on your account, and we notify you regarding such activity and you proceed with the requested transaction or other disposition of funds, you will be precluded from asserting any claims against us for any resulting fraudulent, illegal or unlawful activity.

Equipment

You agree that you are responsible for obtaining and maintaining any equipment used to allow you access to any of our services. You agree to assume all risks associated with potential errors or delays in completing transactions arising from such equipment. We shall not be responsible for any losses resulting from a failure of such equipment.

Third-Party Providers and Services

You acknowledge security risks associated with online and mobile networks, and you agree that we shall not be liable for any losses or damages that arise as a result of your accessing our online services via an unencrypted or otherwise unsecure method (e.g., use of a publicly provided Wi-Fi connection).

You agree to assume all risks associated with accessing third-party websites, and agree to follow our rules and assume all risks associated with transacting on our systems via the internet, including mobile applications. You agree that you are responsible for obtaining and maintaining any third-party services and communication media that you use to access our services electronically, and that we are not responsible for any potential errors or delays in completing transactions arising from any third-party services that you use to access our online services. You further agree that you are responsible for any fees charged by third-party service providers.

Access Information

You agree that you are responsible for safeguarding your access information (e.g., user name and password). You agree to ensure (i) the security of the information (e.g., by changing your passwords regularly, not sharing passwords with others, and complying with pin procedures); (ii) that you will only enter your login credentials and password on our official sites and not in response to emails that do not come from us; and (iii) that your devices are used only by persons for whom you are willing to accept financial responsibility. You acknowledge that we may monitor access to, or data stored on, our systems at any time without notice and that we may monitor, limit or terminate access to our systems.

ELECTRONIC BANKING
Electronic and Internet Banking System

General Terms

The following provisions establish the rules governing your electronic access to your account(s) at the Bank through Internet Banking and via Mobile Banking (hereafter the "System"). By using the System, you agree to and accept all of the terms and conditions contained herein. We urge you to read these provisions carefully before using the System to access any of your accounts.

The terms and conditions of the applicable deposit agreement(s), including this Agreement, and other disclosures for each of your bank accounts as well as other disclosures

that the Bank has provided or made available to you, such as in relation to your loans, continue to apply notwithstanding anything to the contrary in this Agreement, unless this Agreement expressly states otherwise. Certain of the following provisions apply only to consumer customers who establish an account primarily for personal, family or household purposes. We may supplement, amend or change these provisions at any time, without giving you prior notice except as specified under "Fees and Charges" below, by updating the provisions on the System or through other notice provided or made available to you.

These provisions are also subject to applicable federal and state laws, rules and regulations (except to the extent the provisions can vary such laws, rules and regulations). We make no representation that any particular content or use of the System is permissible or available outside of the United States, and you accept and agree that your use of the System outside of the United States may be subject to foreign laws, rules and regulations. If any of the following provisions is found to be unenforceable, all remaining provisions will continue in full force and effect.

Compliance with Law

You consent and agree not to access or use the System to initiate or conduct any transaction that violates any law or regulation of the State of Texas or of the United States. You are solely responsible for ensuring that your use of the System complies with any and all applicable laws, regulations and rules.

Access

To access and use the System from a personal computer or other device, you must have at least one (1) account at the Bank, access to the Internet through an Internet Service Provider ("ISP"), with appropriate and compatible hardware, software and web browser or other equipment, and an email address or telephone number that can accept voice calls or text messages. You are solely responsible for maintaining your computer, device and equipment in good working order, with the necessary compatibility and format to communicate with the System. You are also responsible to install, run and regularly update a virus protection program and operating system patches on your computer, device or other equipment, and we strongly recommend that you perform safe email and other electronic communication practices and visit our Fraud Resource Center page at www.plainscapital.com to learn more about online fraud and ways to protect yourself. You understand and agree that you are solely responsible for, and Bank has no responsibility for, any computer viruses, malware, computer or other device inoperability or failure, or similar problems experienced through your use of the Internet or the System. It is also your responsibility to follow all guidelines set forth by your cellular carrier including fees and service charges related to data, email and text usage. License agreements for our necessary software shall either be embedded in the System software or separately documented. You agree to comply with all applicable software license agreements, whether or not such agreements have been executed by you. You have no rights to or ownership in any software provided by or through us and shall not transfer, copy, alter, modify, reverse engineer, reproduce, or convey in any manner, in whole or in part, any such software.

You may visit any branch location for assistance with enrollment. The System can be used to access only the accounts on which you are an owner. You can request that an account be added or deleted by contacting PlainsCapital Bank Customer Service at 1-866-762-8392 or by visiting any branch location. We undertake no obligation to monitor transactions through the System to determine that they are made on behalf

of you or other depositor or authorized account holder. You can use the System to check the balance of your accounts, view account histories, transfer funds between your accounts and perform other services as provided.

Your Credentials; Security

For security purposes, you are required to choose and establish a password upon your initial login. In order to establish your password, the System must first authenticate you by using the information that was gathered through the account opening process and any authentication procedures that the Bank may utilize. Authentication procedures that the Bank may utilize may include, without limitation, security questions, proof of identification, and software-based and hardware-based authentication programs. Once this authentication occurs, you will then be prompted to select a password that will meet the Bank's security requirements.

Your password and login ID, and any additional authentication information that the Bank may require you to provide, in our sole discretion, are intended to provide security against unauthorized entry and access to your accounts. You understand and agree that we are authorized to act on instructions received under your password, whether or not such instructions are made by you. You understand and accept that you are solely responsible for the confidentiality and security of your user ID and password and agree to change your password periodically. You understand and agree that your password should not be associated with any commonly known personal identification information, such as social security number, address, date of birth or names of children. We strongly recommend that you memorize your login ID and password rather than write it down. You understand and agree that you should log out completely after using the System, and that you should not leave your personal computer or other device unattended when using the System. After three (3) unsuccessful attempts to use your password, your access to the System will be suspended.

You understand the importance of your role in preventing misuse of your accounts through the System and you agree to promptly examine your statement for each of your bank accounts as soon as you receive it or it is otherwise made available to you. You agree to protect the confidentiality of your account and account number and your personal identification information. You understand that personal identification information by itself or together with information related to your account may allow unauthorized access to your account.

Data transferred via the System is encrypted in an effort to provide transmission security and the System utilizes identification technology to verify that the sender and receiver of system transmissions can be appropriately identified by each other. Notwithstanding our efforts to ensure that the System is secure, however, you acknowledge that the Internet is inherently insecure and that all data transfers, including electronic mail, occur openly on the Internet and potentially can be monitored and read by others. If you use wireless Internet access via a personal computer or other device, such as a mobile phone, to conduct transactions through our Internet Banking or Mobile Banking services, we strongly encourage you to conduct all such transactions only over a secured wireless network. Although we employ security and authentication procedures including, without limitation, the procedures described herein, information transmitted over a non-secured wireless network may be intercepted without your knowledge. You agree to defend, hold harmless and indemnify the Bank from and against any and all claims of any nature arising out of any electronic access by a person, third party or third party service you have authorized, permitted or enabled to have access to your bank accounts via the System.

You will contact us AT ONCE at our Customer Service number, 1-866-762-8392, if you believe your user ID or password has been lost, stolen, used without your authorization or otherwise compromised or if someone has accessed your account or transferred or may transfer money from your accounts without your permission. An immediate telephone call to us is the best way to reduce your potential losses.

If your device allows access to anyone other than you via fingerprint, facial recognition or other biometric recognition, that person will also be able to access your downloadable applications on the same device when enabled, and any transaction(s) that person initiates will be considered authorized.

Internet Scams

You are aware of and recognize that there are various types of Internet-based and/or email based scams, such as the scam commonly referred to as "phishing," through which a third-party email, web site or link purporting to be from or affiliated with the customer's bank may request personal or private information in order to perpetrate identity theft, bank fraud, or otherwise gain unauthorized access to a customer's account. You understand and agree that the Bank does not and will not send you emails or text messages requesting you to respond with your PIN, password, complete account number, social security number or other private or personal information. You understand that when communicating with you by e-mail or text message in relation to retrieving, updating or transmitting private or personal information, the Bank will request that you log into the System.

Hours of Access

You can use the System seven (7) days a week, twenty-four (24) hours a day, although some or all System services may occasionally not be available due to emergency or scheduled system maintenance.

Fees and Charges

You agree to pay the System services monthly fees, if applicable. You agree that all such fees and charges, if any, will be automatically deducted from your account.

You agree to pay any additional reasonable charges for services you request which are not covered by this Agreement. You are also responsible for telephone and ISP fees and costs that you incur in connection with your use of the System, and the costs of any communication lines and any data processing charges payable to third parties.

If an amendment or change to this Agreement would result in increased fees, increased liability for you, fewer types of available electronic fund transfers or stricter limitations on the frequency or dollar amount of transfers, we agree to give you notice at least thirty (30) days before the effective date of any such change unless such notice is otherwise excused by law, or unless an immediate change is necessary to maintain the security of an account or our electronic funds transfer system. We reserve the right to waive, reduce or reverse charges or fees in individual situations.

Posting of Transfers

Transfers completed through Internet Banking and Mobile Banking

- Transfers completed through Internet Banking or Mobile Banking prior to 9:45 p.m. Central Time on a Business Day will post to the account the same day.

- Transfers completed through Internet Banking or Mobile Banking after 9:45 p.m. Central Time on a Business Day will post to the account the next Business Day.

Overdrafts

In the event that electronic funds transfers initiated through the System that would result in an overdraft of your account are not cancelled, overdraft charges may be assessed pursuant to the Schedule of Fees within this Agreement. The Overdrafts section of the General Account Terms and Conditions of this Agreement provides further information on our overdraft services.

Limits on Amounts and Frequency of System Transactions The number of transfers from bank accounts and the amounts which may be transferred are limited pursuant to the terms and conditions for those accounts. If a hold has been placed on deposits made to an account from which you wish to transfer funds, you cannot transfer the portion of the funds held until the hold expires.

Bill Payment Service

PlainsCapital Bank offers Bill Payment service through Internet Banking for your convenience. PlainsCapital Bank may also offer, from time to time and at our sole discretion, Bill Payment service via Mobile Bill Pay. Information regarding our Bill Payment service is described in our Bill Payment Services Terms and Conditions disclosure, which can be accessed at https://www.plainscapital.com/privacy-disclosures/. The Bill Payment Services Terms and Conditions disclosure is incorporated herein by reference and made a part of this Agreement.

Mobile Banking Service

PlainsCapital Bank offers Mobile Banking service as part of its Internet Banking services, accessible via a web-enabled cell phone or smart phone or other mobile device capable of accessing the Internet and sending SMS text messages ("Mobile Device"). Mobile Banking allows you to:

- Check the balance of your accounts
- View your account history
- Transfer funds between your accounts
- Receive alerts and messages form the Bank
- Make bill payments under our Bill Payment Services – Terms and Conditions (if you are enrolled in Bill Payment Services)
- Make deposits into your account through your mobile device under our Mobile Deposit User Agreement, which can be accessed at https://www.plainscapital.com/privacy- disclosures/. The Mobile Deposit User Agreement is incorporated herein by reference and made a part of this Agreement,

We may, in our sole discretion, determine which services are available via Mobile Banking. You must be enrolled in Internet Banking and complete the first time login process before you can use Mobile Banking. The same login ID and password used for Internet Banking, as discussed in the "Your Password; Security" subsection of the Electronic and Internet Banking System section, are used to access Mobile Banking. To obtain further information and details concerning available products and services offered through Mobile Banking, you may visit and access the information found at www.plainscapital.com.

Mobile Deposit Service

PlainsCapital Bank offers Mobile Deposit service through

Internet Banking for your convenience. This Mobile Deposit service is available for eligible accounts and allows you to make deposits through your mobile device. Information regarding our Mobile Deposit service is described in our Mobile Deposit User Agreement, which can be accessed at https://www.plainscapital.com/privacy-disclosures/. The Mobile Deposit User Agreement is incorporated herein by reference and made a part of this Agreement.

Fees, Costs and Expenses

While the Bank may choose not to charge a fee to use the Mobile Banking Service, you understand and agree that if you activate Mobile Banking, you are responsible for all fees, costs and expenses associated with your Mobile Device including, without limitation, all fees, costs and expenses associated with the Mobile Device hardware and software, all fees, costs and expenses associated with the wireless service plan for the Mobile Device including, without limitation, charges for accessing the Internet, and all fees, costs and expenses associated with data transfers and your sending or receiving of SMS text messages to or from us or third parties. You also understand and agree that your Mobile Banking transactions may be subject to fees, costs and expenses imposed by third parties under your agreements with them, and to any applicable fees, costs and expenses that we may charge as set forth in other agreements that you have with us.

Communications With You and Other Account Signatories

You understand and agree that by enrolling in Mobile Banking, you consent to our contacting you, transmitting to you and communicating with you via email and/or SMS text messages directed to or accessed on your Mobile Device, including without limitation to provide alerts and information concerning your account(s). You understand and agree that we may send account alerts, data and information via email and/ or SMS text messages to any or all other signatories on your account(s) who have enrolled in Mobile Banking. All email, SMS text messages and other communications transmitted to us via Mobile Banking are our property and, to the fullest extent permitted by applicable Texas law and federal law, you agree that such communications are not confidential. In conformity with applicable Texas law and federal law, we may provide or otherwise make available to you via Mobile Banking advertising, offers, links or other information offered or maintained by third parties. You understand and agree that your accessing, use or purchase of third-party content, data, information, products or services is at your own risk, and that we do not endorse, validate or control any content, data, information, products or services offered or maintained by third parties.

Additional Equipment and Access Requirements; Security In order to activate and utilize Mobile Banking, you must acquire and maintain a Mobile Device, any wireless hardware and software needed to operate and maintain the Mobile Device in proper working order, and a wireless service plan for the Mobile Device with a service provider of your choosing.

You understand that your Mobile Device, all associated hardware and software and wireless service, including without limitation your wireless service data plan, are your responsibility and not part of our Mobile Banking service or otherwise the services that we provide to you. You understand and agree that you are solely responsible for ensuring the operability and functionality of your Mobile Device and its hardware, software and wireless plan services.

In addition to your agreement to the terms and conditions

set forth in the "Your Password; Security" subsection of the Electronic and Internet Banking System section, you understand and acknowledge that we will never transmit or send your complete account number, Social Security number, or complete card number or PIN in any email or SMS text message to your Mobile Device, and that we will never ask you to send or transmit to us an email or text message containing your password, complete account number, Social Security number, or complete card number or PIN. You understand and agree that you are responsible for safeguarding and protecting your login ID and password including in relation to your use of your Mobile Device and Mobile Banking. You understand and agree that the Bank may and will rely on the use of your login ID and password in providing Mobile Banking services to you and as proof of your agreement to and authorization of any and all activity conducted on your enrolled account(s) via Mobile Banking. Upon authenticating into Mobile Banking, you expressly authorize us to transmit or send to you, via SMS text message or email communication to or accessed via your Mobile Device, information concerning your account(s) including, without limitation, specific dollar amounts, balance and payee information, an incomplete version of your account number(s) made up of certain digits of the account number(s), and account transaction information.

Stop Payment Requests

You may initiate a stop payment request online via the System only for paper checks you have written on your bank account. You will incur stop payment charges as disclosed in the current schedule of fees.

Disclaimer of Warranty and Limitation of Liability

We and our service providers do not and cannot warrant that the System will operate without errors, or that any or all System services will be available and operational continuously and without interruption at all times.

WE AND OUR SERVICE PROVIDERS PROVIDE INTERNET BANKING AND MOBILE BANKING SERVICES "AS IS" AND "AS AVAILABLE" WITHOUT MAKING ANY WARRANTY OF ANY KIND, WHETHER EXPRESS OR IMPLIED. TO THE FULLEST EXTENT PERMITTED BY LAW, WE EXPRESSLY DISCLAIM ON BEHALF OF THE BANK AND OUR SERVICE PROVIDERS ANY AND ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. YOU UNDERSTAND THAT THE LAWS OF SOME STATES DO NOT PERMIT THE WAIVER OR EXCLUSION OF CERTAIN WARRANTIES, AND THAT THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU.

TO THE FULLEST EXTENT PERMITTED BY LAW AND EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT, YOU AGREE THAT PLAINSCAPITAL BANK, ITS AFFILIATES, AND OUR AND EACH OF THEIR OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES, AGENTS OR CONTRACTORS ARE NOT LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL LOSSES OR DAMAGES UNDER OR BY REASON OF ANY SERVICES, EQUIPMENT OR PRODUCTS PROVIDED UNDER OR IN RELATION TO THIS AGREEMENT OR BY REASON OF YOUR USE OF OR ACCESS TO THE SYSTEM, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, REVENUE, DATA OR USE BY YOU OR ANY THIRD PARTY, WHETHER IN AN ACTION IN CONTRACT OR BASED ON A WARRANTY. FURTHER, IN NO EVENT SHALL THE LIABILITY OF THE BANK AND ITS AFFILIATES EXCEED THE AMOUNT OF YOUR ACTUAL

LOSSES OR DAMAGES INCURRED BY YOU IN RELATION TO THE SERVICES PROVIDED TO YOU.

Indemnification

IN ADDITION TO OTHER INDEMNIFICATION PROVISIONS SET FORTH ELSEWHERE IN THIS AGREEMENT, TO THE FULLEST EXTENT PERMITTED BY LAW, YOU AGREE TO INDEMNIFY, DEFEND AND HOLD HARMLESS PLAINSCAPITAL BANK AND ITS AFFILIATES, AND OUR AND EACH OF THEIR OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES, AGENTS OR CONTRACTORS, FROM AND AGAINST ALL CLAIMS, SUITS, CAUSES, ACTIONS, LOSSES, COSTS, DAMAGES, LIABILITIES AND EXPENSES (INCLUDING WITHOUT LIMITATION ATTORNEY'S FEES) OF ANY SORT: (A) BY THIRD PARTIES OR OTHERS ARISING FROM OR RELATING TO YOUR ACCESS TO OR USE OF ANY SERVICES, EQUIPMENT OR PRODUCTS PROVIDED UNDER OR IN RELATION TO ELECTRONIC BANKING OR THE SYSTEM, INCLUDING WITHOUT LIMITATION ANY CLAIM ALLEGING FACTS THAT IF PROVED TRUE WOULD CONSTITUTE A BREACH OF THIS AGREEMENT, OR INFRINGEMENT, MISUSE OR MISAPPROPRIATION BY YOU OF DATA, INFORMATION, PERSONAL PROPERTY OR MATERIALS; (B) BY ANYONE, INCLUDING YOU, ARISING FROM OR RELATING TO THE ACTIVITIES OF SYSTEM USERS DESIGNATED AND/OR ASSIGNED BY YOU, WHICH ACTIVITIES MAY INCLUDE, BUT MAY NOT BE LIMITED TO, ACTIONS AND/ OR TRANSACTIONS INVOLVING BILL PAYMENT, MOBILE BANKING AND/OR OTHER SERVICES OFFERED FROM TIME TO TIME THROUGH THE SYSTEM.

E-Sign Disclosure (Electronic Records Disclosure)

You understand and agree that in order to register for and use Internet Banking or Mobile Banking, including without limitation to establish any new or additional account online via the System, you agree to electronic delivery of disclosures, notices, account statements (if you select eStatement delivery), communications and agreements relating to such services, and to electronic delivery of any disclosure, notice, account statement (if you select eStatement delivery) communication and agreement applicable to your existing or future deposit accounts at PlainsCapital Bank.

If you are an Electronic Banking user, disclosures, notices, account statements (if you select eStatement delivery), communications and agreements for the deposit accounts you have with PlainsCapital Bank may, at our discretion, be presented to you in electronic form at the email address you provided us or they may be made available for you to view, download and/or print by logging into the System.

Disclosures, notices, account statements, communications and agreements regarding your account provided in electronic form may not be distributed in paper form. After consenting, if you wish to obtain a paper or non-electronic copy of the disclosures, notices, account statements, communications or agreements, you can do so by calling us or writing us at the number or address listed at the end of this disclosure. See Miscellaneous Fees section within this Agreement for applicable research fees.

By consenting to receive disclosures, notices, account statements, communications and agreements regarding your account electronically, you agree to provide us with the information (such as current email address) necessary to communicate with you electronically. You are required to update us with any changes in or to such information by calling or writing us at the number or address listed at the end of this disclosure.

You have the right to withdraw your consent to electronic delivery of all such materials or items at any time, at no cost to you, by calling or writing us at the number or address listed below. You understand that withdrawing your consent will not in any way affect the enforceability, legal effect or validity of electronic records, disclosures, notices, account statements, communications or agreements made available to you prior to implementation of the withdrawal of your consent.

E-Sign Disclosure (Electronic Signature Disclosure)

You agree that we may use your electronic signature in lieu of and/or, in addition to, your handwritten signature. You agree that your electronic signature will be treated exactly the same as your handwritten signature. You agree that your electronic signature is binding.

Contact Information for Changes and Termination of Internet Banking, E-Statements:

PlainsCapital Bank

ATTN: Deposit Support Department

5010 University Avenue

Lubbock, TX 79413

Tel: 1-866-762-8392 (Customer Service) Fax: 1-877-450-3985

Hardware and Software Requirements

In order to receive electronic delivery of disclosures, notices, account statements (if you select eStatement delivery), communications and agreements, and otherwise to receive electronic copies of any and all disclosures concerning Internet Banking, Mobile Banking or the System, you must have, at minimum, the hardware and software listed below:

- A personal computer or other device capable of accessing the internet
- A web browser which supports 128-bit SSL encrypted communications
- Software that permits you to receive and access Portable Document Format (PDF) files, such as up to date Adobe Acrobat Reader
- For Mobile Banking users, the additional hardware and software listed in the Mobile Banking section above.

Our Data and Records

You consent and agree that we may record, or otherwise document and store information electronically transmitted, entered or received in the System for our record-keeping purposes. You also consent and agree that our records and stored information shall be presumed to be an accurate representation of your requests or instructions to us.

Your Right to Terminate

You may contact us to terminate your System service at any time through the System or you may mail or fax your request to the address and fax number above. Your access to the System will be cancelled within a reasonable time after our receipt of your instructions to cancel the Service. You will be responsible for all outstanding fees, charges and other obligations incurred prior to the date and time of cancellation and any fees and charges assessed during the process of termination, and you shall remain responsible to maintain sufficient funds in your account(s) to cover any outstanding items originated via the System or that you have authorized to

be paid through the System.

Our Right to Terminate

You agree that we can terminate or limit your System service for any of the following reasons:

- If you have insufficient funds in any one of your Bank accounts. System service may be reinstated, in our sole discretion, once sufficient funds are available in your account to cover any fees, pending transfers, and debits.
- If you abuse or make fraudulent use of any System service, or to prevent a loss.
- With or without cause, at the time of account closure, or otherwise in our sole discretion. Our termination of System service for a closed account shall be effective on the date of account closure, and our termination of System service for an account that remains open shall be effective on the effective date specified in a written notice mailed to you, and not on the date when the notice is mailed or received.
- Due to System inactivity, i.e., not logging into the System for a period of 9 months or longer.

Following your or our termination of System service for an account that remains open, we will make paper copies of your periodic account statements available to you in the manner and at the frequency set forth in the Account Statements section of this Agreement.

Funds Transfers

As used in this Agreement, the terms "funds transfer", "wire transfer", "ACH transaction" and "entry" do not include any transaction made for personal, family or household purposes, and are not transactions subject to the Consumer Financial Protection Bureau Regulation E, the federal Electronic Fund Transfer Act governing funds transfers for consumer transactions, or other regulation or law concerning consumer transactions. We offer a variety of funds transfer services for your use of funds in your accounts for business purposes. The following terms, conditions and disclosures for automated clearinghouse transactions and wire transfers are in addition to, and not in place of, any other agreements you have entered into with us regarding funds transfers to or from your accounts for your business purposes.

Automated Clearing House (ACH) Transactions

The ACH system is a batch processing, store-and-forward system that is primarily governed by the NACHA Operating Rules ("NACHA Rules") for interbank clearing of electronic payments for participating depository financial institutions. To the fullest extent permissible under the NACHA Rules and the laws of the State of Texas, your rights and obligations with respect to ACH entries shall be governed by the NACHA Rules, as published annually and amended from time to time, the laws of the State of Texas, this section, and any other agreement that you have entered into with us for ACH services. You understand that a copy of the NACHA Rules is available through NACHA at current NACHA prices. You agree not to initiate any ACH entry in violation of the NACHA Rules, the laws of the United States or the State of Texas, or, to the extent applicable, other state or international law, regulation, or clearinghouse rules. You acknowledge and agree that we may rely on the representations and warranties contained in the NACHA Rules, as amended from time to time, and may credit or debit your account in accordance with those Rules as instructed by the originator of an ACH entry or the originating depository

financial institution ("ODFI"). You further understand and acknowledge that we may only provide ACH services to you pursuant to our role either as an ODFI or a Receiving Depository Financial Institution ("RDFI"), as may be applicable with respect to ACH entries under the NACHA Rules, and that we must comply with the NACHA Rules, to the extent not permissibly modified by this Agreement, when providing ACH services.

Commercial ACH Credit Entries

Credit given by us to you with respect to an ACH credit is provisional until we receive final settlement through a Federal Reserve Bank or otherwise receive final payment. In the event we do not receive final settlement or otherwise final payment, you acknowledge and agree that we are entitled to a refund from you in the amount of the ACH credit and may debit your account in the amount of the ACH credit, and the originator that initiated the ACH credit shall be deemed not to have made payment to you.

You further acknowledge and agree that we are not required to provide you with next day notice of an ACH credit we accept on your behalf. However, we shall continue to notify you of the receipt of such payments in the periodic statement we provide to you. You may access your account details by way of Internet Banking, Mobile Banking and/or by telephoning customer service. You also acknowledge and agree that no ACH credit that we accept will cause us to be in violation of sanctions administered by the U.S. Department of Treasury's Office of Foreign Assets Control ("OFAC"), the Bank Secrecy Act, USA-PATRIOT Act or any other anti-money laundering statute, and that as required now or at any time by OFAC and the U.S. Department of Treasury's Financial Crimes Enforcement Network ("FinCEN"), the originator and receiver of international ACH credit entries will be subject to increased scrutiny.

Commercial ACH Debit Entries

You acknowledge and agree that we may rely on the representations of the ODFI including, without limitation, that an ACH debit entry is properly authorized. You acknowledge and agree that you have authorized any ODFI to initiate ACH debit entries to your account in the presentment or re-presentment of entries that you have authorized. Furthermore, we may accept an ACH debit on your behalf which is not subject to Regulation E, and, unless otherwise modified herein to the fullest extent permissible under the NACHA Rules and Texas law, your rights and responsibilities with respect to such ACH debit shall be construed in accordance with the NACHA Rules and the laws of the State of Texas.

Without limiting the foregoing, you acknowledge and agree that upon receipt of an ACH debit, except as otherwise may be stated in the NACHA Rules as amended from time to time, including, without limitation, for Account Receivable ("ARC"), Back Office Conversion ("BOC"), Point-of-Purchase ("POP"), International ACH ("IAT"), Re-presented Check ("RCK") and Destroyed Check ("XCK") entries, you have until the next business day to determine if such ACH debit is authorized or proper. In the event you do not recognize an ACH debit (or ACH credit), notify us AT ONCE of the relevant facts by calling the telephone number on the back of this Agreement. You may access your account details by way of Internet Banking, Mobile Banking and/or by telephoning customer service.

Returning Unauthorized Commercial ACH Entries

Although all ACH entries (both credit and debit) may be returned in accordance with the NACHA Rules, those ACH entries that are unauthorized may warrant the most concern. In

the event you discover (or reasonably should have discovered) unauthorized ACH activity on your account, notify us AT ONCE by calling the phone number listed on the back of this Agreement. Except as otherwise may be stated in the NACHA Rules as amended from time to time, such as, without limitation, certain ARC, BOC, POP, RCK, PPD, XCK or IAT entries for which extended return periods may apply, to meet our deadline under the NACHA Rules to return non-consumer ACH debit entries as unauthorized or improper, we require, and you acknowledge and agree that you must notify us of your intent to return such an entry by the next business day from the settlement date, by our cutoff deadline at 1:30 p.m., or any cutoff deadline that we disclose to you after the date of this Agreement. The settlement date is the date on which the ACH entry posts to your account. In the event you receive an ARC, BOC, POP, RCK, PPD, XCK or IAT entry that you determine is unauthorized or improper, we require, and you acknowledge and agree that you must provide a written statement of unauthorized debit under penalty of perjury or, at our election, a notarized affidavit, to notify us of your intent to return such an entry by the sixtieth (60th) day from the settlement date.

Notwithstanding the foregoing, you acknowledge and agree that you lose your right to return or to obtain a recredit to your account under the NACHA Rules in the event you fail to notify us of your intent to return an unauthorized or improper ACH debit within the timeframes and in the manner set forth herein, or as may be set forth in the NACHA Rules as amended from time to time. Under such circumstances, we may act on your behalf to request a "permissible return" from the financial institution that sent the ACH debit, but such institution is not required to comply with our request. To the fullest extent permitted by the NACHA Rules and Texas law, you acknowledge and agree to hold us harmless from any loss you incur as a result of the unauthorized or improper ACH entry that is not returned within the timeframes set forth herein and in accordance with the NACHA Rules as amended from time to time. Without limiting the foregoing, you acknowledge and agree to hold us harmless in the event it is later determined that the ACH entry was authorized, including without limitation when the originator of such ACH entry seeks retribution. We strongly recommend that you review your account daily, utilize the tools described in the "Suggested Fraud Protection Measures; Unauthorized Items" section of this Agreement, and consider carefully those to whom you provide your account information to help minimize fraudulent activity on your account. You may access your account details by way of Internet Banking, Mobile Banking and/or by telephoning customer service.

Stop Payment of a Preauthorized Transaction

Please see the Stop Payments section of this Agreement for a thorough overview on stop payments.

If you want us to stop payment on a regularly scheduled or preauthorized ACH payment that comes out of your account (excluding card transactions), you must contact us at least three (3) business days before the payment is scheduled to be made. You understand and acknowledge that such three (3) business day period is to provide us a reasonable opportunity to act upon your stop payment order. Stop payments are not permissible on card transactions.

You may place a stop payment on a regularly scheduled or preauthorized ACH payment in any of the following ways:

Telephone:	By calling PlainsCapital Bank Customer Service at 1-866-762-8392.
In Person:	By visiting any of our branch locations.

Mail: By mailing your request to PlainsCapital Bank, Attn: Deposit Support, 5010 University Avenue Lubbock, TX 79413.

If you call, we may also require you to put your request in writing and get it to us within fourteen (14) days after you call.

For further confirmation, we may mail you a stop payment verification notice. Should we mail you a stop payment verification notice and the information in said notice is NOT correct you must notify us immediately. If you did not request the stop payment be placed on your account you must notify us immediately. Otherwise the stop payment will be valid until the earliest of six (6) months from the date of the stop payment order unless renewed in writing, you withdraw the stop payment order, or the debit entry is returned. You will incur stop payment charges as disclosed in the current fee schedule.

Wire Transfers

As used in this section, a "wire transfer" or "funds transfer" means the series of transactions, beginning with the originator's payment order, made for the purpose of making payment to the beneficiary of the order, as those terms are defined in Article 4A of the UCC as adopted in the State of Texas, and not governed by the Electronic Funds Transfer Act or Regulation E. We send outgoing and receive incoming wire transfers through Fedwire (the funds transfer system owned and operated by the Federal Reserve Banks) or other third-party networks as we consider suitable. Our wire transfer services will be dependent upon the availability of such third-party network on conditions acceptable to us, in our sole discretion.

All wire transfers and wire transfer services made available to you pursuant to this Agreement are governed by this Agreement, Subpart B of Regulation J of the Federal Reserve Board, OFAC regulations, Article 4A of the UCC, the rules of any funds transfer system through which the wire transfer is made, including, without limitation, Fedwire. Except as otherwise expressly stated therein, wire transfers and wire transfer services made available to you pursuant to any separate wire transfer services agreement or addendum, or Treasury Management Services agreement, will be governed by such wire transfer services agreement, addendum or Treasury Management Services agreement, as applicable, together with Subpart B of Regulation J of the Federal Reserve Board, OFAC regulations, Article 4A of the UCC, the rules of any funds transfer system through which the wire transfer is made, including, without limitation, Fedwire. With respect to wire transfers and wire transfer services made available to you pursuant to such separate wire transfer services agreement, addendum, or Treasury Management Services agreement, in the event of a conflict between the terms of any such document, as applicable, and the terms of this Agreement, the terms of such other applicable agreement will prevail unless this Agreement specifically states otherwise.

You agree not to initiate or receive a wire transfer payment order in violation of applicable federal, state or local law. You will designate authorized signers, and you may also designate authorized agents by corporate resolution or in such format or medium as we may agree (each such person being an "authorized user"), who shall be authorized to act on your behalf in actions taken under this Agreement including entering into certain transactions. You will designate the authorized users to initiate payment orders and any or all authorizations and instructions that we may request. We may rely on any such authorization until it has been revoked in writing by you, and

in all instances, we may act on instructions that we believe in good faith were provided by an authorized user. We shall have a reasonable time to process any revocation received pursuant to this Agreement or any other agreement that may be in place for the wire transfer.

Routing/Deadlines

We may use means of transmission and routes, and intermediary and correspondent banks that we determine in our sole discretion are suitable for each outgoing wire transfer.

We will establish deadlines after which we will not accept an incoming payment order to be processed on the day of receipt. We may establish different deadlines depending on the method of the payment order selected by you and all such deadlines are subject to change at our sole discretion. Wire transfer payment orders received after the deadline or on non- Business Days will be processed on the next Business Day. A wire transfer payment order shall be considered accepted by us when executed by us.

Payment Orders

a. Content of Payment Orders. You will supply to us any information we may reasonably request regarding any payment order (as that term is defined in the UCC as adopted in the State of Texas) initiated by you. Such information may include, without limitation, money amounts, affected accounts, dates of transfer, the beneficiary's name and account number, the routing number or bank identifier code ("BIC") of the beneficiary's financial institution, such additional information as we may reasonably request and, in conjunction with our security procedures set forth below, if we find it necessary in our sole discretion, further evidence of authority of any authorized signer, authorized agent or authorized user (or other agent) to transfer funds or to do any other act contemplated utilizing this Service. You agree to hold us harmless from any loss that occurs if your instructions are incomplete, ambiguous, or incorrect. You further understand and acknowledge that we are not required to detect any error by you contained in any payment order, or to seek clarification from you regarding ambiguous instructions.

b. Execution of Payment Orders. You authorize us to debit your account(s) for payment orders delivered to us in accordance with this Agreement. We have no obligation to execute a payment order if the account to be debited has insufficient collected funds to cover the order.

c. Processing Payment Orders. We determine the order in which we process wire transfer payment orders in our sole discretion.

d. Retraction or Revocation of Payment Orders. Except as otherwise indicated below with respect to standing payment orders or as we may separately notify you in writing, you do not have any right to reverse, adjust or revoke any payment order after it has been received by us; provided, however that we may, without obligation, make a reasonable effort to act on such a request by you. With respect to a payment order already transmitted to the beneficiary's financial institution, at your request we may (but are not obligated to) use our best efforts to retract or recover a payment from the beneficiary financial institution. You understand and agree that the receiving institution is under no legal obligation to comply with this request. **IN ADDITION TO ANY OTHER INDEMNITY PROVISIONS SET FORTH IN THIS AGREEMENT, YOU AGREE TO INDEMNIFY, DEFEND AND HOLD US, OUR OFFICERS, DIRECTORS, SHAREHOLDERS, AGENTS, EMPLOYEES, SUBSIDIARIES AND AFFILIATES, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, AGENTS**

AND EMPLOYEES, HARMLESS FROM AND AGAINST ANY AND ALL LOSSES, COSTS, SUITS, DAMAGES, CLAIMS, LIABILITIES AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES) ARISING FROM OR RELATED IN ANY WAYTO ANY ATTEMPT BY USTO EFFECT SUCH RETRACTION OR RECOVER ANY SUCH PAYMENT.

e. Rejection of Payment Orders. We may, but are not obligated to, reject any payment order from you, in whole or in part, if such payment order is not initiated in accordance with any applicable security procedure, if there is any inconsistency between a payment order and information previously supplied to us, if there are insufficient collected funds in your account to fund the payment order, if the payment order involves funds subject to a hold, dispute or legal process preventing withdrawal of the funds, or if we have other reasonable grounds not to honor the payment order. We will notify you that we have rejected a payment order. We may also reject an incoming payment order if we have other reasonable grounds to do so.

f. Standing Payment Orders. If you request and we agree, you may establish a standing payment order (a standing wire transfer request), which is one where you provide specific and fixed payment instructions to us for a payment order that is to be executed on a recurring frequency. Standing payment orders must have a currency amount, beneficiary, beneficiary's financial institution, and accounts to be debited and credited. Such information remains constant for subsequent payment orders. You shall provide us with the necessary information to execute the standing payment order, as we determine in our sole discretion, including, without limitation, the dollar amount to be transferred, the frequency of the order and the day of week or month when the payment order is to be executed. You may reverse, adjust or revoke a particular standing payment order only if we receive any such request prior to our execution of the standing payment order and at a time that provides us with a reasonable opportunity to act upon such a request. You may terminate a standing payment order at any time upon receipt by us of a written notice, provided we are afforded a reasonable opportunity to act upon such a notice of termination.

g. PIN Wire Transfers. If you request and we agree, you may establish PIN Wire Transfer Service with us, pursuant to a PIN Wire Transfer Authorization Form, or such other form as we may provide. The PIN Wire Transfer Service allows wire transfers to be conducted via telephone on or against your account, with the use of an assigned PIN and caller identification. You shall provide us with the necessary information to execute a PIN Wire, as we may determine in our sole discretion.

h. Batch Wire Transfers

(i) Service Specifications. If you request and we agree, you may initiate payment orders in batch form to us, subject

to the provisions of this Agreement. You will comply with interface specifications established by us, including, without limitation, file formats and means of data transmission (the "Specifications"). We may furnish you with modifications to the Specifications and you shall implement such modifications as soon as reasonably practicable.

(ii) Wire Transfer Software. You shall be solely responsible for creating the computer programs to implement the Specifications (as used in this section, "Wire Transfer Software"). You shall implement passwords and other security devices commensurate with the highest level of security afforded by you to other computer programs and confidential information of yours.

(iii) Charge Backs and Returned Items. You understand and agree that we post all non-cash items (such as checks) deposited to an account on a provisional credit basis subject

to our receipt of final payment by the payor bank on which the non-cash item is drawn, that we have no obligation or duty to verify that you have sufficient collected funds in your account prior to our charging your account for and sending any wire transfer requested by you, and that we can charge you or your account for the amount of any deposited or cashed item if we do not receive final payment for the item or the item is returned unpaid or charged back to us for any reason.

Notice of Wire Transfers

We will notify you of wire transfers debited from or credited to your account through your periodic account statement for the account and the period in which the transaction occurred, or through such online or electronic service that you have entered into with us. You agree to exercise ordinary care and diligence to determine whether a wire transfer to or from your account was unauthorized or inaccurate. We strongly recommend that you institute dual control over initiation and verification of your payment orders to confirm payment orders as part of your standard security.

a. Advices by Facsimile and/or Email. If you select advices by facsimile ("fax") and/or email, you agree to exercise extreme care in maintaining your own security in relation to the sending and receipt of fax and/or email advices. You acknowledge that the information to be sent or received by fax and/or email may include confidential information, including, without limitation, names, amounts, phone numbers, originating account information, and the text of incoming wires. You further acknowledge that you alone assume full responsibility for maintenance of internal security procedures to keep all such information confidential. To the fullest extent permissible under applicable law, we shall not be liable for any and all claims, demands, expenses, liabilities and damages, including attorney fees incurred by you or us arising directly or indirectly from the transmission by fax and/or email of a wire transfer advice.

b. Advices by Mail. We will mail daily notification(s) of all wire transfer(s) made unless you receive advices through another method such as facsimile ("fax"), email and/or an online service.

c. Waiver of Advice. You may waive your right under the UCC as adopted in the State of Texas to receive advices by submitting the request in writing to us.

Liability for Unauthorized Wire Transfers; Security Procedures

You understand and agree that we are not required to follow any instruction that violates this Agreement, or any security procedure agreed to between you and us, or as to which we do not receive notice at a time and in a manner affording us reasonable opportunity to act upon it prior to acceptance of a payment order.

a. Security Procedure. To the fullest extent permissible under Section 4A.202 of the UCC as adopted in the State of Texas, you and we agree that any security procedure selected will be deemed commercially reasonable if you chose the security procedure after we offered, and you refused, a security procedure that was commercially reasonable for you under applicable law. If you adopt any security procedure other than as set forth in this Agreement or any addendum or separate wire transfer service agreement offered to you in conjunction with this Agreement, you will be deemed to have refused our security procedure. You understand and acknowledge that pursuant to this Agreement, you agree to be bound by any payment order, whether or not authorized, issued in your name and accepted by us in compliance with such security procedure chosen by you.

The following security procedure will apply to wire transfer

requests processed pursuant to this Agreement: Before processing any such wire transfer request, we will:

(1) verify, from our records of your account, that the individual in whose name the wire transfer request is made is identified as authorized to initiate an outgoing wire transfer for the subject account; and

(2) perform validation of the identity of the individual requesting the wire transfer:

(i) for wire transfers initiated in person through one of our bankers, in addition to validation of identity pursuant to subsection (ii) below, by review of eligible identification documentation (you may contact us to confirm eligible identification documentation), and

(ii) for wire transfers initiated in person by telephone, electronic mail or facsimile transmission, and not governed by a separate security procedure under an applicable Treasury Management Services agreement, applicable Service Descriptions or Bank form agreed to in writing by you, we will complete a call back, using contact information for any authorized signer, authorized user or signatory for your account contained in our records of the account (in our sole discretion, to the authorized signer, authorized user or signatory requesting the wire transfer or any other authorized signer, authorized user or signatory on the account); provided,

(iii) that for standing payment orders or otherwise previously authorized, recurring wire transfers to the same beneficiary and beneficiary account number as included in prior wire transfer requests, we may not conduct a call back, in our sole discretion.

If we cannot reach an authorized signer, authorized user or signatory on the account by telephone, processing of your wire transfer request may be delayed.

Without limiting the foregoing, in addition to the foregoing security procedure, we reserve the right in our sole discretion to require additional authentication of individual wire transfer requests, including, without limitation, that the wire transfer request be submitted in writing bearing the signature of an account signatory, authorized user or authorized signer, or confirmed via a code sent by SMS message to a mobile device number associated with the account, and we further reserve the right to apply our confidential, proprietary system for analysis of certain transactions based on various characteristics.

You understand and agree that our security procedures are intended to verify authenticity of wire transfer requests made to us on your behalf, and not to detect error in the transmission or content of the wire transfer request.

You understand and acknowledge that wire transfer requests initiated through Business Online Services are not processed pursuant to this Agreement, and shall be governed separately by the applicable agreement in place for such transactions.

You further understand and agree that you bear sole responsibility for establishing and implementing your own appropriate internal procedures and protocols to safeguard against unauthorized transmission of wire transfer requests and related instructions to us. You agree to establish and implement appropriate internal procedures and protocols to safeguard against unauthorized disclosure of or access to your systems and security-related information, such as user names, passwords, access credentials, and systems and equipment that access or interface with Bank and our systems or equipment, and that you will take reasonable steps to maintain the confidentiality of your internal procedures, protocols, user names, passwords, PIN's, access credentials, other personally identifying information, codes, security devices and systems and security- related information. You must immediately notify us of any loss or suspected compromise of any such information, systems or equipment. You agree to confirm any

such notification to us promptly in writing.

b. Unenforceability of Certain Verified Payment Orders. If a payment order is not an authorized order of yours but is effective pursuant to this Agreement or the security procedures in effect between you and us, you understand and agree that we are entitled to enforce or retain payment of the order unless you prove that the order was not caused, directly or indirectly, by a person (i) entrusted at any time with duties to act for you or on your behalf with respect to payment orders or the security procedure(s), or (ii) who obtained access to your transmitting facilities or who obtained, from a source controlled by you and without authority of ours, information (including, without limitation, any access device or computer software) facilitating breach of the security procedure, regardless of how the information was obtained or whether you were at fault.

c. Duty to Notify of Unauthorized Wire Transfers. You must exercise ordinary care and due diligence to determine whether a wire transfer to or from your account was unauthorized or inaccurate. To the fullest extent permissible under applicable law, in no event will we be liable to pay you interest on any amount to be refunded in relation to an unauthorized wire transfer that is not effective under UCC Section 4A.202, or not enforceable in whole or in part under UCC Section 4.203, unless you notify us in writing of the relevant facts within thirty (30) days after the date you receive any notification from us that the payment order was accepted or that your account was debited with respect to the wire transfer. To the fullest extent permissible under applicable law, in no event will we be liable to you with respect to any subsequent unauthorized wire transfer submitted or requested by the same person(s) who submitted or requested the first such unauthorized wire transfer unless you notify us in writing of the error or discrepancy in the wire transfer within thirty (30) days after the day that we mail, transmit or otherwise make available to you notification that the subsequent wire transfer was accepted or that your account was debited with respect to the subsequent wire transfer.

International Wire Transfers

a. General. An "International Wire Transfer" means a wire transfer credited to an account located outside the borders of the United States, or that will be sent in currency other than U.S. Dollars. We customarily complete International Wire Transfers across country borders through a correspondent. Unless otherwise agreed upon in writing, any fee, commission or charges assessed by the correspondent shall be passed on to you or deducted from the wire transfer amount by the correspondent. Additionally, International Wire Transfers across country borders may incur additional fees or charges based on the routing of the wire through U.S. and foreign financial institutions. Payment to a foreign country is subject to the laws of the foreign country involved. We assume no liability for delays, non-delivery or other events resulting from causes beyond our control. In refunding unexecuted payment orders, we shall be liable to you only to the extent we receive payment from the correspondent financial institution processing the transfer. Cancellation of a wire transfer involving other than domestic currency is subject to any rate exchange loss as determined by us. You agree to sell any canceled payment order to us at the then current applicable foreign currency buy rate.

b. Automatic Conversion. International Wire Transfers denominated or expressed in U.S. Dollars but instructed by you to be sent to an account denominated in foreign currency may, in our sole discretion, be automatically converted by us or may be converted by an intermediary or correspondent bank, or by the receiving financial institution, at such entity's sole discretion, to the receiving financial institution's national currency prior to completion of transfer to such receiving

financial institution, so long as the receiving financial institution is located in a country that, to our then-current knowledge, readily accepts such previously converted funds. When such a currency conversion is made, we, intermediary or correspondent bank, or the receiving bank will determine, at such entity's sole discretion, the applicable currency conversion rate. You understand and agree that we shall not have any liability to you for any loss or expense incurred by you arising from or relating to any such currency conversion. You must notify us prior to the transaction if the beneficiary of the International Wire Transfer requires that the payment be made in U.S. Dollars. If you have not so notified us, and should the receiving financial institution reject the incoming Wire Transfer due solely to our automatic conversion to that financial institution's national currency, we shall reimburse you the actual amount of any fees assessed by such financial institution that are related solely to the rejection of the Wire Transfer due to Bank's automatic conversion.

c. Currency Conversion Requests. You understand and agree that if you request an International Wire Transfer be made in currency other than U.S. Dollars, we may convert the U.S. Dollar amount at our applicable exchange rate in effect at the time of our execution of the order for the specified foreign currency. You also understand and agree that, should we not have an existing exchange rate in place for the specified foreign currency, then we will use reasonable efforts to convert the currency through reasonably available commercial or banking channels. You further understand and agree that the exchange rate(s) used by us for such International Wire Transfers may vary from exchange rates established by governments or other financial institutions, and may not be the lowest available rate available to you.

If the financial institution designated by you to receive the International Wire Transfer does not pay the designated beneficiary or credit the beneficiary's account and the funds are returned to us, we shall not have any liability to you for any sum in excess of the amount of the payment order after we have converted the funds back from the foreign currency to U.S. Dollars using our applicable rate of exchange in effect at the time we confirm the cancellation of the payment order to you. We shall not have any liability to you for any loss or expense incurred by you arising from or relating to any currency conversion requested by you.

Wire Transfer Numbers

You understand and agree that you bear sole responsibility to correctly identify beneficiary information for all wire transfers.

Your obligation to pay us the amount of the funds transfer is not excused in the event that the Fedwire message or otherwise the payment order or instruction does not identify the same account or financial institution of your intended recipient. When the intended recipient's identified name and account number is inconsistent, the payment may be made on the basis of the account number, as controlling, even if such account is not owned by the person or entity identified by name. With respect to incoming wire transfers that do not indicate an account number recognizable to us, we may return the wire transfer to the sending financial institution without incurring any liability.

Reverse Wire Transfers

a. Authorized Debits. If requested by you and we agree, you authorize us to debit your account(s) upon receipt of a Fedwire drawdown request, and to send funds to the requesting bank. Each such transfer will be done on the Business Day we receive the incoming request from the requesting bank if the request is received within a reasonable time to determine whether your

account has sufficient collected funds and to obtain access to the Federal Reserve network prior to the close of business.

b. Reverse Wire Funding. You agree not to transmit any reverse wire request in excess of available collected balances on deposit in the designated account(s). We may (but are not obligated to) reject any reverse wire request in excess of the collected and available balance. The requesting bank will be notified if we reject the request.

c. Authorizations. Your authorization for reverse wire requests shall remain in effect until you give us written notice to the contrary. We will have a reasonable time, as determined by us in our sole discretion, to act on any written notice received from you.

d. Limitation on Our Liability. In consideration of our compliance with this agreed authorization for reverse wire requests, you understand and agree that our treatment of any debit for a reverse wire transfer, and our rights with respect to it, shall be the same as if the entry were initiated personally by you. You further understand and agree that we shall have no liability if any such debit is dishonored.

e. Request for Credit. We may, in our sole and absolute discretion, submit a non-value, request for credit message (a "Drawdown") on your behalf through Fedwire. We shall have no liability as to the results of any such Drawdown request.

Provisional Credit

You understand and agree that when your account is credited for an incoming wire transfer, such credit shall be provisional until we receive final settlement for such wire transfer, and if final settlement is not received, we shall be entitled to a refund of the amount credited to your account.

Disclaimer of Warranties

We do not and cannot warrant that our wire transfer services will operate without errors, or that any or all wire transfer services will be available and operational continuously and without interruption at all times. **WE PROVIDE WIRE TRANSFER SERVICES "AS IS" AND "AS AVAILABLE". IN ADDITION TO DISCLAIMERS OF WARRANTIES CONTAINED ELSEWHERE IN THIS AGREEMENT, WE MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND WITH RESPECT TO THE WIRE TRANSFER SERVICES, WHETHER EXPRESS OR IMPLIED. TO THE FULLEST EXTENT PERMITTED BY LAW, WE EXPRESSLY DISCLAIM ANY AND ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

Instant Payment Services

This section describes our instant payment services and the additional terms applicable to these services. We may limit the availability of these services at any time, and all of these services may not be available at each Bank location. We may require you to sign a separate agreement to obtain these services. If there is a conflict between the subject matter of the separate agreement and this Agreement, the separate agreement will control to the extent of the conflict.

Instant payments are digital payment methods for moving money electronically in real time, through an electronic payments network. There is no guarantee that we will make instant payments available to you, and we reserve the right not to provide access to instant payments in the future, regardless of this section. In the event we make instant payments available to you, the following terms apply to any instant payments

sent or received to your account through an instant payments network, which may be the RTP® network operated by a third party, The Clearing House, or FedNow, operated by the Federal Reserve (each, a "Network"). We reserve the right to impose limits on the amount and frequency of instant payments sent or received through an instant payments network. In our sole discretion, we may provide access to other instant payments networks in the future.

a. Instant payments made or received through the RTP® network, a service from the Clearing House allowing for eligible depository institutions to provide immediate payment services between bank accounts 24 hours a day, 365 days a year, are governed by the network guidelines under Section 4A of the UCC without regard to its conflict of laws principles.

b.Instant payments made or received through FedNow, an instant payment service developed by the Federal Reserve allowing eligible depository institutions to provide instant payment services for real-time payments between bank accounts 24 hours a day, 365 days a year, are governed by Section 4A of the UCC as incorporated by Regulation J, Subpart C, and the EFTA. In the event of an inconsistency between the provisions of subpart C and the EFTA, the EFTA shall prevail to the extent of the inconsistency.

c.Instant payments networks may be used only for eligible payments between a sender and receiver whose accounts are located in the United States. You may not send or receive instant payments into an account not domiciled in the United States. Instant payments that are permitted under the rules of the RTP® network and FedNow, in addition to our requirements are considered eligible payments for purposes of this Agreement.

d. Instant payments are considered irrevocable and cannot be reversed. If we receive a request to return an instant payment previously credited to your account, the Bank may attempt to contact you but will have no liability for failing to do so. Any dispute between you and a sender or recipient must be resolved directly between you and the sender or recipient, and you agree that the Bank will have no liability in connection with such a dispute.

Zelle® Network Services Agreement for Business Accounts

This Zelle Network® Services Agreement for Business Accounts ("Zelle Services Agreement") section contains the terms and conditions that govern your use of the optional Zelle Service (as defined herein) that we offer as part of our Electronic Banking services. You understand and agree that your use of the Zelle Service described herein is subject to the specific terms and conditions of this Agreement and any separately provided specific terms and conditions governing your account as amended from time to time. In the case of inconsistency between the terms of this Agreement and those of any separately provided specific terms and conditions governing your account, the terms of this Agreement shall control with respect to your use of the Zelle Service. Your use of the Zelle Service also will be subject to any terms or instructions appearing on a screen when using the Zelle Service.

Description of Services

We have partnered with the Zelle Network ("Zelle") to enable a convenient way to transfer money between you and others you trust who are enrolled with us or with another financial institution that partners with Zelle (each, a "User") using aliases, such as email addresses or mobile phone numbers (the "Zelle Service"). We will refer to financial institutions that

have partnered with Zelle as "Network Banks." Zelle provides no deposit account or other financial services. Zelle neither transfers money nor moves money.You understand that you may not establish a financial account with Zelle of any kind. All money transferred through the Zelle Service will be transmitted by a Network Bank.

Eligibility and User Profile

When you enroll to use, proceed to use, or otherwise access the Zelle Service, or when you permit others to whom you have delegated to act on your behalf to use or access the Zelle Service, you agree to the terms and conditions of this Zelle Services Agreement. You represent that you have the authority to authorize debits and credits to the enrolled bank account. You understand and agree that we may supplement, amend or change this Zelle Services Agreement at any time and in our sole discretion, including, without limitation, applicable fees and service charges. We generally will send you advance written notice of an adverse change. However, we may supplement, amend or change this Zelle Services Agreement without prior notice to you unless otherwise required by applicable law. No such amendment or change will apply to any dispute with you arising, or arising out of events occurring, prior to such amendment or change, as to which we receive actual notice. If we supplement, amend or change this Zelle Services Agreement, the newly updated (most current) version of the Zelle Services Agreement, as posted on our website or as confirmed to you by sending you written notice of the amended or changed terms by electronic mail or U.S. postal mail, supersedes all prior versions and, together with the terms set forth in this Agreement, contains the terms and conditions governing your use of the Zelle Service as of the effective date of the newly updated version. If you continue to use the Zelle Service after we have made any such changes you will be deemed to have accepted and agreed to all such changes. Please access and review this Zelle Services Agreement regularly. If you find this Zelle Services Agreement unacceptable to you at any time, promptly cancel your profile and enrollment to use or access the Zelle Service, and immediately discontinue your use of the Zelle Service.

You represent that the persons you have delegated to act on your behalf to use or access the Zelle Service:

(a) are at least eighteen (18) years of age,

(b) are a U.S. resident (not including U.S. territories), and

(c) have the authority to authorize debits and credits to the enrolled bank account.

You agree that you will not use the Zelle Service to send to, or request or receive money from, anyone to whom you are obligated for tax payments, payments made pursuant to court orders (including court-ordered amounts for alimony or child support), fines, payments to loan sharks, gambling debts or payments otherwise prohibited by law. You agree that you will not authorize a third party to use the Zelle Service or share your credentials with a third party to use the Zelle Service on your behalf except in legally authorized situations such as a receivership or pursuant to a power of attorney.

We further reserve the right to suspend, terminate or limit your use of the Zelle Service at any time and without prior notice if we believe in our sole determination that you are using it in a manner that exposes us to liability, reputational harm or brand damage, or for any unlawful purpose. Content Standards: You agree that you will not upload or provide content or otherwise post, transmit, distribute, or disseminate through the Zelle Service that: (a) is false, misleading, unlawful, obscene, indecent, lewd, pornographic, defamatory, libelous, threatening, harassing, hateful, abusive, or inflammatory; (b) encourages

conduct that would be considered a criminal offense or gives rise to civil liability; (c) breaches or infringes any duty toward or rights of any person or entity, including rights of publicity, privacy or intellectual property; (d) contains corrupted data or any other harmful, disruptive, or destructive files;

(d) advertises products or services competitive with Zelle, as determined by Zelle in its sole discretion; or (f) in Zelle's or our sole judgement, is objectionable, restricts or inhibits any person or entity from using or enjoying any portion of the Zelle Service, or which may expose us, Zelle, or our respective affiliates or customers to harm or liability of any nature. Although neither we nor Zelle have any obligation to monitor any content, both we and Zelle have absolute discretion to remove content at any time and for any reason without notice. We and Zelle may also monitor such content to detect and prevent fraudulent activity or violations of the terms and indecent, or objectionable. We and Zelle are not responsible for, and assume no liability, for any content, including any loss or damage to any of your content. We and Zelle make no representation or warranty that content uploaded to a User profile accurately identifies a particular User of the Zelle Service.

(e) The Service may include functionality for you to add a unique alpha-numeric identifier to your registered User profile to be used in lieu of your phone number or email address when sending

or receiving money, which will be your "Zelle tag. "You will be limited to one Zelle tag per bank account, and each Zelle tag must have one U.S. mobile number or email address associated with it. Your Zelle tag must meet the Content Standards. You may not select a Zelle tag that misleads or deceives other Users of the Zelle Service of your identity, or otherwise. Although neither we nor Zelle have any obligation to monitor User Zelle tags, both we and Zelle have absolute discretion to remove a User Zelle tag at any time and for any reason without notice. We and Zelle may require you to change your Zelle tag in our sole discretion, and we may elect to make a Zelle tag unavailable to you, without any liability to you. We and Zelle may also monitor User Zelle tags to detect and prevent fraudulent activity or violations of the terms and conditions. You understand that by using the Zelle Service, you may be exposed to a Zelle tag that is offensive, indecent, or objectionable. We and Zelle are not responsible for, and assume no liability, for any User Zelle tags, including any loss or damage caused thereby. We and Zelle make no representation or warranty that a User Zelle tag accurately identifies a particular User of the Zelle Service. We respect the intellectual property of others and require that users of the Zelle Service comply with relevant intellectual property laws, including copyright and trademark laws. We may, in appropriate circumstances and at our discretion, limit or terminate the user of our products or services for users who publish Content on the Zelle Service that is subject to intellectual property rights claims. When you enroll to use the Zelle Service, you may establish one or more profiles. You may link each profile to only one bank account and/or debit card issued in conjunction with your U.S. domestic (not including U.S. territories) account. You may enroll more than one email address, U.S. mobile phone number or other alias with a profile, but you may not establish more than one profile with the same mobile phone number or email address.

Consent to Share Personal Information (Including Account Information)

By accepting this Zelle Services Agreement, you consent to our disclosure of your personal information and the personal information of persons you have delegated to act on your behalf to use or access the Zelle Service (including, but not limited to, name (first and last name), address, mobile

or other telephone number, email address, and bank account information) to Zelle, other Network Banks or to other third parties in connection with or to facilitate your access to and/or use of the Zelle Service including, without limitation, for the following purposes:

- As necessary for other Network Banks to complete money transfers between you and other Users;
- As necessary to resolve a problem related to a transfer or payment between you and another User;
- To verify the validity of your bank account;
- To verify the validity of your debit card;
- To comply with government agency or court orders;
- To our affiliates, to the fullest extent permitted by applicable law;
- To verify your identity for purposes of compliance with applicable law, including, without limitation, the USA Patriot Act;
- To comply with inquiries in connection with fraud prevention or any investigation;
- For our general internal business purposes, including, without limitation, data analysis or audits; or
- As otherwise permitted by the terms of our Privacy and Information Security Notice.

Privacy and Information Security

We make security and the protection of your information a top priority.You can access our Privacy and Information Security Notice at https://www.plainscapital.com/privacy-disclosures/, which Notice is incorporated into and made a part of this Agreement for all purposes by this reference. However, you understand and acknowledge that you irrevocably waive any and all portions of our Privacy and Information Security Notice which would prevent our providing the name(s), address(es), mobile or other telephone number(s), and email address of you and the persons you have delegated to act on your behalf to use or access the Zelle Service in connection with your sending or receipt of any money by use of the Zelle Service.

Wireless Operator Data

We or Zelle may use information on file with your wireless operator to further verify your and your delegated representatives' identity and to protect against or prevent actual or potential fraud or unauthorized use of the Zelle Service. By using the Zelle Service, you authorize your wireless operator (AT&T, Sprint,T-Mobile, US Cellular, Verizon, or any other branded wireless operator) to use your mobile number, name, address, email, network status, customer type, customer role, billing type, mobile device identifiers (IMSI and IMEI) and other subscriber status details, if available, to our third party service provider solely to allow verification of your identity and to compare information you have provided to us or to Zelle with your wireless operator account profile information for the duration of our business relationship.

Enrolling for the Service

You must provide us with an email address that you regularly use and intend to use regularly (i.e., no disposable email addresses) and a permanent, text- message- enabled U.S. mobile phone number that you intend to use for an extended period of time (i.e., no "burner" numbers).You may not enroll in the Zelle Service with a landline phone number, Google Voice number, or Voice over Internet Protocol.

Once enrolled, you may authorize a debit of your account to send money to a User, either at your direction or at the request

of that User; and receive money from another User, either at that User's initiation or at your request, subject to the terms and conditions of this Agreement. If at any time while you are enrolled, you do not send or receive money using the Zelle Service for a period of 18 consecutive months, we may contact you and/or take other steps to confirm that the U.S. mobile phone number or email address that you enrolled still belongs to you.If we are unable to confirm that you are the owner of the mobile phone number or email address, then you understand that we may cancel your enrollment and you will not be able to send or receive money with the Zelle Service until you enroll again. Once enrolled, a Z logo may appear on your profile picture for each U.S. mobile number and/or email address that you have enrolled with Zelle.The Z logo may be displayed to other Users to aid them in determining which of your U.S. mobile numbers or email addresses should be used to send money with Zelle. If a User sends you money using a different U.S. mobile number or email address that they may have for you (one that is not already enrolled), you will receive a message with instructions on how to enroll with Zelle.

Consent to Emails and Automated Text Messages

By participating as a User, you represent that you are the owner of the email address, U.S. mobile phone number, Zelle tag, and/ or other alias you enrolled, or that you have the delegated legal authority to act on behalf of the owner of such email address, U.S. mobile phone number, Zelle tag, and/or other alias to send or receive money as described in this Agreement. You consent to the receipt of emails or text messages from us, from Zelle, from other Users who are sending you money or requesting money

from you, and from other Network Banks or their agents regarding the Zelle Service or related transfers between Network Banks and you. You agree that we or our agents, Zelle or its agents, and other Network Banks or their agents may use automatic telephone dialing systems in connection with text messages sent to any mobile phone number you enroll. You further acknowledge and agree that:

a. You are responsible for any fees or other charges that your wireless carrier may charge for any related data, text or other message services, including without limitation for short message service. Please check your mobile service agreement for details or applicable fees.

b. You will immediately notify us if any email address or mobile phone number you have enrolled is (i) surrendered by you, or

(ii) changed by you.

c. In the case of any messages that you may send through either us or Zelle or that we may send or Zelle may send on your behalf to an email address or mobile phone number, you represent that you have obtained the consent of the recipient of such emails or automated text messages to send such emails or text messages to the recipient. You understand and agree that any emails or text messages that we send or that Zelle sends on your behalf may include your name. You further understand and agree that each time you initiate a request to send or receive money through the Zelle Service, you are authorizing and instructing us to send an

email or text message to the recipient and that we may, at our sole discretion, send a reminder email or text message to the recipient.

d. Your wireless carrier is not liable for any delay or failure

to deliver any message sent to or from us or Zelle, including messages that you may send through us or through Zelle or that we may send or Zelle may send on your behalf.

e. We may, at any time and in our sole discretion, decline to use or to continue to use any email address or mobile phone number provided to us by any person.

f. To cancel text messaging from us, reply STOP to the text message, or send STOP to 20736. For help or information regarding text messaging, reply HELP to the text message, or send HELP to 20736 or contact our customer service at 1-866-762-8392. You expressly consent to receipt of a text message to confirm your "STOP" request.

Receiving Money; Money Transfers by Network Banks

Once a User initiates a transfer of money to your email address, mobile phone number, or Zelle tag enrolled with the Zelle Service, you have no ability to stop the transfer. By using the Zelle Service, you agree and authorize us to initiate credit entries to the bank account you have enrolled.

Most transfers of money to you from other Users will occur within minutes.Transfer through the Zelle Service are not instantaneous, and there may be other circumstances when the payment may take longer. For example, in order to protect you, us, Zelle and the other Network Banks, we or Zelle may need additional time to verify your identity or the identity of the person sending the money. We may also delay or block the transfer to prevent fraud or to meet our regulatory obligations. If we delay or block a payment that you have initiated through a request for money, we will notify you in accordance with your User preferences (i.e. email, push notification, or text notification). If you are receiving a payment from a business or government agency, your payment will be delivered in accordance with both this Agreement and the procedures of the business or government agency that is sending you the payment. You understand and acknowledge that we have no control over the actions of other Users or other Network Banks that could delay or prevent a transfer of money to you. We are not responsible for the performance, speed, or other acts or omissions of other Network Banks.

Sending Money; Debits by Network Banks

You may send money to another User at your initiation or in response to that User's request for money. You understand that your use of the Zelle Service shall at all times be subject to (i) this Zelle Services Agreement, and (ii) your express authorization at the time of the transaction for us or another Network Bank to initiate a debit entry to your bank account. You understand that when you send the payment, you will have no ability to stop it. You may only cancel a payment if the person to whom you sent the money has not yet enrolled in the Zelle Service. If the person you sent money to has already enrolled with Zelle with a Network Bank, the money is sent directly to their bank account (except as otherwise provided below) and may not be canceled or revoked.In most cases, when you are sending money, the transfer will occur in minutes when the recipient's email address or U.S. mobile number is already enrolled with a Network Bank; however, there are circumstances when the payment may take longer. For example, in order to protect you, us, Zelle and the other Network Banks, we may need additional time to verify your identity or the identity of the person receiving the money. If you are sending money to someone who has not enrolled as a User with Zelle with a Network Bank, they will receive a text or email notification instructing them on how to enroll to receive the money. You understand and acknowledge that a person to whom you are sending money and who is not enrolling as a User may fail to enroll with Zelle, or otherwise ignore

the payment notification, and the transfer may not occur.The money may also be delayed or the transfer may be blocked to prevent fraud or comply with regulatory requirements. If we delay or block a payment that you have initiated, we will notify you in accordance with your User preferences (i.e. email, push notification, text notification). We have no control over the actions of other Users, other Network Banks or other financial institutions that could delay or prevent your money from being delivered to the intended user.

Liability for Sending and Receiving Money

You understand and agree that we rely on the information provided by you in relation to your use of the optional Zelle Service, and you authorize us to act on any instruction, which has been or reasonably appears to have been sent by you, to submit money transfer instructions on your behalf. To the fullest extent permitted under applicable law, neither we nor Zelle shall have any liability to you for any such transfers of money, including without limitation, (i) any failure, through no fault of us or Zelle, to complete a transaction in the correct amount, or (ii) any related losses or damages. We are not obligated to take further steps to confirm or authenticate your instructions and will act on them without obtaining further confirmation.

Neither we nor Zelle shall be liable for any typos, ambiguous instructions, duplication or keystroke errors that you may make when using the Zelle Service.

THE ZELLE SERVICE IS INTENDED FOR SENDING MONEY TO FAMILY, FRIENDS AND OTHERS WHOM YOU TRUST. YOU SHOULD NOT USE THE ZELLE SERVICE TO SEND MONEY TO PERSONS OR BUSINESSES WITH WHOM YOU ARE NOT FAMILIAR OR YOU DO NOT TRUST. ZELLE DOES NOT OFFER A PROTECTION PROGRAM FOR AUTHORIZED PAYMENTS MADE THROUGH THE SERVICE (FOR EXAMPLE, IF YOU DO NOT RECEIVE THE GOODS OR SERVICES THAT YOU PAID FOR, OR THE GOODS OR SERVICES THAT YOU RECEIVED ARE DAMAGED OR ARE OTHERWISE NOT WHAT YOU EXPECTED).

YOU AGREE THAT YOU ARE SOLELY RESPONSIBLE FOR ENTERING THE CORRECT MOBILE PHONE NUMBER OR EMAIL ADDRESS FOR THE PERSON WHO YOU ARE SENDING MONEY TO OR REQUESTING MONEY FROM, AND THAT YOU, NOT WE OR ZELLE OR OTHER NETWORK BANKS, ARE RESPONSIBLE FOR ANY AMOUNTS THAT ARE TRANSFERRED TO THE INCORRECT PERSON AS A RESULT OF YOUR ENTERING THE INCORRECT MOBILE NUMBER OR EMAIL ADDRESS.

YOU ALSO AGREE THAT YOU, NOT US, ZELLE OR OTHER NETWORK BANKS, ARE RESPONSIBLE FOR RESOLVING ANY PAYMENT OR OTHER DISPUTES THAT YOU HAVE WITH ANY OTHER USER WITH WHOM YOU SEND MONEY TO, OR RECEIVE OR REQUEST MONEY FROM, USING THE ZELLE SERVICE.

Send Limits

The dollar amount of funds that you may send may vary depending on the type of account from which the funds are sent, the recipient and/or the transaction history for each recipient.

You also understand and acknowledge that the dollar amount of funds that you can send to a new recipient may be limited.

Transfer limits, if any, applicable to the owner of an account at another Network Bank also may apply in accordance with the Zelle Service terms of such other Network Bank. Additionally, all transfer limits may be subject to temporary reduction to safeguard customer account security or the transfer system, as we deem appropriate in our sole discretion. We reserve the right to change from time to time the dollar amount of funds

that you may send using the Zelle Service. You may view the standard Zelle limits within the forms and documents section within Business Online Services

Requesting Money

You may request money from another User or Users.You understand and acknowledge that Users to whom you send payment requests may reject or ignore your request. Neither we nor Zelle guarantee that you will receive money from other Users by sending a payment request, or that you will receive the amount that you request. Neither we nor Zelle accept responsibility if the other User rejects or ignores your request, or sends you an amount that is less than you request. If a User ignores your request, we may decide, in our sole discretion, or Zelle may decide, in its sole discretion, that we will not send a reminder or repeat request to that User.

By accepting this Zelle Services Agreement, you agree that you are not engaging in the business of debt collection by attempting to use the Zelle Service to request money for the payment or collection of an overdue or delinquent debt; to request money that is owed to another person; or to collect any amounts that are owed pursuant to a court order. To the fullest extent permitted under applicable law, you agree to indemnify, defend and hold harmless Zelle, its owners, directors, officers agents and Network Banks from and against all claims, losses, expenses, damages and costs (including, but not limited to, direct, incidental, consequential, exemplary and indirect damages), and reasonable attorneys' fees, resulting from or arising out of any request for money that you send that is related to overdue or delinquent amounts.

You agree to receive money requests from other Users, and to only send requests for legitimate and lawful purposes.

Requests for money are solely between the sender and recipient and are not reviewed or verified by us, by Zelle, or by other Network Banks. Neither we, Zelle, or the other Network Banks assume responsibility for the accuracy or legality of such requests and do not act as a debt collector on your behalf or on behalf of the sender of a request for money. You understand and agree that we make no representations or warranties concerning the genuineness or accuracy of any request for money.

We reserve the right, but assume no obligation, to terminate your ability to send requests for money in general, or to specific recipients, if we deem such requests to be potentially unlawful, abusive, offensive or unwelcome by the recipient.

Business Debit Card Services

This section describes our business debit card services and the additional terms applicable to these services. We may limit the availability of these services at any time, and all of these services may not be available at each Bank location. We may require you to sign a separate agreement to obtain these services. If there is a conflict between the separate agreement and this Agreement, the separate agreement will control.

Business Debit Cards

As used in this Business Debit Card Services section, "Card" or "Check Card" means the Bank's Business Debit Card that the Bank may issue to you as a Mastercard Debit Card. "Cardholder" means the person to whom a Card is issued. Unless otherwise provided in this Agreement, you must be an account owner or an authorized signer to request a card for a Cardholder. You agree to provide a copy of this Agreement to each Cardholder. You may visit any of our Bank locations to request a Card. You will provide

a PIN that will be used to perform withdrawal and debit (POS) transactions. You may also request a card by calling us. The card will be mailed to your address on file, and you will set your PIN when activating the card. If you or any Cardholder give the Card or PIN to another person, including without limitation an unauthorized individual, to use or otherwise allow another person or an unauthorized individual to use the Card or PIN, you will be responsible and liable for any and all Card transactions by such individual or anyone else to whom that person gives the Card and/or PIN, and we will have no liability for any such usage.You understand and agree that, except as otherwise indicated herein, you will be responsible and liable for the Card and any transactions initiated using the Card, including, without limitation, any and all Card transactions by your employees and agents.

You and each Cardholder agrees not to use the Card for any credit or deposit account linked to your Card (each a "linked account") for any transaction that is illegal under applicable law, including, but not limited to, "restricted transactions" as defined in the Unlawful Internet Gambling Enforcement Act of 2006 and Regulation GG issued thereunder. You and each Cardholder agree to use the Card only in the manner and for the purpose described within this Agreement. If you or a Cardholder should attempt to use the Card in any other manner or for any other purpose, we may decline the transaction or, at our sole discretion, the transaction may be completed without any obligation to honor the same type of transaction on future occasions. We reserve the right to deny transactions or authorizations from merchants apparently engaging in the Internet gambling business or identifying themselves through the Card transactions record or otherwise as engaged in such business.

Business Debit Card Transactions

You agree to use your Card only for business purposes, and not for personal, family or household purposes. You further understand and agree that use of your Card is not subject to the Electronic Fund Transfer Act and the Consumer Financial Protection Bureau's Regulation E governing electronic funds transfers for consumer transactions. The Card enables the Cardholder to make the following types of transactions:

- Purchases at merchants that accept Mastercard credit cards and at merchants in participating regional proprietary POS networks. Business Debit Cards can be used to make POS purchases in the three (3) ways described below. The funds used for these purchases are deducted from your primary account.
- Mastercard POS Purchase. Purchases can be made at merchants or service providers that accept VISA/ Mastercard credit cards in retail outlets, over the Internet, through mail orders, and on the phone. To do so, the Card is presented to the merchant and a receipt to authorize the purchase is signed. At merchants with PIN pads or terminals, the Card is swiped, the credit button is selected, and a receipt to authorize the purchase is signed. For Internet, phone, and mail orders, the Card number and the expiration date are provided. There is no cash back feature when making a Mastercard purchase.
- POS Network Purchase. Purchases can be made at merchants that accept payment through the POS networks in which the Bank participates, which include NYCE and Cirrus. To make a purchase; the Card is presented to the merchant. When prompted, the PIN is entered to authorize the purchase. Merchants participating in these POS networks may allow cash back

with the purchase amount and may limit the dollar amount allowed with the cash back.

- PINless Debit Purchases. Purchases can be made at merchants that accept payment through the POS networks in which the Bank participates. To make a purchase the Card is presented to the merchant without requiring you to enter the PIN. These transactions are called "PINless debit transactions". PINless debit transactions are not considered debit transactions.
- Cash withdrawals from, balance inquiries on, and funds transfers between your checking, money market accounts and/or savings accounts, and to the extent we may offer them, NOW accounts, with the Bank using an ATM transaction.
- Cash withdrawals from the designated primary checking account and/or primary savings account at non-PlainsCapital Bank ATMs that participate in shared ATM networks to which the Bank belongs.

Recurring Purchases with a Business Debit Card

Recurring Preauthorized Payments

If you give a merchant your debit card number for the purpose of billing you for recurring payments, you should notify the merchant if your card number and/or expiration date changes. We provide information to the Mastercard Automatic Biller service. Participating merchants may receive the updated card information. Not all merchants subscribe to the Mastercard Automatic Biller services, so we recommend that you notify each merchant of any changes to your card number and/or expiration date to ensure your automatic payments continue uninterrupted. In cases of reported fraud on your card, we will not provide your updated card information to the Mastercard Automatic Biller service. If you want to revoke authority for all future preauthorized payments from a particular merchant, or if your account linked to the card is closed, you should contact the merchant and tell the merchant to cancel the preauthorized payment.

Card Transactions at Non-PlainsCapital Bank ATMs

If a Card is used at non-PlainsCapital Bank ATMs, transactions will be limited to the linked account, withdrawal limits, and currency denominations provided by the non-PlainsCapital Bank ATM. If a non-PlainsCapital Bank ATM does not provide the option of various account types, such as checking or savings, the cash withdrawal will be from your linked account designated as "primary checking." The non-PlainsCapital Bank ATMs will normally charge an additional fee for usage of that machine, which is called a "surcharge". This fee can range from $1.00 up to $5.00 or more.

Foreign Transactions

If you purchase goods or services or obtain cash from an ATM with your card in a currency other than US Dollars, the card network will convert the charge into a US dollar amount from your account. The conversion rate on the processing date may differ from the rate on the date of your transaction. The currency conversion exchange rate is a rate selected by the card network from the range of rates available in wholesale currency markets for the applicable central processing date, which may vary from the rate the card network itself receives or the government–mandated rate in effect for the applicable central processing date. For each purchase transaction completed outside the United States, the Bank may also charge an International

Purchase Transaction Fee, which is based on the amount provided to the Bank by the network in U.S. dollars.

Our Rights to Cancel or Block Your Card

We may decide not to issue or renew a card and we may cancel or suspend your card privileges without cause or notice, other than that required by federal or state law. Your card remains our property and we may repossess it at any time. If we cancel your cardholder privileges, you must surrender the card to us upon demand or upon notice of cancellation. If the card is used other than as permitted by this Agreement, we may at our option and without waiving any rights, complete the transactions and debit or credit your account accordingly. The cancellation of card privileges does not affect other terms of your account. If we reinstate your card privileges, the terms and conditions of this Agreement applicable to your card are also automatically reinstated. If the card we send you is returned undelivered, we may restrict use of any card with the same numbers or we may close the card for your protection. If you have not used your card to conduct a transaction within the last twelve (12) months, we may close and cancel your card without any notice to you.

Protecting Your Card and PIN

You and each Cardholder are responsible for caring for the Card and/or PIN as you, he or she would care for checks and other paper items. You and each Cardholder are responsible for maintaining the confidentiality of the Card PIN.

If you suspect that a Card tied to your account has been lost or stolen or is no longer secure, or is being used by an unauthorized person, notify us as soon as possible by calling 1-888-765-1765 immediately so the Card can be closed quickly. We recommend that you/each Cardholder:

- Activate the Card by either calling the toll free number on the sticker attached to the front of the Card or performing a transaction at any ATM or POS merchant terminal, using the four digit PIN selected for the Card.
- When selecting your PIN, do not use any number or word that appears in your wallet such as birth date, name or address. Always use a unique PIN and not one based on a number that can be easily determined.
- Memorize your PIN, never share it with anyone, and never write your PIN on your Card or on paper or store it with your Card.
- Change your PIN number every six (6) months.
- Purchase from and shop with merchants you know and trust.
- Regularly review your account statements as soon as you receive them to verify transactions. Contact the Bank immediately if you identify any discrepancies.
- Make sure any Internet purchase activity you engage in is secured with encryption to protect your account information. Look for the “secure transaction” symbols.
- Always be sure to log off from any site after a purchase transaction is made with your Card. If you cannot log off, shut down your browser to prevent unauthorized access to your account information.
- Do not send your Card number through email, as it is typically not secure, and don’t provide it over the phone unless you initiated the call.
- If you have forgotten your PIN or would like to select a

new one, please visit your nearest PlainsCapital Bank location.

- Sign the back of the Card immediately.

Account Linkage and Designation of Accounts

To open and maintain any type of Card, at least one qualified PlainsCapital Bank business deposit account must be linked to the Card. You may link deposit or credit accounts to your Card as the Bank permits from time to time. In addition, a sole proprietor may also link personal accounts maintained at the Bank to a Card so long as the personal and business accounts are established under the same tax identification number.

If only one deposit account of each type (checking, savings, etc.) is linked to a Card, the checking account is automatically designated as the "primary" account of that type for the purpose of making electronic funds transfers and displaying the accounts where available at the Bank ATMs or non-PlainsCapital Bank ATMs.

If more than one account of a single type is linked to a Card, you will be asked to designate the primary account, secondary account, and other accounts. If you do not designate one account as the primary account of a particular type of account, the first account of that type linked to a Card is considered the primary account for that type of account. Certain transactions are automatically debited from the linked account designated as primary.

Dollar Amount Limits on Transactions

If a Card is used to make ATM withdrawals or transfers or POS purchases, the following rules apply:

- There is no limit on the number of times a Card may be used each day as long as the disclosed daily dollar limits are not exceeded.
- The ATM daily dollar limit is the maximum U.S. Dollar amount of cash that can be withdrawn from any ATM machine within one (1) day.
- The POS daily limit is the maximum U.S. Dollar amount of purchases (including cash back, if any) that can be debited from your account within one (1) day.
- For the purpose of the daily limit, a "day" is generally defined as a 24-hour period beginning at midnight.

The standard daily withdrawal limits for a Card are the following:

ATM	$1,010
PIN Transactions (merchant purchases using the PIN)	$3,000
Credit Transactions (merchant purchases using a signature)	$3,000

At our discretion and without notice, we may establish a higher or lower daily withdrawal limit based upon your account type, account behavior or your total deposit relationship. In addition, upon your request, we may establish a higher or lower daily withdrawal limit for a temporary period. If we agree to establish a higher or lower limit for a temporary period, your limit will default to the above standard daily limit at the end of the temporary period.

If we have not established another limit for you, the standard daily limits will apply.

Documentation of Transfers and Transactions

At the time you conduct an ATM transaction, POS transaction, or "Credit" debit card transaction, you may receive a written receipt from either the ATM machine or the merchant with the following information:

- Amount
- Date
- Type of transaction
- Merchant name (if applicable)
- Account number (which is partially displayed)
- ATM code number or POS terminal code number

Debit Card Holds

When you use a debit card for a purchase, the merchant will send your card number and the purchase amount to the Bank for an approval or authorization. This authorization generally confirms that an account is open and the purchase amount is available. The funds for the purchase amount are then placed on "hold" and deducted from the available balance. When the Bank receives the actual transaction from the merchant, the hold is released and the transaction is presented for payment against the account in our stated order of payment. If the transaction has not been received by the Bank within two (2) business days for most in-person transactions or up to seven (7) business days for certain internet transactions as defined by the card networks, the hold expires and the available balance will increase by that amount. The merchant may still settle a transaction after the hold expires and we will honor the transaction.

There are times, for example, at restaurants, for gas purchases, car rentals or hotels, that merchants will not know the exact amount of your purchase when they request the authorization. This means the authorization could be for an amount higher or lower than your actual purchase amount. This may temporarily affect your available balance, if your hold amount is different than your actual purchase amount. Therefore, it is extremely important that you are diligent about recording the actual transaction amount in your records. Once the merchant sends the transaction and it posts on your account, you can view the transaction through Internet Banking or Mobile Banking.

Your available balance is immediately affected by authorizations we provide merchants and we pay items presented based on your available balance and in accordance with our stated order of payment.

Stop Payments on Purchases and Refunds

Stop payments cannot be requested on one time purchases made using a Business Debit Card. You can request the merchant to refund you for a purchase made, and the merchant may refund the Card used at the time of the original purchase. You may not receive cash refunds for the return of merchandise or services purchased using your Card.

ATM and POS Malfunction

You agree not to hold the Bank responsible for damages that result from or are a consequence of an ATM or POS malfunction. You agree to promptly notify the Bank if an ATM fails to dispense the correct amount of cash or provide a proper receipt, by calling or writing the Bank at the telephone number or address provided within this Agreement.

Liability for Unauthorized Card Transactions

You are responsible for each Card linked to your accounts. You

will not be liable for unauthorized Card transactions except as explained below or as otherwise stated in this Business Debit Card Services section or the Account Statements section of this Agreement.

As used in this Business Debit Card Services section, an "unauthorized transaction" is a transaction that is made by a person who does not have your actual, implied, or apparent authority to use a Card or PIN. Authorized Card transactions for which you shall be liable include:

- Any transaction where you furnished the Card, PIN, or the Card number to another person or co-owner (even though that co-owner is not a Cardholder) and expressly or implicitly give that individual authority to perform, even if he or she exceeds the authority granted.
- Any transaction a merchant processed in error.
- Any transaction involving the purchase or payment for goods or services with which the Cardholder is not satisfied.
- Any other reason we conclude that the facts and circumstances do not reasonably support a claim of unauthorized use.

When you receive your account statement, if you note any errors with respect to or have questions about any Card transaction, please notify the Bank immediately by mail or telephone using the Bank contact information within this Agreement. Please review the Account Statements section of this Agreement for further information with respect to receipt and examination of your account statements.

Except as otherwise stated in this section, you must notify us in writing of any errors, unauthorized transactions or problems including, without limitation, any loss or theft of the Card, no later than thirty (30) calendar days after we sent or otherwise made available the first statement on which the unauthorized transaction, problem or error appeared. When you contact the Bank, for each such error, unauthorized transaction and/or problem, we will need the following information:

- Cardholder's full name and account number.
- When you first noticed the error, problem or unauthorized transaction
- A description of the error, problem or unauthorized transaction and a clear explanation of why you believe it is an error or unauthorized transaction, or why you need more information.
- The date and dollar amount of the transaction in question.
- You will be asked to complete documentation in support of your claim, which may include, but may not be limited to, an affidavit, declaration or EFT notification form, and may also be asked to complete a police report with the local authorities.

In evaluating your claim, the Bank will consider whether any negligence on the part of you or the Cardholder(s) within your organization has contributed to the transaction in question.

Some of the factors that the Bank will consider in connection with this evaluation process include:

- **Timely reporting of lost Card.** Whether any loss or theft of the Card was reported to the Bank within the timeframes set forth in this Business Debit Card Services section after the discovery of the loss or theft.
- **Prompt review of statements.** Whether you promptly reviewed the statements for your linked accounts.
- **Prompt report of unauthorized transactions, problems or errors.** Whether, after we sent or otherwise made

available the first statement on which the unauthorized transaction, problem or error appeared, the unauthorized transaction, problem or error was reported to the Bank within the timeframes set forth above or in the Account Statements section of this Agreement. If the unauthorized transaction, problem or error is not reported timely within the timeframes set forth above, such unauthorized transaction, problem or error shall be fully enforceable against you, and we will not be responsible or liable for such unauthorized transaction, problem or error.

- **Safeguard Card and PIN.** Whether you or the Cardholder exercised reasonable care in safeguarding your, his or her Card, Card number, and PIN from loss or theft.
- **Multiple prior incidents.** Whether you have reported multiple incidents of unauthorized transactions to the Bank within the twelve (12) month period immediately preceding your claim, and the facts and circumstances surrounding any such incidents.

We will have the right to reverse any credit made to your account if you fail to (i) sign any of our required affidavits and/or other documents that we request you to sign; (ii) cooperate fully with the Bank's investigation of your claim of an unauthorized transaction; (iii) cooperate fully with the Bank's efforts to recover funds related to your claim of unauthorized transaction; or, (iv) if we determine that the transaction was indeed authorized.

Card Fees

If your Card is lost or stolen, you may have the Card replaced for a $5.00 fee.

Mastercard Debit Card Transactions

Under Mastercard's Zero Liability policy (as may be modified by Mastercard), you may not be held responsible for unauthorized purchases using your Mastercard card, provided the following conditions are met:

- You exercised reasonable care in safeguarding your card from risk of loss or theft; and
- Upon becoming aware, you promptly reported the loss or theft to us;

To the extent permitted by law, we may reasonably determine that you failed to exercise reasonable care in safeguarding your card from risk of loss or theft if you do not report one or more unauthorized card transactions to us within sixty (60) days of the date when the statement reflecting the transaction(s) was sent or otherwise made available to you. Zero Liability does not apply to the following Mastercard payment cards: commercial cards, unregistered prepaid cards or gift cards, except for Mastercard commercial cards used for small businesses as identified by Mastercard.

Provided further that:

- The zero liability policy applies to electronic funds transfers or transfers on the account involving use of a card or card number and made in a store, over the telephone, online, or via a mobile device and ATM transactions, but does not apply to unauthorized electronic fund transfer or transfers which do not involve the use of a card or card number or debit PIN transactions not processed by Mastercard.
- We consider a transaction unauthorized if it is initiated by someone other than you (the cardholder) without your actual or apparent authority. A transaction is not considered "unauthorized" if you furnish the card, card

number or other identifying information to another person and expressly or implicitly give that individual authority to perform one or more transactions, and the person then exceeds that authority, or for any other reason we conclude that the facts and circumstances do not reasonably support a claim of unauthorized use.

- Reasonable time will be determined at our sole discretion based on the circumstances.

ATM Security Disclosure

Security at Walk-up and Drive-up ATMs

- Observe your surroundings before, during and after using an ATM. Observe the entire area from the safety of your car before getting out of your vehicle or using the drive-up ATM. If you see anyone or anything suspicious, leave the area at once.
- If an ATM is obstructed from view or poorly lit, go to another ATM. Report the problem to the financial institution operating the ATM.
- While waiting in line for the drive-up ATM, keep your engine running, doors locked and windows up. Leave enough room between cars to allow for a quick exit if necessary.
- At walk-up ATMs, park as closely as possible to the terminal.
- When possible, take a companion along when using an ATM, especially at night.
- Minimize time spent at the ATM by having your card out and ready to use. If the ATM is in use, give the person using the terminal the same privacy you expect. Allow them to move away from the ATM before you approach the terminal.
- When conducting your transaction, stand in front of the ATM to keep your PIN and transaction amount from public view. Upon completing your transaction, make sure that the terminal reflects that the transaction is complete, and take your money, card and receipt and move away from the terminal.
- If an ATM appears to have been altered or otherwise appears unusual, do not use it.
- If you suspect that an ATM is not functioning properly, cancel your transaction, remove your card from the terminal and go to another ATM.
- If you see anyone or anything suspicious while conducting a transaction, cancel your transaction, remove your card from the terminal and leave immediately.
- If anyone follows you after you have made an ATM transaction, go immediately to a crowded, well-lit area and call the police.

Keeping your Card Secure

- Keep your card in a safe place. Store your card in a card sleeve to protect the card's magnetic stripe and to ensure the card functions properly.
- Protect your card just as you would cash, checks or a credit card.
- Keep your personal identification number (PIN) a secret. Your card only works at an ATM with your PIN. Memorize your PIN and never write it on your card or store it with the card. Never tell your PIN to anyone or let anyone else enter your PIN for you.
- Take your ATM receipt with you. Do not leave it at or near the ATM.
- Do not give out any information about your card over the telephone. No one needs to know your PIN - not even your

financial institution.

- Report a lost or stolen card immediately. Even though your ATM card cannot be used without your PIN, promptly report a stolen card and you will be issued another card.
- Change your PIN from time to time, and always use a unique PIN and not one based on a number that can be easily determined. You may change your PIN by calling 866- 392-9952 or by bringing the card into one of our branches.
- Check your receipts against your monthly statement to guard against ATM fraud. You get a receipt every time you make an ATM transaction. Verify each transaction by checking the receipts against your monthly account statements.

eStatements

If you have requested, through Internet Banking (which required you to log in) to have eStatements made available to you, you understand that, when your statement, disclosure or notice is ready to be viewed through the System, we will send an email notification to your primary designated email address that your periodic account statement, disclosure or notice is available to be viewed through the System. You may access your statements, notices and disclosures by logging in to the System and selecting the appropriate links.

If there is more than one depositor that is a signatory to the account, we will also send such notice(s) to any such depositor who has registered for eStatements through Internet Banking (which required you to log in); however, notice to any one depositor will be effective for all. You understand that such eAccess is governed by the E-Sign disclosure contained in the deposit agreement(s) for your account. To request a paper copy of any electronic statement, disclosure or notice provided pursuant to this consent, mail or fax your request to the address or fax number at the end of this disclosure.

You may also visit any of our branch locations and speak with one of our customer service representatives for assistance. See Miscellaneous Fees section within this Agreement for applicable research fees.

We will use commercially reasonable measures, consistent with industry standards, to maintain a reasonable level of security over the information contained in electronically delivered statements and notices.You understand that these industry standards are dynamic and constantly developing. By requesting, through Internet Banking (which required you to log in), to have eStatements made available to you, you acknowledge and understand that there are risks that are associated with electronic access to statements and notices including, but not limited to, delay or failure of delivery due to technical difficulties, weather conditions, and matters beyond our reasonable control.You have considered the historical and potential future content of your account statement(s) and notices, the risks associated with electronic access of account statements in choosing electronic access.You agree that by following our normal security measures and procedures for maintaining security and confidentiality, we will have acted in good faith and exercised ordinary care. If, in the future, you conclude that our security procedures cease to be reasonable, you must contact us to terminate electronic access through the System (click on Services, then click on Messages) or you may mail or fax your request to the address and fax number at the end of this disclosure.You may also visit any of our branch locations and speak with one of our customer service representatives for assistance.

eStatements Specifications

If you have questions about whether these additional requirements apply to you, please contact one of our customer service representatives in person at any branch location or call 1-866-762-8392.

You understand that it is your responsibility to ensure that your email address(es) on file with the Bank are accurate, and you agree to notify us promptly of any change in your designated email address(es) via one of the following methods: change of address request within Internet Banking, branch visit, or by mail to the address at the end of this disclosure. For your protection and for security purposes, we will not accept any change of email address notices via email or telephone.

If you have not notified us in writing of any change to your email address(es), you agree that we may rely on the email address(es) on file with us, and that any failure on your part to provide us with a good email address is a lack of ordinary care on your part. If we attempt to send you an electronic access notification email and it is returned undeliverable twice, we will discontinue sending you email notifications until you provide us with your correct email address. Please note that this will not affect the availability of your eStatement(s), disclosures or notices, which will continue to be available to you when you log in to the System.

Your email address may be changed using the procedure described above by any authorized signer on your account. The Bank shall have no obligation or liability to any of the owners of a multiple-party account if the email address(es) is or are changed using the procedures set forth above.

You agree that the Bank has no control over the persons who have access to your personal computer or device and your password. The Bank will not be liable for any third party access to your personal computer or device using your password or for any losses you incur as a result thereof. You agree that it is your responsibility to initiate and maintain adequate procedures to prevent any unauthorized access to your personal computer or device or unauthorized use of your password.

We disclaim any and all implied warranties, including but not limited to, the implied warranties of merchantability and fitness for a particular purpose. If you believe that someone has obtained access to your eStatements, disclosures or notices without your permission, contact us at the address or telephone numbers at the end of this Agreement Notwithstanding any provisions to the contrary contained in this Agreement, we shall be responsible only for performing the eStatement services as expressly provided for in this Agreement.

TO THE FULLEST EXTENT PERMITTED BY LAW, WE SHALL BE LIABLE ONLY FOR ACTUAL LOSSES WHICH ARE THE DIRECT RESULT OF OUR OWN GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT IN PERFORMING THESE SERVICES. IN ADDITION TO HAVING NO LIABILITY FOR UNAUTHORIZED ACCESS TO YOUR PERSONAL COMPUTER OR DEVICE, WE SHALL HAVE NO LIABILITY FOR FAILURE TO PERFORM ANY eSTATEMENT SERVICES OR FOR ANY DISRUPTION OR DELAY IN PERFORMING SAID SERVICES IN THE EVENT SUCH FAILURE, DISRUPTION OR DELAY IS DUE TO CIRCUMSTANCES BEYOND OUR REASONABLE CONTROL (INCLUDING, BUT NOT LIMITED TO, FAILURE OR DISRUPTION OF ELECTRONIC POWER, COMPUTER EQUIPMENT, TELECOMMUNICATIONS SYSTEMS, YOUR INTERNET ISP OR AS A RESULT OF INCLEMENT WEATHER CONDITIONS). WE SHALL HAVE NO LIABILITY FOR ANY CONSEQUENTIAL, SPECIAL, EXEMPLARY, PUNITIVE DAMAGES OR INDIRECT LOSS UNDER ANY

CIRCUMSTANCES.

YOU AGREE TO INDEMNIFY, DEFEND AND HOLD US AND OUR AFFILIATES, AND EACH OF THEIR DIRECTORS, OFFICERS, SHAREHOLDERS, EMPLOYEES AND AGENTS HARMLESS FROM AND AGAINST ALL CLAIMS, SUITS, CAUSES, ACTIONS, LOSSES, COSTS, DAMAGES, LIABILITIES, DEMANDS, JUDGMENTS AND EXPENSES (INCLUDING WITHOUT LIMITATION REASONABLE ATTORNEY'S FEES) ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THE eSTATEMENT SERVICES IF WE ACT IN GOOD FAITH AND WITH ORDINARY CARE.

You agree that this indemnification shall survive the termination of this agreement.

eStatement Termination

You may request termination of your eStatement access by contacting PlainsCapital Bank customer service at 866.762.8392, or by visiting any of our branch locations.

You understand and acknowledge that we may terminate eStatement access at the time of account closure, or otherwise without cause at any time in our sole discretion. Termination of eStatement access for a closed account will be effective as of the date of account closure, and termination of eStatement access for an account that remains open will be effective on the date when we remove eStatement access. Following your or our termination of eStatement access for an account that remains open, we will make paper copies of your periodic account statements available to you at the frequency and in the manner set forth in the Account Statements section of this Agreement.

Address and Fax Number for Changes and Termination:
PlainsCapital Bank
ATTN: Deposit Support Department
5010 University Avenue
Lubbock, TX 79413
Fax: 1-877-450-3985

Correspondent Banking Services

A correspondent bank is a bank that provides banking services to another financial institution, generally known as a respondent bank. The correspondent bank serves as an intermediary or agent and provides a variety of essential services to respondent banks which help facilitate financial operations. The Bank agrees to provide correspondent banking services, which include but are not limited to wire transfers, check clearing, cash management, and settlement services. To obtain further information and details concerning available products and services offered through correspondent banking, you may visit and access the information found at www.plainscapital.com.

We, as correspondent bank, shall process transactions in a timely and efficient manner, maintain accurate records, and comply with all applicable regulations. You, as respondent bank, shall provide accurate information for transactions, maintain sufficient funds in accounts, and comply with all applicable regulations. Both parties agree to assist each other with any regulatory requests and provide necessary information to comply with all applicable legal requirements.

By using correspondent banking services, you agree to the terms and conditions outlined in this agreement. We may require you to sign a separate agreement to obtain these services. If there is a conflict between the subject matter of the separate agreement and this Agreement, the separate

agreement will control to the extent of the conflict.

Unlawful Internet Gambling Enforcement Act Disclosure

You understand and agree that PlainsCapital Bank strictly prohibits the use of any account to conduct any transaction of any sort that is related, whether directly or indirectly, to unlawful Internet gambling. As used in this Agreement, "unlawful Internet gambling" shall have the meaning set forth in the Unlawful Internet Gambling Enforcement Act of 2006, and Regulation GG. You may not use your account or related services to conduct any unlawful Internet gambling transaction or activity, including without limitation to deposit any funds in connection with unlawful Internet gambling. Restricted transactions, including acceptance of credit, funds, instruments or other proceeds from another person in connection with unlawful Internet gambling, are prohibited from being processed through your account or relationship with us. You agree to indemnify, defend and hold us harmless from every claim, suit, cause, action, proceeding, loss, cost, damages, liabilities and expense (including without limitation attorney's fees) arising out of or in any way connected with, or suffered or incurred by us due to any U.S. or foreign government entity seizing, freezing or otherwise asserting or causing us to assert control over any account or funds in an account of yours (or ours) when purportedly caused by, or arising out of, your action or inaction in relation to any purported or alleged unlawful Internet gambling. This will apply whether or not such action or inaction is ultimately determined to be authorized under the laws of the U.S. or its territories, or of any foreign jurisdiction. We are not required to inquire or determine the authority of any action taken by the U.S. or any foreign government entity prior to acceding to any legal process initiated by either.

Please note that your agreement to comply with applicable laws and regulations includes United States economic sanctions laws and regulations, including regulations issued by the Office of Foreign Assets Control.

High Risk Transactions

You agree that you will not use your account for any transaction that is illegal in the jurisdiction where the account is opened, the jurisdiction where you live, the jurisdiction where the transaction is completed, or in any other jurisdiction affected by the transaction. You agree that it is your responsibility to determine the legality of each of your transactions in all applicable jurisdictions before entering into the transaction. You agree and acknowledge that we have no obligation to monitor, review, or evaluate the legality of transactions that you conduct on your account. You also agree that you will not use your account in connection with any transactions involving cannabis products, whether or not cannabis is legal in any applicable jurisdiction. You certify that you will not use your account or do any banking transactions for any illegal purposes or activity, including but not limited to those activities prohibited under the applicable federal or state law. You further represent and warrant that all transactions undertaken by you or on your behalf are legal and not in violation of any other laws. To the fullest extent permitted by law, you agree to pay for any item that you authorized, even if the transaction related to that item is determined to be illegal. We also reserve the right to refuse or return any item that we believe is related to an illegal transaction, and/or any transaction presented against your account that we reasonably believe is related to the purchase, sale or exchange of any decentralized, non-fiat virtual currency,

cryptocurrency, or any other digital currency or money that relies on distributed ledger or blockchain technology unless we first approve the intended transaction on your account after you provide us advance notice in writing that such a transaction may be made, and you agree that, whether we decline to pay or pay any such item, we shall have no liability to you in relation to any such item.

Except as otherwise disclosed in writing to us and accepted by us, you represent that you are not engaged in the production, manufacturing/refinement, distribution or sale of industrial hemp or hemp-derived products (such as products containing CBD oil) that are not classified as Schedule I drugs under the federal Controlled Substances Act. You further represent that, except as otherwise disclosed in writing to us and accepted by us, you do not derive any of your income from entities that are engaged in the production, manufacturing/refinement, distribution or sale of industrial hemp or industrial hemp-derived products (such as products containing CBD oil) that are not classified as Schedule I drugs under the federal Controlled Substances Act, either directly or indirectly (including, but not limited to, rental property income). If you are engaged in any of the activities described above, you must disclose such fact to us in writing prior to opening your account with us, and we reserve the right to request proof of current certifications or licensing for any such activities, as well as any other related information that we may reasonably require, and we reserve the right to deny and reject the account opening based on any such activity. You also agree and understand that we may terminate your account immediately without further notice to you if you become engaged in any of the activities described in this paragraph during the course of your relationship with us.

FEE AND CHARGES

Your account may be subject to regular service fees as well as miscellaneous fees and charges. These fees and charges may differ based on the type of Account you have with us. A fee schedule is available upon request and is subject to change at any time. You agree to pay the fees and charges that apply to you based on your account activity. We will deduct these fees and charges automatically from your account without any specific request from you.

The fees and charges on certain types of accounts may be reduced by an earnings credit calculated on the balances in selected accounts you have with us. The earnings credit rate is set by us and may change at any time.

SCHEDULE OF FEES

Overdrawn Account Fees:

Overdraft Item Fee (per item)	$30
NSF Item Fee (per item, per presentment)	$20
Overdraft Account Balance Rate	Prime Rate + 2.50%

ATM/Mastercard Debit Card Fees:

ATM Usage at Non-PlainsCapital Bank ATM (domestic or international) Per Transaction*	$2
• Transactions include cash withdrawals, funds transfers, and balance inquiries Fees from the ATM owner/operator still apply	
Replacement MasterCard Debit Card	$5
Expedited Delivery for a Replacement Debit Card:	
• Weekday Delivery within the U.S.	$30
• Weekend Delivery within the U.S.	$50
• International Delivery to Canada and Mexico	$100

- International Delivery except Canada and Mexico $150

Official Checks:

Official Checks	$5

Wire Transfer Fees:

Incoming wire transfer	$15
Outgoing domestic wire transfer	$35
Outgoing domestic wire transfer through Business Online Services (BOS)	$15
Outgoing international wire transfer in U.S. Dollars	$55
in foreign currency	
if wire transfer is under $5,000	$25
if wire transfer is $5,000 and over	no fee
if returned	$10+ processing cost

Collection Fees:

Incoming/Outgoing domestic collection Item with documentation (Examples, but not limited to: automobile drafts, oil and gas lease payments and other similar items)	$30
Incoming/Outgoing domestic collection Item without documentation (Examples, but not limited to: NSF Item, credit card, check, and photocopy of check without original)	$30
Trust Receipt Fee (incoming collection drafts)	Prime Rate

Non-U.S. Items:

Canadian item deposited	$5
Canadian item returned unpaid	$35
International item collection	$35
International returned item	$35
Foreign currency exchange	Market Rate
Foreign currency exchange shipping & handling fee	
If exchange is under $500	$15
If exchange is $500 or over	no fee
Foreign business verification	$100+ processing cost

Safe Deposit Box Fees:

Annual rent	
Size: 3X5X21	$25
Size: 4X5X21	$30
Size: 3X10X21	$45
Size: 5X10X21	$60
Size: 10X10X21	$110
Key Deposit	$20
Replace lost keys	$100
Exchange locks	$100
Drill lock	$350

Miscellaneous Fees:

Research	$25/hour plus $2 per statement ($25 minimum)
Account activity print-out	$5
Special cut-off statement	$5
Telephone transfer	$5
Stop payment order	$30

Official check stop payment order	$50
Returned deposited item	$12
Returned cashed item	$10
Zipper Bag with Lock	$35
Hold Mail Fee (per statement cycle)	$5
Returned Mail Fee	$5
Legal process fees includes freezes, levies, subpoenas and other requests for information from law enforcement	$75
Writs of garnishment Plus actual legal costs and fees incurred by the bank	$100
Notary Fee	$4

PlainsCapital Bank
Deposit Support Department
P.O. Box 271
Lubbock, TX 79408

Customer Service 1.866.762.8392
Fax 1.877.449.6944
Voice Banking 1.866.762.7782

PlainsCapital.com

PlainsCapital Bank

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EQUAL HOUSING LENDER

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Dina Garcia
Senior Public Funds Specialist

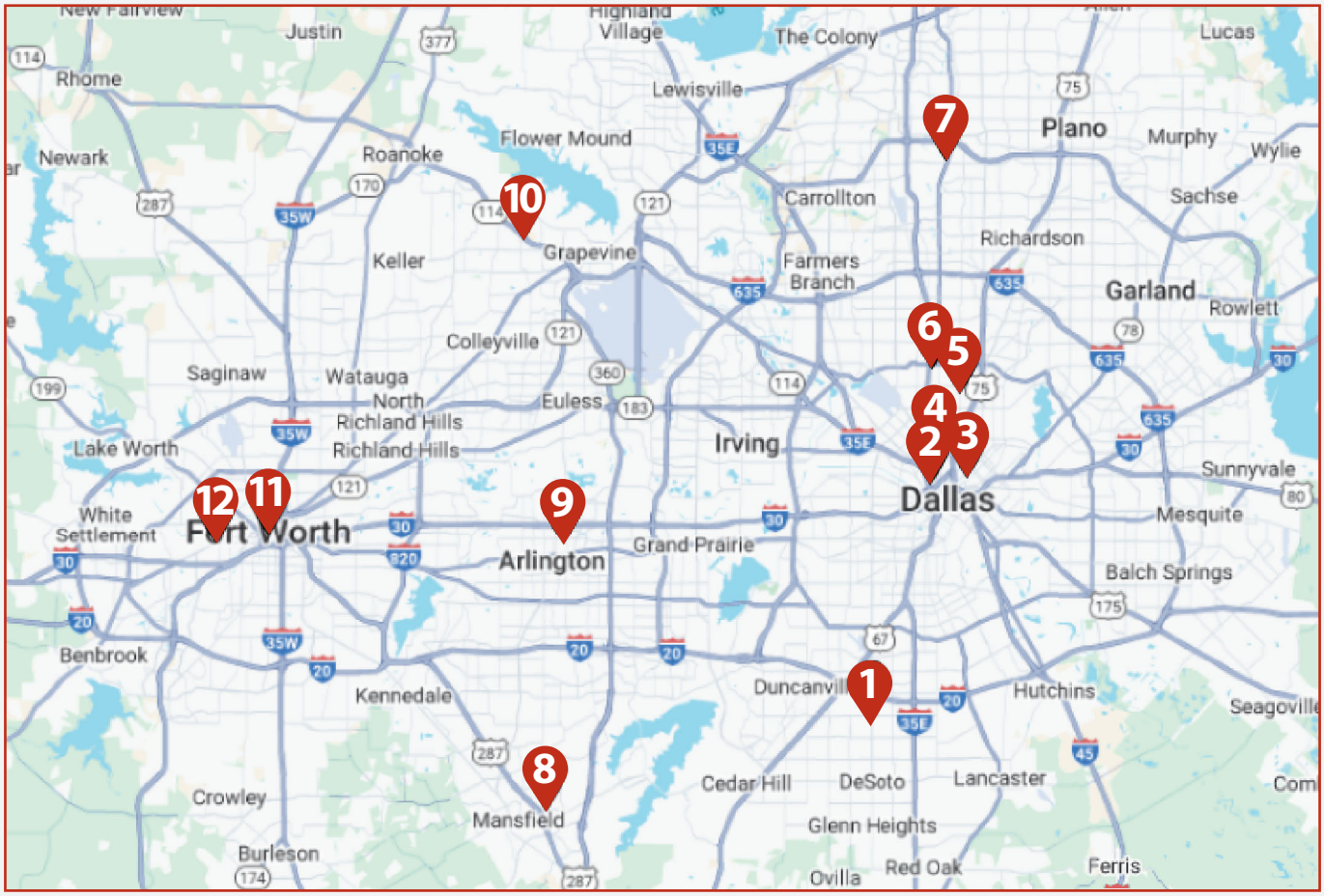
Phone Number: 956.519.5984
Email: dina.garcia@plainscapital.com

Treasury Client Support

Phone Number: 214.252.4005
Email: tmsupport@plainscapital.com

**Upon award of the Depository Contract, Bank will provide cell phone numbers for urgent matters and after-hours assistance.*

PlainsCapital Bank



1 DeSoto
2010 N. Hampton Rd.
DeSoto, TX 75115
469.567.6700

2 One Victory Park
2323 Victory Ave.
Dallas, TX 75219
214.525.9100

3 Gaston Avenue
3417 Gaston Ave., Ste. 150
Dallas, TX 75246
469.941.1265

4 Turtle Creek
2911 Turtle Creek Blvd.
Dallas, TX 75219
214.252.4000

5 Hilltop Plaza
6565 Hillcrest Ave., Ste. 100
Dallas, TX 75205
214.525.9000

6 Preston Center
8200 Douglas Ave., Ste. 100
Dallas, TX 75225
214.525.4600

7 North Dallas
18111 Preston Rd., Ste. 110
Dallas, TX 75252
972.732.1989

8 Mansfield
1748 E. Broad St., Ste. 102
Mansfield, TX 76063
817.698.4775

9 Arlington
804 N. Collins Street
Arlington, TX 76011
817.698.4750

10 Southlake
550 Reserve St., Ste. 125
Southlake, TX 76092
817.570.6222

11 Downtown Fort Worth
801 Houston St.
Fort Worth, TX 76102
817.258.3800

12 Camp Bowie
3707 Camp Bowie Blvd., Ste. 100
Fort Worth, TX 76107
817.258.3888

PlainsCapitalBank



Member FDIC.

AGENDA SUMMARY SHEET
July 7, 2026

AGENDA, ITEM 6

Discussion and take action authorizing an independent audit and financial consulting firm to review the City's financial condition, accounting practices, internal controls, and compliance, and to provide recommendations to improve financial management, ensure compliance, and support long-term stability and transparency. (Council Member Shaunte Allen)

Motion	
Second	
For	Brown, Bruton, Mosley, Allen, Hobbs, Lightfoot, Washington
Against	Brown, Bruton, Mosley, Allen, Hobbs, Lightfoot, Washington
Abstain	
Approve/ Deny/ Table	

AGENDA SUMMARY SHEET
JULY 7, 2026

EXECUTIVE SESSION

1. The City Council shall convene into Executive Session:

   A. pursuant to the Texas Government Code, Section 551.071, Consultation with City Attorney; and Section 551.072, Real Property; to deliberate land acquisitions for the East Bear Creek Road Right-of-Way Expansion Project.

2. The City Council shall reconvene into Open Session and take any action arising from Executive Session.

Motion	
Second	
For	Brown, Bruton, Mosley, Allen, Hobbs, Lightfoot, Washington
Against	Brown, Bruton, Mosley, Allen, Hobbs, Lightfoot, Washington
Abstain	
Approve/ Deny/ Table	
